Bill Analysis

Author: Seyarto, et al.  
Sponsor:  
Related Bills: See Legislative History  
Bill Number: AB 1629  
Amended: February 28, 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 taxable year.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The February 28, 2022, amendments modified the provision of the bill relating to section 41 requirements, added two coauthors, and made other miscellaneous changes. The February 28, 2022, amendments resolved the implementation consideration, policy consideration, and all but one of the technical considerations as discussed in the department’s analysis of the bill as introduced on January 11, 2022.

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 taxable 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.
This bill would require, for the purpose of complying with Revenue and Taxation Code (RTC) section 41, the Franchise Tax Board (FTB) to collect and report by March 1, 2024, and on or before March 1 thereafter, to the Legislature on the following:

- The number of taxpayers excluding income from survivor benefit plans;
- Total dollar amount of income excluded, and
- Total number of taxpayers in each tax bracket who excluded income.

The bill indicates that the disclosure provisions of this bill would be treated as an exception to Section 19542 of the RTC, related to disclosure of information.

The exclusion would remain in effect until December 1, 2027, and would be repealed as of that date.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

None noted.
Technical Considerations

For technical consistency, in Section 17140.6 (a), “January 1, 2021,” should be replaced with “January 1, 2022.”

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 291 (Seyarto, et al., 2021/2022), similar to this bill, would have under the PITL, excluded 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 under the PITL, 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.

ECONOMIC IMPACT

Revenue Estimate

The February 28, 2022, amendment does not affect the revenue impact of this bill. The revenue estimate as introduced January 11, 2022, still applies.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.
SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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