



Bill Analysis

Author: Seyarto, et al.

Sponsor:

Bill Number: SB 911

Related Bills: See Legislative
History

Amended: March 5, 2024, and
April 1, 2024

SUBJECT

Military Survivor Benefits Gross Income Exclusion

SUMMARY

Under the Personal Income Tax Law (PITL), this bill would exclude from gross income survivor benefits or payments received under a Survivor Benefit Plan, not to exceed twenty thousand dollars (\$20,000) per taxable year.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 5, 2024, amendments made several changes, including extending the repeal date, removing the Legislative Analyst from the Section 41 reporting requirement, and other technical changes.

The April 1, 2024, amendments added several coauthors as well as made a non-substantive technical change.

These amendments resolved the technical consideration discussed in the Franchise Tax Board's (FTB) analysis of the bill as introduced January 8, 2024. However, one implementation consideration remains.

REASON FOR THE BILL

The reason for this bill is to exclude survivor benefits or payments received under a Survivor Benefit Plan from gross income.

ANALYSIS

This bill would, under the PITL, for taxable years beginning on or after January 1, 2025, and before January 1, 2035, exclude from gross income survivor benefits or payments under a Survivor Benefit Plan received during the taxable year. The exclusion would not exceed \$20,000 per taxable year.

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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.

For the purpose of complying with Revenue and Taxation Code (RTC) section 41, this bill would require the FTB to report by November 1, 2033, to the Legislature, to the extent that it is available, 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 the disclosure of information.

The provision would remain in effect until December 1, 2035, and would be repealed as of that date.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, 2025, and before January 1, 2035.

Federal/State Law

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. Types of income currently excluded include amounts received as a gift or inheritance, certain compensation for injuries and sickness, educational assistance programs, foster care payments, interest received on certain state or federal obligations, and qualified scholarships.

For federal and state purposes, a member of the Armed Forces of any country and the uniformed services of the United States may exclude from gross income amounts received as a pension, annuity, or similar allowance for personal injury or sickness resulting from active service. Current federal law allows members of the uniformed services to elect to reduce their retired pay to provide an annuity to their survivors. Under both federal and state tax laws, the reduction is excluded from gross income.

Furthermore, under federal and state law, annuities paid to survivors are included in the survivors' gross income.

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Implementation Considerations

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

For purposes of complying with Section 41, this bill would require the FTB to report on the number of taxpayers excluding income from survivor benefit plans, total dollar amount of income excluded, and the total number of taxpayers in each tax bracket who excluded income. However, since taxpayers are not required to report excluded income on their return, FTB may not have complete information to report, or may not be able to report on the required information.

Technical Considerations

None noted.

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 did not pass out of the Assembly by the constitutional deadline.

AB 1629 (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 not to exceed twenty thousand per taxable year. AB 1629 did not pass out of the Assembly by the constitutional deadline.

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.

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FISCAL IMPACT

The FTB’s costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be determined.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 911 as Amended April 1, 2024
Assumed Enactment after June 30, 2024

(\$ in Millions)

Fiscal Year	Revenue
2024-2025	-\$4.4
2025-2026	-\$7.5
2026-2027	-\$7.5

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

The April 5, 2024, Senate Committee on Military and Veteran Affairs analysis included the following support and opposition.

Support:

San Bernadino County.

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Opposition:

None received.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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