

SUMMARY ANALYSIS OF AMENDED BILL

Author: Gray, et al. Analyst: Jessica Deitchman Bill Number: AB 528
Related Bills: See Prior Telephone: 845-6310 Amended Date: April 3, 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 April 3, 2017, amendments added co-authors, a definition of “qualified taxpayer,” and a sunset date. As a result, the amendments created an additional implementation consideration.

As a result of the amendments, the “Effective/Operative Date,” “This Bill,” “Implementation Considerations,” and “Economic Impact” sections have been revised. The remainder of the department’s analysis of the bill as introduced February 13, 2017, still applies. The “Fiscal 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, 2018, and before January 1, 2023.

THIS BILL

For taxable years beginning on or after January 1, 2018, and before January 1, 2023, 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.

“Qualified Taxpayer” means a taxpayer with gross income that, excluding retirement pay received by the 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, does not exceed \$50,000.

This section would remain in effect only until December 1, 2023, and as of that date would be repealed.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these 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.

Because the bill fails to specify otherwise, the \$50,000 gross income limitation provided in the in the definition of “qualified taxpayer” would include income reported on a joint return from a spouse from all sources. If this is contrary to the author’s intent, the bill should be amended to specifically provide different limitations for each filing type.

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

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 528 As Amended April 3, 2017 Assumed Enactment After June 30, 2017 (\$ in Millions)		
2017-18	2018-19	2019-20
- \$2.2	- \$3.8	- \$3.8

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 the most recent available data from the U.S. Department of Defense (DOD), California military retirees received approximately \$350 million per month, or \$4.1 billion in retirement payments in 2015. DOD data also indicates that approximately 57,000 military members retired in 2015 with an estimated annual income of \$27,000.

It is estimated that approximately 2,300 California residents would draw retirement income and have gross income less than \$50,000 per year qualifying for an exclusion totaling \$61 million per year. This amount was grown by 2 percent annually. The growth rate was based on the observed growth rate for benefits from the three prior years.

Beginning in tax year 2018, it is estimated that 11,000 California military retirees would qualify for the income exclusion for a total of \$190 million. This amount is multiplied by an estimated average tax rate for qualified taxpayers of 2 percent, resulting in an estimated revenue loss of \$3.8 million in tax year 2018.

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

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.

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