

ASSEMBLY BILL

No. 46

Introduced by Assembly Member Ramos

December 5, 2022

An act to add and repeal Sections 17132.9 and 17132.10 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 46, as introduced, Ramos. Personal income taxes: exclusion: Military Services Retirement and Surviving Spouse Benefit Payment Act.

The Personal Income Tax Law imposes a tax on individual taxpayers measured by the taxpayer's taxable income for the taxable year, but excludes certain items of income from the computation of tax, including an exclusion for combat-related special compensation.

This bill, for taxable years beginning on or after January 1, 2024, and before January 1, 2034, would exclude from gross income retirement pay received by a taxpayer from the federal government for service performed in the uniformed services, as defined, during the taxable year. The bill, for taxable years beginning on or after January 1, 2024, and before January 1, 2034, would also exclude from gross income annuity payments received by a qualified taxpayer, as defined, pursuant to a United States Department of Defense Survivor Benefit Plan during the taxable year. The bill would make related findings and declarations.

Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill also would include additional information required for any bill authorizing a new tax expenditure. The bill would require the Franchise Tax Board and the Department of Veterans Affairs to provide any data requested by the Legislative Analyst to write the report, and would make taxpayer information received by the Legislative Analyst subject to limitation on the collection and use of that information. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This measure shall be known, and may be cited,
- 2 as the Military Services Retirement and Surviving Spouse Benefit
- 3 Payment Act.
- 4 SEC. 2. The Legislature finds and declares all of the following:
- 5 (a) Servicemembers are eligible to retire from the military after
- 6 20 years of service. These retirees devoted the prime years of their
- 7 life to defending the freedom of all Americans.
- 8 (b) To preserve the current policy of an all-volunteer force while
- 9 still maintaining critical skills and readiness requires the retention
- 10 of qualified military personnel, both enlisted and officers. This
- 11 retention of military professionals also saves the costs to the
- 12 taxpayer associated with training replacement personnel in essential
- 13 skills.
- 14 (c) Retired members of the nation’s two nonarmed uniformed
- 15 services, which consist of the commissioned corps of the United
- 16 States Public Health Service and the National Oceanic and
- 17 Atmospheric Administration Commissioned Officer Corps, also
- 18 provide valuable service to the nation’s health and environmental
- 19 safety.
- 20 (d) Providing a state income tax exclusion to retirees of the
- 21 uniformed services not only signifies the gratitude of Californians

1 for these men and women who chose to serve our country, it also
2 benefits the state and local economies by helping to retain skilled
3 and motivated individuals in California.

4 (e) The number one issue for employers in California is
5 attracting a qualified workforce. Approximately 60,000 high-tech
6 jobs are unfilled. Uniformed service retirees are highly skilled,
7 often in areas requiring technical and management expertise. These
8 men and women often continue to be valuable assets to our schools,
9 local charities, and nonprofit organizations.

10 (f) Substantial new federal funds are infused into the state and
11 local economies not only from retirement pay, but also from the
12 full taxation of their second careers. These retirees may also qualify
13 for federal veterans' benefits, which further bring new monies into
14 the state.

15 (g) The United States Department of Defense's Survivor Benefit
16 Plan allows a retiree to ensure, after death, a continuous lifetime
17 annuity for their dependents. The maximum annuity for a spouse
18 is based on 55 percent of the member's retirement pay. Eligible
19 children may also be beneficiaries. State income taxation of these
20 funds, which are critical to the economic well-being of those who
21 have suffered the loss of a husband, wife, father, or mother, can
22 place the surviving family members in risk of falling into the state
23 and local safety nets.

24 SEC. 3. Section 17132.9 is added to the Revenue and Taxation
25 Code, to read:

26 17132.9. (a) For taxable years beginning on or after January
27 1, 2024, and before January 1, 2034, gross income shall not include
28 retirement pay received by a taxpayer from the federal government
29 for service in the uniformed services during the taxable year.

