

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Knight Analyst: David Scott Bill Number: AB 2004

Related Bills: See Legislative History Telephone: 845-5806 Introduced Date: February 23, 2012

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exclusion Military Combat-Related Special Compensation Or Concurrent Retirement & Disability Payments

SUMMARY

This bill would exclude from gross income two specific combat-related types of payments for taxable years beginning on or after January 1, 2013.

RECOMMENDATION

No position.

Summary of Suggested Amendments

Amendments 1 and 2 are suggested to resolve the technical concern to more accurately describe the types of compensation being excluded from taxation.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide tax relief for California veterans receiving certain combat-related injury compensation or disability pay.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2013.

ANALYSIS

FEDERAL/STATE LAW

Federal law excludes amounts received by an individual as disability income from combat-related injuries. Combat-related injuries are defined as injuries that were incurred as a direct result of armed conflict, while engaged in extra-hazardous service, or in the performance of duty under conditions simulating war. Additionally, gross income does not include compensation received for active service as a member of the Armed Forces of the United States below the grade of a commissioned officer for any month the individual was serving in a combat zone or hospitalized as a result of wounds, disease, or injury incurred in a combat zone. Commissioned officers are allowed to exclude similar pay up to the maximum level received by enlisted personnel. In addition, benefits under laws administered by the Department of Veterans Affairs (VA), including disability compensation, are not subject to federal income tax.

Board Position:	Executive Officer	Date
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Before 2002, federal law prohibited the concurrent receipt of military retired pay and disability compensation from the VA for the same period of service. Consequently, the retired pay of a military retiree was reduced by the amount of disability compensation received from the VA.

In 2002, federal law was amended to authorize the payment of additional compensation for a combat-related disability, known as Combat-Related Special Compensation (CRSC) (10 USC sec. 1413a) to certain military retirees. This payment is authorized by Title 10, United States Code, section 1413a, and is considered disability compensation, which is excluded from gross income.

In 2003, federal law was further amended to authorize the payment of additional retired pay to military retirees whose retired pay was reduced because of receiving disability compensation from the VA. The retired pay, known as Concurrent Receipt of Disability Pay (CRDP), authorized under Title 10, United States Code, section 1414, is subject to federal and state income tax.

California conforms to the federal gross income exclusions for compensation for combat-related injuries and disability pay, and the exclusion of veteran's benefits, without exception.

THIS BILL

This bill attempts to exclude from gross income two specific forms of payments to disabled military retirees, CRSC and CRDP, as described above. As California currently conforms to the federal exclusion of CRSC, the bill would exempt only the CRDP payments.

The bill would exclude CRDP pay items for taxable years beginning on or after January 1, 2013.

TECHNICAL CONSIDERATION

The references in the bill that describe the types of retirement or disability payments to be excluded are to public laws that amend or revise the laws authorizing these payments. A more accurate description would be to reference the U.S. Code sections that provide authority for these payments. Amendments 1 and 2 are suggested to resolve this technical concern.

LEGISLATIVE HISTORY

SB 401 (Wolk, Chapter 14, Statutes of 2010) provides specified date conformity to the Internal Revenue Code, including the gross income exclusions. Those exclusions include the sections that excluded combat related injury pay and combat-related disability pay.

AB 1077 (Anderson, 2009/10) would have allowed an individual to exclude retirement pay and survivor annuities received as a result of active service in the military from gross income. This bill failed to pass from Assembly Revenue and Taxation Committee by the constitutional deadline.

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 only has a corporation income tax; therefore, this personal income tax exclusion is not applicable.

Illinois, Massachusetts, Michigan, Minnesota, and New York generally conform to federal rules for military combat related pay.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 2004 For Taxable Years Beginning On or After January 1, 2013 Assumed Enactment After June 30, 2012 (\$ in Millions)		
2012-13	2013-14	2014-15
-\$0	-\$38	-\$26

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Pro: The bill would provide needed tax relief for certain California veterans who are disabled and taxed on a portion of their military retirement disability pay.

Con: Some taxpayers may say that with the state's current fiscal crisis, additional tax expenditures should be avoided.

POLICY CONCERN

This bill would create a difference between federal and California tax law, thereby increasing the complexity of California tax return preparation.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO

AB 2004 Exclusion /Military Combat-Related Special Compensation or Concurrent Retirement
and Disability Payments

AMENDMENT 1

On page 2, lines 9 and 10, ~~strikeout~~ "Section 641 of Public Law 108-136.", and
insert:

Section 1413a of Title 10, United States Code.

AMENDMENT 2

On page 2, lines 13 and 14, ~~strikeout~~ "Section 642 of Public Law 108-375.", and
insert:

Section 1414 of Title 10, United Stated Code.