

# SUMMARY ANALYSIS OF AMENDED BILL

Author: Melendez Analyst: Jane Raboy Bill Number: AB 505  
 Related Bills: See Prior Analysis Telephone: 845-5718 Amended Date: May 21, 2015  
 Attorney: Bruce Langston Sponsor \_\_\_\_\_

<b>SUBJECT:</b>	Exclusion/Military Concurrent Retirement and Disability Pay
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## SUMMARY

This bill, under the Personal Income Tax Law, would exclude from gross income certain payments to qualified retirees.

## RECOMMENDATION

No position.

## SUMMARY OF AMENDMENTS

The May 21, 2015, amendments added a sunset and repeal date and resolved all of the department's technical considerations discussed in the department's analysis of the bill as amended February 23, 2015.

Except for the "Effective/Operative Date," "This Bill," and "Technical Considerations," sections, the remainder of the department's analysis of the bill as introduced February 23, 2015, still applies. The "Implementation Considerations," "Economic Impact," and "Policy Concerns" sections have been restated for convenience.

## 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, 2016, and before January 1, 2021.

## THIS BILL

For each taxable year beginning on or after January 1, 2016, and before January 1, 2021, this bill would exclude Concurrent Retirement and Disability Pay payments received by a qualified retiree from gross income.

This bill would define the following:

- "Concurrent retirement and disability pay"<sup>1</sup> would mean payments received , as provided under law, that a qualified retiree could be eligible for Concurrent Retirement and Disability Pay and Combat-Related Special Compensation payments; however, the retiree is prohibited from receiving both benefits simultaneously,<sup>2</sup>

<sup>1</sup> See 10 USC section 1414.

<sup>2</sup> Ibid.

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- "Qualified retiree" would mean an active, reserve, or retired member of the United States military who served in active duty.

Nothing in this bill would be construed to create any inference with respect to the proper tax treatment of any disability pay payments received before January 1, 2016.

This bill would specify that the statute would remain in effect until December 1, 2021, and as of that date would be repealed.

## IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this and other concerns that may be identified.

Because for federal purposes gross income includes both military retirement pay and Concurrent Retirement and Disability Pay, it is unclear how the department would be able to validate the Concurrent Retirement and Disability Pay exclusion for state purposes. The lack of guidance could cause disputes between taxpayers and the department and require the department to open up an audit in order to verify the amount of gross income reported by taxpayers.

## ECONOMIC IMPACT

### Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 505 As Amended May 21, 2015 Assumed Enactment After June 30, 2015 (\$ in Millions)		
2015-16	2016-17	2017-18
- \$14	- \$24	- \$24

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

### Revenue Discussion

This bill would allow an exclusion from gross income for Concurrent Retirement and Disability Pay. The Department of Defense reports California military retirees received approximately \$43 million per month in Concurrent Retirement and Disability Pay during 2013. This amount was grown<sup>3</sup> by 8 percent through 2016 and 4 percent each year thereafter. The growth rate was based on actual annual growth in the program of 22 percent from 2007 through 2011. A portion

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<sup>3</sup> Indexed using Department of Finance forecasts.

of this growth, however, reflects program changes in the federal retirement and disability programs for veterans; and thus, a lower growth rate was used. The amount was multiplied by the estimated average tax rate for qualified taxpayers of 3.5 percent. The estimates are converted to the fiscal year estimates, rounded, and are reflected in the table above.

#### **SUPPORT/OPPOSITION<sup>4</sup>**

Support: None provided.

Opposition: None provided.

#### **POLICY CONCERNS**

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

#### **LEGISLATIVE STAFF CONTACT**

Jane Raboy  
Legislative Analyst, FTB  
(916) 845-5718  
[jane.raboy@ftb.ca.gov](mailto:jane.raboy@ftb.ca.gov)

Jame Eiserman  
Revenue Manager, FTB  
(916) 845-7484  
[jame.eiserman@ftb.ca.gov](mailto:jame.eiserman@ftb.ca.gov)

Gail Hall  
Legislative Director, FTB  
(916) 845-6333  
[gail.hall@ftb.ca.gov](mailto:gail.hall@ftb.ca.gov)

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<sup>4</sup> As noted in the Assembly Committee on Revenue and Taxation bill analysis dated May 15, 2015.