30 (b) For purposes of this section, the following definitions apply:

31 (1) "Armed Forces of the United States" includes all regular
32 and reserve components of the uniformed services which are
33 subject to the jurisdiction of the Secretary of Defense, the Secretary
34 of the Army, the Secretary of the Navy, or the Secretary of the Air
35 Force, and each term also includes the Coast Guard and United
36 States Space Force. The members of such forces include
37 commissioned officers and personnel below the grade of
38 commissioned officers in such forces.

39 (2) "Uniformed services" means the Armed Forces of the United
40 States, the Army National Guard and the Air National Guard when

1 engaged in active duty for training, inactive duty training, or
2 full-time National Guard duty, the commissioned corps of the
3 United States Public Health Service, and the National Oceanic and
4 Atmospheric Administration Commissioned Officer Corps.

5 (c) This section shall remain in effect only until December 1,
6 2034, and as of that date is repealed.

7 SEC. 4. Section 17132.10 is added to the Revenue and Taxation
8 Code, to read:

9 17132.10. (a) For taxable years beginning on or after January
10 1, 2024, and before January 1, 2034, gross income shall not include
11 annuity payments received by a qualified taxpayer pursuant to a
12 United States Department of Defense Survivor Benefit Plan during
13 the taxable year.

14 (b) For purposes of this section, the following definitions apply:

15 (1) "Qualified taxpayer" means the surviving spouse or other
16 named beneficiary of a plan.

17 (2) "United States Department of Defense Survivor Benefit
18 Plan" or "plan" means a survivor benefit plan established pursuant
19 to Sections 1447 to 1455, inclusive, of Title 10 of the United States
20 Code.

21 (c) This section shall remain in effect only until December 1,
22 2034, and as of that date is repealed.

23 SEC. 5. For purposes of complying with the requirements of
24 Section 41 of the Revenue and Taxation Code, with respect to the
25 exclusions allowed by Sections 17132.9 and 17132.10 of the
26 Revenue and Taxation Code, as added by this act, hereafter known
27 as "the exclusions," the Legislature finds and declares the
28 following:

29 (a) The specific goals, purposes, and objectives of the exclusions
30 are as follows:

31 (1) To honor the service of California veterans and provide
32 fiscal relief so that they and their families will remain or retire in
33 California.

34 (2) To increase the number of highly skilled retired veterans in
35 California's workforce.

36 (b) Detailed performance indicators for the Legislature to use
37 in determining whether the exclusions meet the goals, purposes,
38 and objectives described in subdivision (a) are as follows:

39 (1) The number of veterans and survivor benefit plan
40 beneficiaries taking advantage of the tax exclusions.

1 (2) The economic security of veterans and survivor benefit plan
2 beneficiaries in California.

3 (3) The number of retired veterans and survivor benefit plan
4 beneficiaries leaving California.

5 (c) The data collection requirements for the exclusions are as
6 follows:

7 (1) On or before December 1, 2034, the Legislative Analyst, in
8 collaboration with the Department of Veterans Affairs, shall write
9 and submit a report to the Legislature on the effectiveness of the
10 exclusions. The report shall include, but not be limited to, an
11 analysis of the number of veterans and survivor benefit plan
12 beneficiaries taking advantage of the exclusions, the impact of the
13 exclusions on the economic security of veterans and survivor
14 benefit plan beneficiaries in California, and the number of retired
15 veterans and survivor benefit plan beneficiaries leaving California.
16 The report shall be submitted in compliance with Section 9795 of
17 the Government Code.

18 (2) To write the report required by this subdivision, the
19 Legislative Analyst may request information from the Franchise
20 Tax Board and the Department of Veterans Affairs.

21 (3) Notwithstanding Section 19542 of the Revenue and Taxation
22 Code, the Franchise Tax Board and the Department of Veterans
23 Affairs shall provide any data requested by the Legislative Analyst
24 pursuant to this subdivision. Taxpayer information received
25 pursuant to this section by the Legislative Analyst is subject to
26 Section 19542 of the Revenue and Taxation Code.

27 SEC. 6. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

36 SEC. 7. This act provides for a tax levy within the meaning of
37 Article IV of the California Constitution and shall go into
38 immediate effect.

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