STATE OF CALIFORNIA
Franchise Tax Board

Summary Analysis of Amended Bill

Author: Salas	Sponsor:	Bill Number: AB 1258
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Attorney: Shane Hofeling	Related Bills: See Prior Analysis	

Subject: Exclusion/Military Servicemember Income

Summary

This bill would, under the Personal Income Tax Law (PITL), exclude from gross income active duty pay and military retirement pay received by certain members of the United States Armed Forces.

Recommendation – No position.

Summary of Amendments

The April 9, 2019, amendments added a sunset date and reporting requirements.

The April 11, 2019, modified the income subject to exclusion under this bill.

As a result of these amendments, the "Implementation Considerations" and the "Policy Concerns" provided in the department's analysis of the bill as introduced February 21, 2019, and amended March 25, 2019, have been resolved, and a new technical consideration has been identified. Except for the "Effective/Operative Date," "This Bill," "Implementation Considerations," "Technical Considerations," "Economic Impact" and "Policy Concerns" the remainder of that analysis still applies. The "Fiscal Impact" section has 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, 2020, and before January 1, 2030.

This Bill

This bill would, under the PITL, for taxable years beginning on or after January 1, 2020, and before January 1, 2030, exclude from gross income:

- Active duty pay received by a servicemember in the United State Armed Forces, in the reserve components of the United States Armed Forces, or in the National Guard, while on active duty in this state, and
- Military retirement pay received during the applicable time period by a servicemember who has been honorably discharged from the United States Armed Forces, the reserve components of the United States Armed Forces, or the National Guard.

"Applicable time period" would mean the period of time beginning on the date a servicemember in the United States Armed Forces, in the reserve components of the United States Armed Forces, or the National Guard is honorably discharged and ends after a period of time equal to the servicemember's cumulative days on active duty service prior to the honorable discharge.

The Secretary of Veterans Affairs would be required to confirm the applicable time period and the Department of Veterans Affairs would be allowed to adopt rules and regulations for the purpose of confirming the applicable time period.

The income exclusion would be repealed by its own terms on December 1, 2030.

In uncodified language, for purposes of evaluating the goals and purposes of the exclusion, this bill would require the Department of Veterans Affairs to compile information in an aggregate manner to preserve taxpayer confidentiality on the number of active duty service members and veterans taking advantage of the income tax exclusion program, the economic stability of California's veterans population, and whether there is a decrease in the number of veterans leaving California and report to the Legislative Analyst's Office (LAO) on or before December 1, 2030. The LAO would be required to report to the Legislature.

In uncodified language, the Franchise Tax Board (FTB) would be required to provide the Department of Veterans Affairs with any information necessary to compile the required report. The information provided by the FTB would be exempted from the prohibition on disclosing confidential taxpayer information and the prohibition on disclosure would apply to the information received by the Department of Veterans Affairs (DVA).

Technical Considerations

The bill includes a reporting requirement for the FTB in uncodified law. For ease of reference, it is recommended the bill be amended to place the provisions of Section 2 within the Revenue and Taxation Code.

It appears that the author is intending for the disclosure rules provided under Section 19542 to apply to the DVA. To avoid confusion, it is recommended that the bill be amended to specifically state that the rules in Section 17542 will be in lieu of FTB in the statute.

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 1258 as Amended April 11, 2019
Assumed Enactment after June 30, 2019

($ in Millions)

Fiscal Year	Revenue
2019-2020	-$90
2020-2021	-$160
2021-2022	-$160

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 published by the Department of Defense (DOD), it is estimated that of the active duty servicemembers in the United States Armed Forces, in the reserve components of the United States Armed Forces, or in the National Guard, 170,000 would be domiciled in California in 2020. It is also estimated that approximately 140,000 servicemembers who have been honorably discharged from military service would receive military retirement pay in 2020.

Based on United States military pay charts for active duty servicemembers in the United States Armed Forces, in the reserve components of the United States Armed Forces, or in the National Guard it is estimated servicemembers would earn an average active duty military pay of $35,000 in 2020. This results in an estimated $5.9 billion in qualified income exclusions in tax year 2020. This amount is multiplied by an estimated average tax rate for qualified active duty servicemembers of 1.6 percent, resulting in an estimated revenue loss of $95 million in taxable year 2020.

Based on data from the United States DOD, approximately 140,000 California military retirees would receive an estimated $4.2 billion in retirement payments in 2020. This amount is multiplied by an estimated average tax rate for qualified taxpayers of 1.6 percent, resulting in an estimated revenue loss of $65 million in tax year 2020. Net revenue loss for the combined income exclusions would be approximately $160 million in 2020.

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

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