SENATE, No. 1042

STATE OF NEW JERSEY

222nd LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2026 SESSION

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SYNOPSIS

Provides gross income tax exclusion for distributions from individual retirement accounts to qualified charitable organizations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 10/22/2026)

AN ACT providing gross income tax exclusion for distributions from individual retirement accounts to qualified charitable organizations, and amending N.J.S.54A:5-1 and P.L.1998, c.57.

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

1. N.J.S.54A:5-1 is amended to read as follows:

54A:5-1. New Jersey Gross Income Defined. New Jersey gross income shall consist of the following categories of income:

a. Salaries, wages, tips, fees, commissions, bonuses, and other remuneration received for services rendered whether in cash or in property, and amounts paid or distributed, or deemed paid or distributed, out of a medical savings account that are not excluded from gross income pursuant to section 5 of P.L.1997, c.414 (C.54A:6-27).

b. Net profits from business. The net income from the operation of a business, profession or other activity after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the method of accounting allowed for federal income tax purposes but without deduction of the amount of:

(1) taxes based on income;

(2) a civil, civil administrative, or criminal penalty or fine, including a penalty or fine under an administrative consent order, assessed and collected for a violation of a State or federal environmental law, an administrative consent order, or an environmental ordinance or resolution of a local governmental entity, and any interest earned on the penalty or fine, and any economic benefits having accrued to the violator as a result of a violation, which benefits are assessed and recovered in a civil, civil administrative, or criminal action, or pursuant to an administrative consent order. The provisions of this paragraph shall not apply to a penalty or fine assessed or collected for a violation of a State or federal environmental law, or local environmental ordinance or resolution, if the penalty or fine was for a violation that resulted from fire, riot, sabotage, flood, storm event, natural cause, or other act of God beyond the reasonable control of the violator, or caused by an act or omission of a person who was outside the reasonable control of the violator; and

(3) treble damages paid to the Department of Environmental Protection pursuant to subsection a. of section 7 of P.L.1976, c.141 (C.58:10-23.11f) for costs incurred by the department in removing, or arranging for the removal of, an unauthorized discharge upon the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

failure of the discharger to comply with a directive from the department to remove, or arrange for the removal of, a discharge.

c. Net gains or income from disposition of property. Net gains or net income, less net losses, derived from the sale, exchange or other disposition of property, including real or personal, whether tangible or intangible as determined in accordance with the method of accounting allowed for federal income tax purposes. For the purpose of determining gain or loss, the basis of property shall be the adjusted basis used for federal income tax purposes, except as expressly provided for under this act, but without a deduction for penalties, fines, or economic benefits excepted pursuant to paragraph (2), or for treble damages excepted pursuant to paragraph (3) of subsection b. of this section.

A taxpayer's net gain or loss on the sale, exchange or other disposition of a share of an S corporation shall be calculated by increasing the adjusted basis of the share by an amount equal to the shareholder's net losses and deductions in respect of the share allowed and deducted from income for federal income tax purposes, not including any personal net operating loss deductions, to the extent that such net losses were not offset by the taxpayer's pro rata share of S corporation income otherwise subject to taxation pursuant to subsection p. of this section in respect of another S corporation, subject to rules of priority and assignment determined by the director.

For the tax year 1976, any taxpayer with a tax liability under this subsection, or under the "Tax on Capital Gains and Other Unearned Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be subject to payment of an amount greater than the amount he would have paid if either return had covered all capital transactions during the full tax year 1976; provided, however, that the rate which shall apply to any capital gain shall be that in effect on the date of the transaction. To the extent that any loss is used to offset any gain under P.L.1975, c.172, it shall not be used to offset any gain under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

