



## **Bill Analysis**

Author: Seyarto, et al.

Sponsor:

Bill Number: AB 1629

Related Bills: See Legislative  
History

Introduced: January 11, 2022

### **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 from Survivor Benefit Plans not to exceed twenty thousand (\$20,000) per calendar year.

### **RECOMMENDATION**

No position.

### **SUMMARY OF AMENDMENTS**

Not applicable.

### **REASON FOR THE BILL**

The reason for the bill is to exclude a portion of benefits or payments under a Survivor Benefit Plan from personal income tax.

### **ANALYSIS**

This bill would, under the PITL, for taxable years beginning on or after January 1, 2022, and before January 1, 2027, exclude from gross income survivor benefits or payments under a Survivor Benefit Plan received on or after January 1, 2021, and before January 1, 2027. The exclusion would not exceed \$20,000 per calendar year.

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 Code, regarding survivor benefit plans.

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This bill would require, for the purpose of complying with Revenue and Taxation Code (RTC) section 41, the Franchise Tax Board (FTB) to report annually, on or before June 15, 2025, to the Legislature on the following:

- Income brackets of individuals who claimed the exclusion;
- Total number of claims for the exclusion; and
- Amount claimed for each exclusion.

The bill indicates that the disclosure provisions of this bill would be treated as an exception to the general prohibition against disclosure under Article 2 (commencing with Section 19542) of Chapter 7 or Part 10.2.

The exclusion would remain in effect until December 1, 2027, and would be repealed as of that date.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, 2022, and before January 1, 2027.

#### *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 considerations. Department staff is available to work with the author's office to resolve these and other considerations that may be identified.

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The bill would require the FTB to provide information about the income brackets of individuals who claim the exclusion, the total number of claims for the exclusion and the amount claimed for each exclusion. However, the FTB would not have this information available to report as exclusions are not claimed on the tax returns. If this is contrary to the author's intent, this bill should be amended.

#### *Technical Considerations*

For consistency of terminology in (a), the term "calendar year" should be replaced with the term "taxable year".

Also in (a), "January 1, 2021," should be replaced with "January 1, 2022."

In (B) (4), strike out "under Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2".

#### *Policy Considerations*

The bill would require the FTB to report on the usage of the exclusion for purposes of complying with Section 41, however it is not clear if the report would be required on an annual basis or if it would be a one-time report.

### **LEGISLATIVE HISTORY**

AB 291 (Seyarto, et al., 2021/2022), similar to this bill would have under the PITL, exclude from gross income survivor benefits and payments received from Survivor Benefit Plans. AB 291 did not pass out of the Assembly by the constitutional deadline.

AB 1623 (Ramos, 2021/2022), under the PITL, would exclude from gross income federal government retirement pay received from the uniformed services and annuity payments received from a Survivor Benefit Plan. AB 1623 has been referred to the Assembly Revenue and Taxation Committee.

AB 2380 (Choi, et al., 2019/2020), similar to this bill, would have excluded from gross income survivor benefits and payments received under Survivor Benefit Plans. AB 2380 did not 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.

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**ECONOMIC IMPACT**

*Revenue Estimate*

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1629 as Introduced January 11, 2022  
Assumed Enactment after June 30, 2022

(\$ in Millions)

<b>Fiscal Year</b>	<b>Revenue</b>
2022-2023	-\$11
2023-2024	-\$6.9
2024-2025	-\$6.8

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.

**LEGAL IMPACT**

None noted.

**APPOINTMENTS**

None noted.

**SUPPORT/OPPOSITION**

To be determined.

**ARGUMENTS**

To be determined.

**LEGISLATIVE CONTACT**

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