

State of California

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Legislative Change No.

02-04

Bill Number: AB 1433 Author: Horton Chapter Number: 02-60

Laws Affecting Franchise Tax Board: Military & Veteran Code Sections 404, 405, 412, 415, and 420.

Date Filed with the Secretary of the State: June 21, 2002

SUBJECT: Military Service Members/Deferment of Collection of Tax/Interest

Assembly Bill 1433 (Horton), as enacted on June 21, 2002, made the following changes to California law:

Section 404 of the Military and Veterans Code is added.

This act requires the period of military service to be excluded when computing any period limited by law for bringing any action or proceeding in any court, board, bureau, commission, department, or other agency of the government.

Section 405 of the Military and Veterans Code is added.

This act requires any liability incurred by a service member prior to their entry into active service to bear an interest rate of no more than 6% per year, unless a court has concluded that the ability of the service member to pay an interest rate in excess of 6% is not materially affected by their service.

Section 412 of the Military and Veterans Code is added.

This act allows a court to grant the following relief (after notice and hearing) if a service member applies for the relief of any tax or assessment that is due prior to or during the period of military service:

- ~~§~~ A stay of the enforcement of the tax during the period of military service.
- ~~§~~ The service member may pay the balance of an unpaid liability and interest in equal periodic installments for a period beginning on either the date of the termination of service or the date of application for relief and equal to the period the member spent in military service.

When a court has granted the stay, no fines or penalties can accrue during the period of the relief outlined above.

Bureau Director

Brian Putler

Date

8/19/02

Section 415 of the Military and Veterans Code is added.

This act requires the collection of any income tax that is due prior to or during the period of military service to be deferred for a period of up to six months after the termination of active military service if the person's ability to pay the tax is materially impaired by reason of that service. Interest and penalties for nonpayment of the tax will not accrue during the time the liability is deferred. Further, the running of the statute of limitations against the collection of any tax is suspended for the period of military service and for an additional nine months after termination of active service.

Section 420 of the Military and Veterans Code is added.

This act states the intent of the Legislature to allow service members to qualify for the benefits and protections under this act retroactive to September 11, 2001. However, it is also the intent of the Legislature that the actual benefits and protections to service members only apply on a prospective basis after June 21, 2002, which is the operative date of this act. Therefore, with respect to the provision of this act that defers the collection of any income tax, service members that are in active service as of September 11, 2001, qualify for the deferral, but the deferral is effective only for periods on or after June 21, 2002.

This act is effective and operative June 21, 2002.

This act will not require any reports by the department to the Legislature.