The term "net gains or income" shall not include gains or income derived from obligations which are referred to in clause (1) or (2) of N.J.S.54A:6-14 of this act or from securities which evidence ownership in a qualified investment fund as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income" shall not include gains or income derived from the sale or assignment of a tax credit transfer certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) and section 10 of P.L.2014, c.63 (C.34:1B-251) from any sale or assignment of a tax credit issued pursuant to an award of tax credits approved by the New Jersey Economic Development Authority prior to July 1, 2018, regardless of when such sale or assignment occurs. The term "net gains or net income" shall not include gains or income from transactions to the extent to which nonrecognition is allowed for federal income tax

purposes. The term "sale, exchange or other disposition" shall not include the exchange of stock or securities in a corporation a party to a reorganization in pursuance of a plan of reorganization, solely for stock or securities in such corporation or in another corporation a party to the reorganization and the transfer of property to a corporation by one or more persons solely in exchange for stock or securities in such corporation if immediately after the exchange such person or persons are in control of the corporation. For purposes of this clause, stock or securities issued for services shall not be considered as issued in return for property.

For purposes of this clause, the term "reorganization" means--

(i) A statutory merger or consolidation;

(ii) The acquisition by one corporation, in exchange solely for all or part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation) of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(iii) The acquisition by one corporation, in exchange solely for all or part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(iv) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred;

(v) A recapitalization;

(vi) A mere change in identity, form, or place of organization however effected; or

(vii) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this subclause as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under subclause (i) if such transaction would have qualified under subclause (i) if the merger had been into the controlling corporation, and no stock of the acquiring corporation is used in the transaction;

(viii) A transaction otherwise qualifying under subclause (i) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this subclause as the "controlling corporation") which

before the merger was in control of the merged corporation is used in the transaction, if after the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and in the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

For purposes of this clause, the term "control" means the ownership of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of the corporation.

For purposes of this clause, the term "a party to a reorganization" includes a corporation resulting from a reorganization, and both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another. In the case of a reorganization qualifying under subclause (i) by reason of subclause (vii) the term "a party to a reorganization" includes the controlling corporation referred to in such subclause (vii).

Notwithstanding any provisions hereof, upon every such exchange or conversion, the taxpayer's basis for the stock or securities received shall be the same as the taxpayer's actual or attributed basis for the stock, securities or property surrendered in exchange therefor.

d. Net gains or net income derived from or in the form of rents, royalties, patents, and copyrights.

e. Interest, except interest referred to in clause (1) or (2) of N.J.S.54A:6-14, or distributions paid by a qualified investment fund as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the extent provided in that section.

f. Dividends. "Dividends" means any distribution in cash or property made by a corporation, association or business trust that is not an S corporation, (1) out of accumulated earnings and profits, or (2) out of earnings and profits of the year in which such dividend is paid and any distribution in cash or property made by an S corporation, as specifically determined pursuant to section 16 of P.L.1993, c.173 (C.54A:5-14).

The term "dividends" shall not include distributions paid by a qualified investment fund as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the extent provided in that section.

g. Gambling winnings.

h. Net gains or income derived through estates or trusts.

i. Income in respect of a decedent.

j. Amounts distributed or withdrawn from an employee trust attributable to contributions to the trust which were excluded from gross income under the provisions of chapter 6 of Title 54A of the

New Jersey Statutes, amounts rolled over from [an] a traditional IRA, as defined pursuant to subsection (a) of section 408 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as defined pursuant to subsection b. of section 2 of P.L.1998,c.57 (C.54A:6-28) to an IRA that is a Roth IRA, except to the extent of the exclusions in section 2 of P.L.1998, c.57 (C.54A:6-28, and pensions and annuities except to the extent of exclusions in N.J.S.54A:6-10 hereunder, notwithstanding the provisions of N.J.S.18A:66-51, P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965, c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954, c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60), R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44, and P.L.1943, c.189, s.5 (C.43:13-37.5).

k. Distributive share of partnership income, excluding the gain or income derived from the sale or assignment of a tax credit transfer certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) and section 10 of P.L.2014, c.63 (C.34:1B-251) from any sale or assignment of a tax credit issued pursuant to an award of tax credits approved by the New Jersey Economic Development Authority prior to July 1, 2018, regardless of when such sale or assignment occurs.

l. Amounts received as prizes and awards, except as provided in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

m. Rental value of a residence furnished by an employer or a rental allowance paid by an employer to provide a home.

