

Author: Gray Analyst: Jessica Deitchman Bill Number: AB 528  
Related Bills: See Prior Telephone: 845-6310 Amended Date: March 14, 2017  
Analysis Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Exclusion/Military Retirement Pay

## **SUMMARY**

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

## **RECOMMENDATION – NO POSITION**

## **SUMMARY OF AMENDMENTS**

The March 14, 2017, amendments added some clarifying language related to military service and resolved one of the implementation considerations discussed in the department's analysis of the bill as introduced February 13, 2017. Except for the "This Bill," and "Implementation Considerations" sections, the department's analysis of the bill as introduced February 19, 2017, still applies. The "Economic Impact," "Fiscal Impact," and "Policy Concerns" sections have been restated for convenience.

## **THIS BILL**

For taxable years beginning on or after January 1, 2018, this bill would exclude from gross income qualified retirement pay received by a taxpayer from the federal government for military service performed in the Armed Forces of the United States, the reserve component of the Armed Forces of the United States, or the National Guard.

"Qualified retirement pay" means all of the following:

- 100 percent of retirement pay received in the first 12-month period after the taxpayer leaves military service. If the taxpayer subsequently performs military service, the 100 percent exclusion rule shall also apply to the first 12-month period after the taxpayer leaves that subsequent service, as long as subsequent military service is performed in the same service branch, active duty, reserve, or National Guard, as the original military service.
- 80 percent of the retirement pay received in the 12-month period immediately following the first 12-month period described above;
- 60 percent of the retirement pay received in the 12-month period immediately following the first 24-month period described above;
- 40 percent of the retirement pay received in the 12-month period immediately following the first 36-month period described above; and
- 20 percent of the retirement pay received in the 12-month period immediately following the first 48-month period described above.

“A performance of military service” means a tour of duty lasting no less than six months.

### **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.

Under this bill, if a member of the Armed Forces retires, and delays their retirement pay until several years later, due to age or other circumstances, the taxpayer would not be allowed a full exclusion of income. If this is contrary to the author’s intent, 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 and an appropriation will be requested, if necessary.

### **ECONOMIC IMPACT**

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 528 As Amended March 14, 2017 Assumed Enactment After June 30, 2017 (\$ in Millions)		
2017-18	2018-19	2019-20
- \$5.3	- \$9.1	- \$9.2

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

### **Revenue Discussion**

Based on U.S. Department of Defense (DOD) data, California military retirees received approximately \$350 million per month, or \$4.1 billion in retirement payments in 2015. DOD data also indicates that approximately 35,000 military members retired in 2015 with an estimated annual income of \$25,000. It is estimated that approximately 2,500 are California residents and would draw an estimated annual retirement income of \$64 million. Based on the observed growth rate for benefits from the three prior years, this amount was grown by 2 percent annually.

Beginning in tax year 2018, it is estimated that 15,000 California military retirees would qualify for the income exclusion for a total of \$200 million. This amount is multiplied by an estimated average tax rate for qualified taxpayers of 4.5 percent, resulting in an estimated revenue loss of \$9 million in tax year 2018.

The estimates are converted to fiscal year estimates and then rounded to arrive at the amounts shown in the above table.

### **SUPPORT/OPPOSITION**

Support: None provided.

Opposition: None provided.

### **POLICY CONCERNS**

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

### **LEGISLATIVE STAFF CONTACT**

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