STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Seyarto, et al.

Sponsor:

Bill Number: SB 1

Related Bills: See Legislative History

Introduced: December 2, 2024

SUBJECT

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

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), for taxable years beginning on or after January 1, 2024, and before January 1, 2034, exclude from gross income retirement pay received for service in the uniformed services and annuity payments received from a Survivor Benefit Plan.

RECOMMENDATION

No position—The three-member Franchise Tax Board has not formally voted or taken a position on this bill.

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. 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 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.

Both exclusions would remain in effect until December 1, 2034, and would be repealed as of that date.

For both exclusions, this bill would require, for the purpose of complying with Revenue and Taxation Code (RTC) section 41, the Legislative Analyst (LAO), in collaboration with the Department of Veterans Affairs (VA) and the Franchise Tax Board (FTB), to report on or before December 1, 2034, to the Legislature. To the extent data is available, the report would be required to include, but not be limited to, the following information regarding detailed performance indicators:

- An analysis of the number of retired veterans and survivor benefit plan beneficiaries taking advantage of the exclusions.
- The impact of the exclusions on the economic security of retired veterans and survivor benefit plan beneficiaries in California.
- The number of retired veterans and survivor benefit plan beneficiaries leaving California.
- The earned income generated by retired veterans and survivor benefit plan beneficiaries subject to state income tax under the RTC.

The report would not include any personally identifiable information.

The bill would allow the LAO to request information from both the 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.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and would be retroactively 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 also 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.

Under existing state law, legislation that would create a new tax expenditure, which includes a credit, deduction, exemption, or any other tax benefit as provided for by the state, is required to include specific goals, purposes, objectives, detailed performance indicators and data collection requirement measures to allow the Legislature to evaluate the effectiveness of the tax benefit. Legislation that would create an income exclusion, would not require detailed performance indicators and data collection requirement measures if the Legislature determines there is no available data to collect and report.

Implementation Considerations

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

This bill uses the undefined term, "earned income generated." For clarity, it is recommended that the bill be amended to clarify whether earned income generated would be gross income, net income, or another definition. For example, for purposes of the California Earned Income Tax Credit, earned income is defined by reference to the Internal Revenue Code, with modifications, and means wages, salaries, tips, and other employee compensation or net income from self-employment. It does not include other sources of income such as unemployment income or investment income.

The bill would also require the FTB to provide information to the LAO related to the exclusions, however it is not clear what specific information FTB would be required to provide. FTB would not have information on the economic security of retired veterans and survivor benefit plan beneficiaries or the number of retired veterans and survivor benefit plan beneficiaries leaving California.

Technical Considerations

For consistency of terminology, the following change is recommended:

The definition in (b)(2) of "uniformed services" includes the definition of "Armed Forces of the United States" as defined in RTC 17022. Therefore, the term "Armed Forces of the United States" as defined in Section 17132.9(b)(1), may be removed.

Policy Considerations

If this bill were enacted in the 2025 legislative session, the exclusion allowed by this bill would be considered retroactive to the specified operative date of January 1, 2024, and exclusions claimed by taxpayers could be construed as a gift of public funds. The retroactive treatment could also require the FTB to process additional amended returns. If this is contrary to the author's intent, they may want to amend the bill to have an operative date of taxable years beginning on or after January 1, 2025.

A bill that authorizes a gross income exclusion is exempt from including information about detailed performance indicators and data collection requirements, if the Legislature determines there is no available data to collect and report. This bill requires detailed performance indicators and data collection requirements. If the author determines there is no available data to collect or report, this information does not need to be included in the bill.

LEGISLATIVE HISTORY

AB 53 (Ramos and Pacheco, 2025/2026) would, under the PITL, for taxable years beginning on or after January 1, 2027, and before January 1, 2037, exclude from gross income retirement pay received for service in the uniformed services and annuity payments received from a Survivor Benefit Plan. This bill has been referred to the Assembly Revenue and Taxation Committee.

AB 46 (Ramos, et al., 2023/2024), 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 46 did not pass out of Senate by the constitutional deadline.

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.

PROGRAM BACKGROUND

None noted.

OTHER STATES' INFORMATION

None noted.

FISCAL IMPACT

FTB'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 SB 1
Assumed Enactment by March 15, 2025

($ in Millions)

Fiscal Year	Revenue
2024-2025	-$240
2025-2026	-$150
2026-2027	-$150
2027-2028	-$150

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.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov