



Bill Analysis

Author: Rubio

Sponsor:

Bill Number: AB 837

Related Bills: See Legislative
History

Introduced: February 17, 2021

SUBJECT

Suspension of Collection Activity for 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, deployed military personnel.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for this bill is to prohibit collection activity 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 January 1, 2022.

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Federal/State Law

Federal Law

Current federal law, Internal Revenue Code (IRC) section 7508, generally provides a postponement of time for a taxpayer to complete or resolve certain activities related to their income tax obligations when the individual is serving in the Armed Forces of the United States, or serving in support of such Armed Forces, and meets specified criteria, including hospitalization as a result of injury received while serving in such an area or operation. The postponement applies during the period of such service and the following 180 days. During this period, activities related to income tax obligations are disregarded with respect of any of the individual's tax liability (including any interest, penalty, additional amount, or addition to the tax).

This includes:

- Filing any return of income, estate, gift, employment, or excise tax.
- Payment of any income, estate, gift, employment, or excise tax or any installment thereof or of any other liability to the United States in respect thereof.
- Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court.
- Allowance of a credit or refund of any tax.
- Filing a claim for credit or refund of any tax.
- Bringing suit upon any such claim for credit or refund.
- Assessment of any tax.
- Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax.
- Collection, by the Secretary, by levy or otherwise, of the amount of any liability in respect of any tax.
- Bringing suit by the United States, or any officer on its behalf, in respect of any liability in respect of any tax.
- Any other act required or permitted under the internal revenue laws specified by the Secretary.
- The amount of any credit or refund.
- Any certification of a seriously delinquent tax debt under Section 7345

These provisions also apply to the spouse of any service member entitled to a postponement.

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State Law

California conforms to IRC section 7508.

Implementation Considerations

The department has identified the following implementation considerations and is available to work with the author's office to resolve these and other considerations that may be identified.

This bill uses terms that are undefined, for example, "wages," "active duty," "bank account," and "deployed away from the individual's permanent duty station." The absence of definitions to clarify these terms could lead to disputes. For clarity, it is recommended that the bill be amended to define these terms.

The bill is silent on how the deployed taxpayer would notify the FTB that collection action would be prohibited. For clarity, and to avoid disputes, and ensure consistency with the author's intent, this bill should be amended to provide how the taxpayer would notify the FTB of their military deployment.

Technical Considerations

None noted.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 3372 (Committee on Revenue and Taxation, Chapter 297, Statutes of 2020) allowed the FTB to serve wage garnishments by electronic transmission or other electronic technology.

AB 2732 (Rubio, 2019/2020), similar to this bill, would have prohibited the FTB from imposing a levy on the salary or wages of, or placing a lien on a bank account of, deployed military personnel. AB 2732 did not pass out of the Assembly by the constitutional deadline.

AB 1257 (Baker, et al., 2017/2018) would have changed the priority of payment application for payments collected by the FTB. AB 1257 did not pass out of the Assembly by the constitutional deadline.

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PROGRAM BACKGROUND

When the FTB is notified of a taxpayer's deployment, current collection activity is paused. The taxpayer's account is updated to reflect the dates of deployment with an additional 180 days added to their scheduled return date.

If the taxpayer does not provide prior notice of their deployment, FTB cannot prevent levies from being issued. If a levy is issued while the taxpayer is on active duty and deployed, FTB will stop collection action and release any current levies once the taxpayer, the taxpayer's spouse, or the taxpayer's representative contacts the FTB regarding the levy. Proof of active duty and deployment is required for release of the levy and a stay on collections.

FISCAL IMPACT

This bill would not impact departmental costs since the FTB already does what this bill is proposing.

ECONOMIC IMPACT

Revenue Estimate

This bill as introduced on February 17, 2021, 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.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

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ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov