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Diegnan, DeAngelo and Benson

SYNOPSIS
Expands gross income tax exclusion for pensions, annuities and other
retirement income for certain taxpayers.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 1/11/2011)

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.54A:6-10 is amended to read as follows:

54A:6-10. Pensions and annuities. a. Gross income shall not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract as of the annuity starting date bears to the expected return under the contract as of such date. Where (1) part of the consideration for an annuity, endowment, or life insurance contract is contributed by the employer, and (2) during the three-year period beginning on the date on which an amount is first received under the contract as an annuity, the aggregate amount receivable by the employee under the terms of the contract is equal to or greater than the consideration for the contract contributed by the employee, then all amounts received as an annuity under the contract shall be excluded from gross income until there has been so excluded an amount equal to the consideration for the contract contributed by the employee.

In addition to that part of any amount received as an annuity which is excludable from gross income as herein provided, gross income shall not include payments:

for taxable years beginning before January 1, 2000, of up to $10,000 for a married couple filing jointly, $5,000 for a married person filing separately, or $7,500 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2000, but before January 1, 2001, of up to $12,500 for a married couple filing jointly, $6,250 for a married person filing separately, or $9,375 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2001, but before January 1, 2002, of up to $15,000 for a married couple filing jointly, $7,500 for a married person filing separately, or $11,250 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2002, but before January 1, 2003, of up to $17,500 for a married couple filing jointly, $8,750 for a married person filing separately, or $13,125 for
an individual filing as a single taxpayer or an individual
determining tax pursuant to subsection a. of N.J.S.54A:2-1;
for taxable years beginning on or after January 1, 2003, but
before January 1, 2011, of up to $20,000 for a married couple filing
jointly, $10,000 for a married person filing separately, or $15,000
for an individual filing as a single taxpayer or an individual
determining tax pursuant to subsection a. of N.J.S.54A:2-1, which
are received as an annuity, endowment or life insurance contract, or
payments of any such amounts which are received as pension,
disability, or retirement benefits, under any public or private plan,
whether the consideration therefor is contributed by the employee
or employer or both, by any person who is 62 years of age or older
or who, by virtue of disability, is or would be eligible to receive
payments under the federal Social Security Act, but for taxable
years beginning on or after January 1, 2005, but before January 1,
2011, only if the taxpayer has gross income for the taxable year of
not more than $100,000; and
for taxable years beginning on or after January 1, 2011, which
are received as an annuity, endowment or life insurance contract, or
payments of any such amounts which are received as pension,
disability, or retirement benefits, under any public or private plan,
whether the consideration therefor is contributed by the employee
or employer or both, by any person who is 62 years of age or older
or who, by virtue of disability, is or would be eligible to receive
payments under the federal Social Security Act, but only if the
taxpayer has gross income for the taxable year of less than
$110,000, as limited by subsection b. of this section.
Gross income shall not include any amount received under any
public or private plan by reason of a permanent and total disability.
Gross income shall not include distributions from an employees’
trust described in section 401(a) of the Internal Revenue Code of
1986, as amended (hereinafter referred to as "the Code"), which is
exempt from tax under section 501(a) of the Code if the
distribution, except the portion representing the employees’
contributions, is rolled over in accordance with section 402(a)(5) or
section 403(a)(4) of the Code. The distribution shall be paid in one
or more installments which constitute a lump-sum distribution
within the meaning of section 402(e)(4)(A) (determined without
reference to subsection (e)(4)(B)), or be on account of a termination
of a plan of which the trust is a part or, in the case of a profit-
sharing or stock bonus plan, a complete discontinuance of
contributions under such plan.

b. For purposes of the exclusion provided to taxpayers with
less than $110,000 of gross income for taxable years beginning on
or after January 1, 2011 pursuant to subsection a. of this section, the
amount of payments that may be excluded shall be reduced by the
percentage calculated by dividing the amount of the taxpayer’s
gross income for the taxable year that is in excess of $100,000, but
less than $110,000, by $10,000.

