



STATE OF CALIFORNIA  
**Franchise Tax Board**

## **Summary Analysis of Amended Bill**

Author: Brough, et al.

Sponsor:

Bill Number: AB 2394

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Amended: April 24, 2018

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Related Bills: See Prior Analysis

**Subject:** Exclusion/Military Retirement Income

### **Summary**

The bill would, under the Personal Income Tax Law (PITL), exclude from gross income certain retirement pay received for military service.

**Recommendation – No position.**

### **Summary of Amendments**

The April 24, 2018, amendments added a sunset date and expanded the definition of uniformed services. As a result of the amendments, one of the policy concerns provided in the department's analysis of the bill as amended March 19, 2018, has been resolved and an additional implementation consideration has been identified. Except for the "Effective/Operative Date," "This Bill," "Implementation Considerations," and "Economic Impact" sections, the remainder of that analysis still applies.

### **Effective/Operative Date**

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2018, and before January 1, 2028.

### **This Bill**

This bill would, under the PITL, for taxable years beginning on or after January 1, 2018, and before January 1, 2028, exclude from gross income any retirement pay received by a taxpayer from the federal government for service in the uniformed services.

"Uniformed services" would mean Armed Forces of the United States of America, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, and the commissioned corps of the United States Public Health Service.

## 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.

If this bill is enacted in late September or October of 2018, the department would have developed the forms and instructions for the 2018 taxable year. Thus, the department may incur additional costs to develop alternative forms and instructions in the short time frame necessary to ensure they are available for taxpayers to comply with the reporting requirement.

This bill provides a definition for "uniformed services". The terminology used in the definition is inconsistent with other provisions of the bill. For clarity, the bill should be amended.

## Fiscal Impact

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

## Economic Impact

### Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2394 as Amended April 24, 2018  
For Taxable Years Beginning On or After January 1, 2018, and Before January 1, 2028  
Assumed Enactment after June 30, 2018

(\$ in Millions)

Fiscal Year	Revenue
2018-2019	- \$130
2019-2020	- \$80
2020-2021	- \$85

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

### Revenue Discussion

Based on data from the United States Department of Defense (DOD), approximately 130,000 members of California's uniformed services received approximately \$300 million per month, or \$3.5 billion per year in retirement payments in 2016. This amount is grown by 1 percent annually based on the observed growth rate for retirement payments over the last five years, resulting in an income exclusion of \$3.6 billion in the 2018 taxable year. This amount is then

multiplied by an estimated average tax rate for qualified taxpayers of 2.5 percent, resulting in an estimated revenue loss of \$80 million in the 2018 taxable year.

The tax-year estimates are converted to fiscal-year estimates, and then rounded to arrive at the amount shown in the above table.

### **Support/Opposition<sup>1</sup>**

Support: National Guard Association of California, Military Officers Association of America – CA Council of Chapters.

Opposition: None provided.

### **Policy Concerns**

This bill would establish an exclusion from gross income for which federal law has no counterpart, thus increasing nonconformity.

### **Legislative Staff Contact**

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<sup>1</sup> As provided by the staffer.