



Bill Analysis

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Sponsor:

Bill Number: AB 2380

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Introduced: February 18, 2020

Attorney: Shane Hofeling

Related Bills: See Legislative
History

SUBJECT

Military Survivor Benefits Exclusion from Gross Income

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), exclude from gross income survivor benefits and payments received under Survivor Benefit Plans.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

None noted.

REASON FOR THE BILL

The reason for the bill is to assist the children and spouses of deceased military personnel by ensuring that survivor benefits and payments from Survivor Benefit Plans are excluded from gross income.

ANALYSIS

This bill would, under the PITL, for taxable years beginning on or after January 1, 2020, and before January 1, 2025, exclude from gross income survivor benefits or payments received under a Survivor Benefit Plan.

A Survivor Benefit Plan would mean a plan established pursuant to Subchapter II of Chapter 73 of Part II of Subtitle A of Title 10 of the United States (U.S.) Code.

This bill would require, for the purpose of complying with Revenue and Taxation Code (R&TC) section 41, the Franchise Tax Board (FTB) to report annually to the Legislature the income brackets of individuals who claimed the exclusion.

The exclusion would remain in effect until December 1, 2025, and be repealed as of that date.

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, 2025.

Federal/State Law

Existing federal and state laws provide that gross income includes all income from whatever source derived, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded.

Existing federal and state laws provide that certain types of income are excluded from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, qualified scholarships, educational assistance programs, foster care payments, and interest received on certain state or federal obligations.

Under existing federal law, members of the uniformed services may elect to reduce their retirement pay to provide an annuity to their survivors. Under federal and state tax laws, the reduction is excluded from gross income. Also, under federal and state law, certain annuities paid to survivors are included in the survivors' gross income for tax purposes.

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.

The bill requires the FTB to provide information on individuals that claim the exclusion to the Legislature. The bill is silent on the report date requirements. Because personal income tax returns may be filed, with extension, until October 15, the department would not have the data for tax year 2020 until approximately June 2022. For clarity and ease of administration, it is suggested that the bill be amended to specify the timing of the delivery of the data.

The bill requires the FTB to provide information about the income brackets of individuals who claim the exclusion to the Legislature. It would be beneficial to include the authorization for FTB to provide this information under Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the R&TC, which provides the exceptions to the prohibition that the FTB shall not disclose specified information from returns, reports, or documents.

Technical Considerations

None noted.

Policy Concerns

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

LEGISLATIVE HISTORY

AB 1275 (Gray, et al., 2015/2016), would have excluded military retirement pay and survivor benefits received by a beneficiary of a qualified taxpayer from gross income. AB 1275 failed to pass out of the Assembly by the constitutional deadline.

AB 1791 (Lopez, 2015/2016) would have excluded military retirement pay and survivor benefits from gross income. AB 1791 failed to pass out of the Assembly by the constitutional deadline.

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

The bill states that for purposes of R&TC section 41, the goal, purpose, or objective of this credit is to provide some financial relief to families that have experienced not only the loss of a loved one, but also often the loss of the sole income of the family. The Legislature's evaluation of the credit's success would be based on the number of taxpayers reporting the exclusion.

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2380 as Introduced February 18, 2020
Assumed Enactment after June 30, 2020

(\$ in Millions)

Fiscal Year	Revenue
2020-2021	-\$15.0
2021-2022	-\$9.0
2022-2023	-\$8.9

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 U.S. Department of Defense, approximately 30,000 California military survivors received approximately \$420 million in survivor benefits during 2018. An analysis of prior year benefits shows an average one percent annual decrease in survivor benefits paid. Applying this decrease results in an exclusion of approximately \$410 million in 2020. It is estimated that the average tax rate for these taxpayers would be 2.3 percent. Applying this tax rate results in an estimated revenue loss of \$9.5 million in the 2020 taxable year.

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

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

None noted.

ARGUMENTS

To be determined.

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