



Bill Analysis

Author: Rubio

Sponsor:

Bill Number: AB 2732

Analyst: Toni Arnold

Phone: (916) 845-4743

Introduced February 20, 2020

Attorney: Shane Hofeling

Related Bills: See Legislative
History

SUBJECT

Collection of Income Tax: Deployed Military Personnel

SUMMARY

This bill would, under the Administration of Franchise and Income Tax Law (AFITL), prohibit the Franchise Tax Board (FTB) from imposing a levy on the salary or wages of, or placing a lien on a bank account of, a deployed military personnel.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to provide relief from tax collection for deployed military personnel.

ANALYSIS

This bill would, under the AFITL, prohibit the FTB from imposing a levy on salary or wages payable to or received by, a member of the Armed Forces of the United States on active duty, while deployed away from the individual's permanent duty station. In addition, the bill would prohibit the FTB from placing a lien on a bank account of the member of the Armed Forces, while deployed away from the individual's permanent duty station.

Effective/Operative Date

This bill would become effective and operative on January 1, 2021.

Federal/State Law

Federal law allows the IRS to collect income tax liabilities by wage garnishment and levy.

State law allows the FTB to collect state income tax liabilities and non-tax debt (court-ordered debt and vehicle registration assessments) by wage garnishment. A wage garnishment is a notice sent to an employer when an individual or business entity taxpayer has a balance due, following the issuance of required notices of tax due.

In addition, state law allows the FTB to utilize bank levies and property liens to collect amounts past due.

Implementation Considerations

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill uses terms that are undefined, i.e., "wages," "active duty," "bank account," and "permanent duty station." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. For clarity and ease of administration, it is recommended that the bill be amended.

The bill is silent on how the deployed taxpayer would notify the FTB that collection action would be prohibited. For example, would the taxpayer be required to submit proof to the FTB? To avoid disputes between taxpayers and the department and to ensure consistency with the author's intent, this bill should be amended.

Technical Considerations

None noted.

Policy Concerns

None noted.

LEGISLATIVE HISTORY

AB 3372 (Committee on Revenue and Taxation, 2019/2020) would, among other provisions, under the AFITL, allow the FTB to serve wage garnishments by electronic transmission or other electronic technology. AB 3372 was introduced in the Assembly on March 16, 2020.

AB 1257 (Baker, et al., 2017/2018) would have changed the priority of payment application for payments collected by the FTB. AB 1257 failed to pass out of the Assembly by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

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 as introduced on February 20, 2020, does not change the calculation of income or franchise tax. However, it may result in a reduction in collection activity. To estimate the reduction in collections, both the number of deployed service members and their delinquent collections activity would need to be known. Because this is difficult to predict, the estimated revenue loss is unknown.

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

It is FTB's policy is to defer collection of tax on active deployed members of the Armed Forces of the United States. There are cases where the FTB is not aware of the individual's status and begins collection. This bill may reduce that activity. Any reduction in collections would depend upon the extent to which tax and interest owed would have otherwise been collected.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE STAFF CONTACT

Toni Arnold
Legislative Analyst, FTB
(916) 845-4743
toni.arnold@ftb.ca.gov

Tiffany Christiansen
Revenue Manager, FTB
(916) 845-5346
tiffany.christiansen@ftb.ca.gov

Annette Kunze
Legislative Director, FTB
(916) 845-6333
annette.kunze@ftb.ca.gov