Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Mountjoy, et al.	Analyst:	John Pavalasky	Bill Number:	AB 2952
Related Bills:	See Legislative History	Telephone:	845-4335	Introduced Date:	February 20, 2004
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Exemption/Income Of Spouse Of Member Of Armed Forces Who Dies While In Active Service

SUMMARY

Under this bill, all income of a spouse of a member of the Armed Forces who dies as a result of certain military-type actions would be exempt from income taxes for the year of the member's death and the following three years.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to give a tax benefit to surviving spouses of members of the Armed Forces who die in a military combat or terrorist action.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately and apply to taxable years beginning on or after January 1, 2004.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Income of an active member of the Armed Forces of the United States is exempt from tax if the member dies as a result of wounds, disease, or injury incurred while serving in a combat zone, including certain hazardous duty areas, or wounds or injury incurred in terroristic or military action (IRC Section 692).

"Armed Forces of the United States" is defined under state and federal law for income tax purposes (RTC Section17022; IRC Section 7701(a)(15)) to include all regular and reserved components of the uniformed services that are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, and also includes the Coast Guard. Members also include commissioned officers and personnel below the grade of commissioned officers in such forces.

Board Position:			Department Director	Date
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THIS BILL

Under this bill, all income of a qualified surviving spouse of a member of the Armed Forces would be exempt from income taxes for the taxable year of the member's death and the three succeeding taxable years. A qualified surviving spouse would be a taxpayer:

- whose spouse is a member of the Armed Forces of the United States;
- whose spouse died while in active service under circumstances described in IRC Section 692; and
- who has not remarried at any time before the close of the taxable year.

"Circumstances described" under IRC Section 692 means:

- any terroristic activity which a preponderance of the evidence indicates was directed against the United States or any of its allies, and
- any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof).

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

SB 948 (Morrow, 2003/2004) would have exempted from income tax all income of a spouse of a member of the Armed Forces, who dies as a result of certain military-type actions, for the year of the member's death and the following three years. This bill did not pass out of the house of origin.

SB 1713 (Machado, 2003/2004) would conform California to the federal Military Family Tax Relief Act Of 2003 (MFTRA) that was enacted on November 11, 2003. SB 1713, among other relief for military families, would exclude from tax the death gratuity paid to the survivor of a deceased member of the Armed Forces of the United States. This bill is currently in the Senate Revenue and Taxation Committee.

AB 1073 (Dutton, et al., 2003/2004) would exclude from tax the death gratuity paid to the survivor of a deceased member of the Armed Forces of the United States. This bill is currently in the Senate Revenue and Taxation Committee.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota,* and *New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Florida has no personal income tax. *Illinois, Massachusetts, Michigan*, *Minnesota*, and *New York* laws contain no comparable tax exemption for surviving spouses of members of the Armed Forces who die as a result of military-type actions.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Fiscal Year	2004-2005	2005-2006	2006-2007
Exemption of spouse income	Losses not exceeding $10,000	Losses not exceeding $10,000	Losses not exceeding $10,000

Revenue Discussion

Due to data limitations and uncertainties regarding future events, revenue losses are based on 100 deaths per year of eligible California military personnel. Revenue losses from this bill would be very minor, less than $10,000 for every 100 deaths of California military personnel. For this analysis it is assumed that for every 100 Armed Forces members that die, 75% of those are married and, of those married, half have spouses who work. Of the spouses who work, it is assumed that they have an adjusted gross income (AGI) of $32,000 a year (median California AGI for 2000). The average tax for a 2000 joint return with an AGI of $32,000 was $166. The revenue loss would be on the order of $6,200 (100 deaths x 75 % married x 50% with working spouse x $166 average tax revenue loss) for the first tax year.

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