(cf: P.L.2005, c.130, s.1)

2. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to
read as follows:

3. Other retirement income. a. Gross income shall not include
income:

for taxable years beginning before January 1, 2000, of up to
$10,000 for a married couple filing jointly, $5,000 for a married
person filing separately, or $7,500 for an individual filing as a
single taxpayer or an individual determining tax pursuant to
subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2000, but
before January 1, 2001, of up to $12,500 for a married couple filing
jointly, $6,250 for a married person filing separately, or $9,375 for
an individual filing as a single taxpayer or an individual
determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2001, but
before January 1, 2002, of up to $15,000 for a married couple filing
jointly, $7,500 for a married person filing separately, or $11,250 for
an individual filing as a single taxpayer or an individual
determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2002, but
before January 1, 2003, of up to $17,500 for a married couple filing
jointly, $8,750 for a married person filing separately, or $13,125 for
an individual filing as a single taxpayer or an individual
determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2003, but
before January 1, 2005, of up to $20,000 for a married couple filing
jointly, $10,000 for a married person filing separately, or $15,000 for an individual filing as a
single taxpayer or an individual determining tax pursuant to
subsection a. of N.J.S.54A:2-1, when received in any tax year by a
person aged 62 years or older who received no income in excess of
$3,000 from one or more of the sources enumerated in subsections
a., b., k. and p. of N.J.S.54A:5-1, but for taxable years beginning on
or after January 1, 2005, but before January 1, 2011, only if the
taxpayer has gross income for the taxable year of not more than
$100,000, provided, however, that the total exclusion under this
subsection and that allowable under N.J.S.54A:6-10 shall not
exceed the amounts of the exclusions set forth in this subsection;

and

for taxable years beginning on or after January 1, 2011, gross
income shall not include income of up to $20,000 for a married
couple filing jointly, $10,000 for a married person filing separately,
or $15,000 for an individual filing as a single taxpayer or an
individual determining tax pursuant to subsection a. of N.J.S.54A:2-
1. when received in any tax year by a person aged 62 years or older
who received no income in excess of $3,000 from one or more of
the sources enumerated in subsections a., b., k. and p. of
N.J.S.54A:5-1, but only if the taxpayer has gross income for the
taxable year of not more than $100,000, provided, however, that a
taxpayer’s maximum exclusion allowed under this subsection shall
be reduced by the amount of the exclusion allowed pursuant to

b. In addition to the exclusion provided under N.J.S.54A:6-10
and subsection a. of this section, gross income shall not include
income of up to $6,000 for a married couple filing jointly or an
individual determining tax pursuant to subsection a. of N.J.S.54A:2-
1, or $3,000 for a single person or a married person filing
separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-
3, but who would be eligible in any year to receive payments under
either section if he or she were covered thereby.

(cf: P.L.2005, c.130, s.2)

3. This act shall take effect immediately.

STATEMENT

This bill expands the exclusion under the gross income tax for
pensions, annuities and certain other retirement income for
qualified taxpayers. At present, qualified taxpayers that are at least
62 years of age, or by virtue of disability would be eligible to
receive social security payments, and have $100,000 or less of gross
income may exclude $20,000, $15,000 or $10,000 of various
pension, annuity and retirement benefit income, depending on their
tax filing status (i.e. joint, single and separate).

This bill expands the exclusion by removing the $20,000,
$15,000 and $10,000 exclusion caps, and provides full exclusions
for qualified taxpayers with gross income less than $100,000. The
bill also provides limited exclusions for qualified taxpayers with
income exceeding $100,000 but less than $110,000 as a method of
phasing out eligibility. The limited exclusion for qualified
taxpayers with gross income exceeding $100,000 but less than
$110,000 reduces the exclusion amount in proportion to the amount
of the taxpayer’s gross income that is above $100,000.