



## **Bill Analysis**

Author: Seyarto, et al.

Sponsor:

Bill Number: AB 1629

Related Bills: See Legislative  
History

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.

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The exclusion would remain in effect until December 1, 2027, and would be repealed as of that date.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

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### *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.

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**SUPPORT/OPPOSITION**

To be determined.

**ARGUMENTS**

To be determined.

**LEGISLATIVE CONTACT**

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