



Bill Analysis

Author: Ramos, et al.

Sponsor:

Bill Number: AB 46

Related Bills: See Legislative
History

Introduced: December 5, 2022

SUBJECT

Gross Income Exclusions: Uniformed Services Retirement Pay & Survivor Benefit Plan Payments

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), exclude from gross income retirement pay received for service in the uniformed services and annuity payments received from a Survivor Benefit Plan.

This analysis only addresses the provisions that would impact the department.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to provide an income exclusion for retired members of the uniformed services and for survivor benefits paid to beneficiaries.

ANALYSIS

This bill would, under the PITL, for taxable years beginning on or after January 1, 2024, and before January 1, 2034, exclude from gross income retirement pay received by a taxpayer during the taxable year from the federal government for service in the uniformed services.

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The bill defines the following terms:

“Armed forces of the United States” means all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, and each term also includes the Coast Guard and United States Space Force. The members of such forces include commissioned officers and personnel below the grade of commissioned officers in such forces.

“Uniformed services” means the Armed Forces of the United States, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the United States Public Health Service, and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

This bill would also, under the PITL, for taxable years beginning on or after January 1, 2024, and before January 1, 2034, exclude from gross income annuity payments received by a qualified taxpayer from a United States Department of Defense Survivor Benefit Plan during the taxable year.

The bill defines the following terms:

“Qualified taxpayer” means the surviving spouse or other named beneficiary of a plan.

“United States Department of Defense Survivor Benefit Plan” means a survivor benefit plan established pursuant to Sections 1447 through 1455 of Title 10 of the United States Code.

For both exclusions, this bill would require, for the purpose of complying with Revenue and Taxation Code section 41, the Legislative Analyst (LAO) in collaboration with the Department of Veteran Affairs (VA) to report on or before December 1, 2034, to the Legislature the number of veterans and survivor benefit plan beneficiaries taking advantage of the exclusions, the impact of the exclusions on the economic security of veterans and survivor benefit plan beneficiaries in California, and the number of retired veterans and survivor benefit plan beneficiaries leaving California. The bill would allow the LAO to request information from both the Franchise Tax Board (FTB) and the VA.

The disclosure provisions of this bill would be treated as an exception to the FTB's disclosure rules under Section 19542.

Both exclusions would remain in effect until December 1, 2034, and would be repealed as of that date.

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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, 2024, and before January 1, 2034.

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

The bill would require the FTB to provide information to the LAO related to the exclusions, however it is not clear what specific information would be required by the FTB.

The FTB may not have information on the exclusions taken, the economic security of veterans or recipients of survivor benefit plans, or the number of veterans and beneficiaries leaving California.

Technical Considerations

None noted.

Policy Considerations

None noted.

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LEGISLATIVE HISTORY

AB 1623 (Ramos, et al., 2021/2022), similar to this bill, would have under the PITL, excluded from gross income retirement pay received for service in the uniformed services and annuity payments received from a Survivor Benefit Plan. AB 1623 did not pass out of the Assembly by the constitutional deadline.

AB 291 (Seyarto, et al., 2021/2022) and AB 1629 (Seyarto, et al., 2021/2022), would have excluded from gross income survivor benefits and payments received under a Survivor Benefit Plan. AB 291 and AB 1629 did not pass out of the Assembly by the constitutional deadline.

AB 2380 (Choi, et al., 2019/2020), 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.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 46 as Introduced December 5, 2022
 Assumed Enactment after June 30, 2023

(\$ in Millions)

Fiscal Year	Revenue
2023-2024	-\$50
2024-2025	-\$85
2025-2026	-\$85

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.

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LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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