ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author:	Dutton	Analyst:	Gail Hall	Bill Number:	SB 243
Related Bills:	See Legislative History	Telephone:	845-6111	Introduced Date:	2/15/2005
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Property Tax Credit/Allowed To Person Or Spouse Of Person Deployed In Active Military Service To A Combat Or War Zone

SUMMARY

This bill would allow members of the Armed Forces who are deployed in a combat or war zone a tax credit for the amount of property taxes paid on their primary residence.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to give financial relief to certain members of the armed forces.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. As specified, it would apply to taxable years beginning on or after January 1, 2005, and before January 1, 2010.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Existing state and federal laws allow an individual a deduction for property taxes paid on real property not used for business purposes. This deduction is reported on federal form Schedule A as an itemized deduction, which is a reduction to adjusted gross income. An individual reduces adjusted gross income by the larger of the itemized deductions or the standard deduction.

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption and child and dependent care credit).

Under federal and state laws, compensation received by a member of the Armed Forces is subject to income tax unless specifically excluded. Compensation received for any month while serving in a combat zone or qualified hazardous duty area is excludable.

"Armed Forces of the United States" is defined under federal and state law 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 officer in such forces.

Board Position:			Department Director	Date
_______ S	_______ NA	_______ NP		
_______ SA	_______ O	_______ NAR	Gerald H. Goldberg	3/24/05
_______ N	_______ OUA	X PENDING		

"Combat zone" under Internal Revenue Code (IRC) Section 112, and referred to in IRC Section 692, in pertinent part, means "any area which the President of the United States by Executive Order designates as an area in which Armed Forces of the United States are or have, after June 24, 1950, engaged in combat." In addition, such zones include qualified hazardous duty areas.

Property that qualifies for the homeowners' exemption is a dwelling occupied by its owner as a principal place or residence. A "dwelling" is a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated.

THIS BILL

This bill would allow a member of the Armed Forces and their spouse a tax credit equal to the amount of "qualified property taxes" paid during the taxable year. "Qualified property taxes" means taxes imposed on property that qualifies for the homeowners' exemption. The tax credit would reduce total tax but not below zero. The tax credit also would not reduce total tax below tentative minimum tax. Any unused tax credit would be carried forward for use in future years without limitation.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

This bill allows an indefinite carryover period. As a result, the department would be required to retain the carryover of the tax forms indefinitely. Recent credits have been enacted with a carryover period limitation since experience shows credits typically are exhausted within eight years of being earned.

This bill uses the term "war zone;" however, this term is not defined in the bill. Therefore, the term may be broadly interpreted.

TECHNICAL CONSIDERATION

On page 2, line 15, the year "2012" should be stricken and the year "2011" should instead be inserted.

LEGISLATIVE HISTORY

There have been prior bills that provided tax relief for members of the military, but no specific bill that provides a tax credit for property taxes paid by members of the military.

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.

Illinois, Massachusetts, Michigan, Minnesota, and *New York* laws do not provide a credit comparable to the credit allowed in this bill.

Illinois allows a tax credit equal to 5% of real property taxes paid on the principal residence of the taxpayer, but it is not limited to members of the military. *Illinois* does not allow itemized deductions, therefore, no property tax deduction is allowed.

New York allows a property tax credit for low-income taxpayers, but it is not limited to members of the military. *New York* allows itemized deductions, but property taxes paid are not an itemized deduction for *New York.*

Florida does not have a personal income tax; therefore, an analysis of that state's law is not applicable.

FISCAL IMPACT

This bill would not significantly impact the department's costs because the changes required would be accomplished during the normal annual update.

ECONOMIC IMPACT

Revenue Estimate

This proposal would result in the following revenue loss:

Property Tax Credit for Military in Combat Zones Fiscal Years $ in millions		
2005-06	2006-07	2007-08
$15	$35	$55

Revenue Discussion

It is estimated that 9,500 National Guard/reservist and 14,000 regular military are California residents that are in combat zones. Based on the 2002 annual report, it is estimated that the average property tax credit would be $3,500 with average tax liability of $1,200 for taxpayers with an adjusted gross income between $40,000 and $100,000. Assuming that 75% of the National Guard/reservist and 50% of the military in combat zones qualified for the average credit and had the average tax liability, the first year revenue loss would be $15 million with $34 million in credit carried forward. ((9,500 x .75 x $3,500)+(14,000 x .5 x $3,500)= $49 million in credit generated) - ((9,500 x .75 x $1,200) + (14,000 x .5 x $1,200)= $17 million in credit applied) = $32 million in credit carried forward. Estimates above have been rounded to the nearest $5 million.

As troops rotate through the combat zone, new California residents in the military will qualify for the credit, and the unused credit from the previous troops will also be used so that the revenue loss increases to $35 million in the second year and $53 million in the third year.

ARGUMENTS/POLICY CONCERNS

This bill would allow a member of the military, in certain circumstances, to claim multiple tax benefits for the same item of expense. A member may deduct property taxes as an itemized deduction and also take this same amount as a tax credit on the state tax return.

LEGISLATIVE STAFF CONTACT

Gail Hall
Franchise Tax Board
845-6111

Brian Putler
Franchise Tax Board
845-6333

gail.hall@ftb.ca.gov brian.putler@ftb.ca.gov