n. Alimony and separate maintenance payments to the extent that such payments are required to be made under a decree of divorce or separate maintenance but not including payments for support of minor children.

o. Income, gain or profit derived from acts or omissions defined as crimes or offenses under the laws of this State or any other jurisdiction.

p. Net pro rata share of S corporation income, excluding the gain or income derived from the sale or assignment of a tax credit transfer certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) and section 10 P.L.2014, c.63 (C.34:1B-251) from any sale or assignment of a tax credit issued pursuant to an award of tax credits approved by the New Jersey Economic Development Authority prior to July 1, 2018, regardless of when such sale or assignment occurs.

(cf: P.L.2018, c.131, s.8)

2. Section 2 of P.L.1998, c.57 (C.54A:6-28) is amended to read as follows:

2. a. Gross income shall not include distributions from:

(1) a Roth IRA that are qualified distributions or that are rolled over to a Roth IRA; and

(2) a traditional IRA made to a qualified charitable organization.

b. As used in this section:

"Roth IRA" means an individual retirement plan, as defined pursuant to section 7701 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.7701, that is designated in the manner prescribed by the federal Secretary of the Treasury pursuant to section 408A of the federal Internal Revenue Code of 1986, 26 U.S.C. s.408A, as a Roth IRA and is subject to the contribution limits of that section.

"Qualified charitable organization" means an organization determined by the federal Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the federal Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3).

"Qualified distribution" means any payment or distribution:

(1) made on or after the date on which the individual attains age 59 1/2,

(2) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

(3) attributable to the individual's being disabled within the meaning of paragraph (7) of subsection (m) of section 72 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.72, **[**or**]**

(4) which is a qualified first time home buyer distribution as defined by, and subject to the limitations of, paragraph (2) of subsection (t) of section 72 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.72**[**;**]**, or

(5) made to a qualified charitable organization;

provided, however, that a payment or distribution shall not be treated as a qualified distribution if it is made within the 5-taxable-year period beginning with the first taxable year for which the individual made a contribution to a Roth IRA (or such individual's spouse made a contribution to a Roth IRA) established for such individual, or in the case of a payment or distribution allocable to a qualified rollover contribution from an individual retirement plan other than a Roth IRA (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

"Traditional IRA" means an individual retirement account as defined in subsection (a) of section 408 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.408(a) that is not a Roth IRA.

(cf: P.L.1998, c.57, s.2)

3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1 of the year next following the date of enactment.

STATEMENT

This bill provides a gross income tax exclusion for distributions from a Roth IRA or a traditional IRA that are made to a qualified charitable organization.

A Roth IRA is a type of tax-advantaged individual retirement account that allows account holders to contribute after-tax dollars towards retirement. Contributions made to the account grow tax-free while qualified withdrawals, also known as distributions, may be made without incurring income tax liability, provided certain conditions are met. Qualified distributions from a Roth IRA currently include amounts paid or distributed: (1) on or after the date the account holder attains 59 1/2 years of age; (2) to a beneficiary, or if a beneficiary has not be designated, to the estate of an account holder on or after their death; (3) for reasons attributable to the account holder's disability; or (4) as a qualified first time home buyer distribution. Distributions made for a non-qualified purpose are subject to taxes and penalties.

A traditional IRA is another type of tax-advantaged individual retirement account that allows account holders to direct pre-tax income toward investments that can grow tax-deferred until the funds are withdrawn, at which point the money is treated as ordinary income and is subject to income tax. In limited circumstances, certain interest, dividends and other earnings credited to an IRA can be withdrawn tax-free, provided those earnings are from investments in government debt obligations, such as bonds issued by the federal government, the State, or local governments.

For the purposes of the bill, a "qualified charitable organization" is a charitable organization that receives tax exempt status pursuant to section 501(c)(3) of the federal Internal Revenue Code. Typically, organizations that receive this exemption are those operating exclusively for charitable, religious, scientific, literary, educational, testing for public safety, or other specified purposes. Accordingly, the bill provides that distributions made from a Roth IRA or a traditional IRA to these organizations would be exempt from State income tax.