

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Dutton & Parra Analyst: Rachel Coco Bill Number: AB 1073

Related Bills: See Prior Analysis Telephone: 845-4328 Amended Date: January 6, 2004

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exclusion/Death Gratuity Received By A Survivor Of Deceased Member, Former Member Or Person Entering Service Of The U.S. Armed Forces

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED

May 6, 2003, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would exclude from tax the death gratuity paid to the survivor of a deceased member of the Armed Forces of the United States.

SUMMARY OF AMENDMENT

The January 6, 2004, amendment provides conformity to recently enacted federal legislation by excluding from tax the entire amount of the death gratuity, retroactive to September 11, 2001.

Recently enacted federal legislation (Public Law 108-121) increased the death gratuity amount from \$6,000 to \$12,000. In addition, the entire gratuity amount is now excludable from gross income under federal law. This increase and exclusion are retroactive to deaths occurring after September 10, 2001.

This bill would conform California law to the new federal law by increasing the amount of the death gratuity excludable from gross income from \$3,000 to the entire amount of the death gratuity.

As a result of the amendment, the department has revised the economic impact and identified a technical consideration, which are included below. The remainder of the department's analysis of the bill as amended May 6, 2003, still applies.

Board Position:

S NA NP
 SA O NAR
 N OUA PENDING

Legislative Director

Date

Brian Putler

1/12/04

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately and the bill states that it would be operative beginning with deaths occurring on or after September 11, 2001.

POSITION

Pending.

TECHNICAL CONSIDERATIONS

This bill incorrectly identifies the recently enacted federal legislation (Public Law 108-121) as the *Military Tax Relief Act of 2003*. For clarification, the author may wish to amend the bill to correctly identify the federal legislation as the *Military Family Tax Relief Act of 2003*.

ECONOMIC IMPACT

Revenue Estimate:

Based on the discussion below, the revenue loss from this bill is estimated to be negligible, less than \$50,000 annually.

Revenue Discussion:

Due to uncertainties regarding future events, revenue losses are based on information from the Department of Defense prepared by the Washington Headquarters Services Directorate of Information Operations and Services regarding the number of military deaths for the period of 1993-2002, which is the last 10 years that information is available. During this period total military deaths (accidental, hostile action, homicide, illness, pending, self inflicted and terrorist attack) averaged 941 annually, with a high of 1213 in 1993 and a low of 774 in 2000. For this analysis, the average annual number of military deaths over the last ten years was used under the assumption that approximately 11% of all military deaths would have California beneficiaries. This yields approximately 104 qualifying California beneficiaries ($941 \times 11\% = 104$), for the additional benefit exclusion of \$9,000 (total exclusion \$12,000 less the \$3,000 exclusion allowable under current law) for a total of approximately \$900,000 ($104 \times \$9,000 = \$936,000$) in additional excludable income. Assuming an average marginal tax rate of 5%, the revenue loss would be approximately \$47,000 annually.

LEGISLATIVE STAFF CONTACT

Rachel Coco
Franchise Tax Board
845-4328
rachel.coco@ftb.ca.gov

Brian Putler
Franchise Tax Board
845-6333
brian.putler@ftb.ca.gov