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# SENATE COMMITTEE ON MILITARY AND VETERANS AFFAIRS

Senator Bob Archuleta, Chair

2023 - 2024 Regular

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<b>Bill No:</b>	AB 46	<b>Hearing Date:</b>	7/10/23
<b>Author:</b>	Ramos		
<b>Version:</b>	12/5/22 Introduced		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Jenny Callison		

**Subject:** Personal income taxes: exclusion: Military Services Retirement and Surviving Spouse Benefit Payment Act

## DESCRIPTION

### Summary:

Excludes retirement pay received by a member of the Armed Forces of the United States, and excludes income annuity payments received pursuant to a United States Department of Defense Survivor Benefit Plan, from gross income under the Personal Income Tax Law during taxable years beginning on or after January 1, 2024, and before January 1, 2034,

### Existing law:

- 1) 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.
- 2) 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:

- 1) Enacts the Military Services Retirement and Surviving Spouse Benefit Payment Act, which excludes from income for state tax purposes:
  - a) Retirement pay received by a taxpayer from the federal government for services in the uniformed services, and
  - b) Annuity payments received by a qualified taxpayer pursuant to a DoD Survivor Benefit Plan.
- 2) Defines the following terms:
  - a) "Uniformed services" for the retirement pay exclusion includes service in 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, or the National Oceanic and Atmospheric Administration Commissioned Officer Corps;

- b) "United States Department of Defense Survivor Benefit Plan" or "plan" is a survivor benefit plan established under Sections 1447 to 1455, inclusive, of Title 10 of the United States Code; and,
  - c) "Qualified taxpayer" for the annuity payments exclusion is the surviving spouse or other named beneficiary of a plan.
- 3) Provides the income exclusion for taxable years beginning on or after January 1, 2024, and before January 1, 2034.
  - 4) Takes immediate effect as a tax levy.
  - 5) Repeals the gross income exclusion's statutory provisions on December 1, 2034.
  - 6) Requires the Legislative Analyst's Office (LAO), in collaboration with the Department of Veterans Affairs (CalVet), to submit a report to the Legislature on the exclusion's effectiveness.

### **BACKGROUND**

California law allows various income tax credits, deductions, exemptions, and exclusions. The Legislature enacts such tax incentives either to compensate taxpayers for incurring certain expenses, such as child adoption, or to influence certain behavior, such as charitable giving. The Legislature uses tax incentives to encourage taxpayers to do something they would otherwise not do, but for the tax credit.

Generally, service members can retire from active duty at any age once they have completed at least 20 years of service. In addition, persons who meet retirement requirements partially or entirely through reserve or National Guard service receive retirement pay after age 59. Federal and state law exclude certain types of military income from tax, including military death benefits paid to qualified survivors, military pay for time serviced in combat zones, and the premium paid into a survivor annuity account for qualified survivors of military personnel.

The Survivor Benefit Plan is a United States Department of Defense (DoD) sponsored and subsidized program that allows a military retiree to ensure, after death, a continuous lifetime annuity for their dependents. Under existing federal law, members of the uniformed services may elect to reduce their retirement pay to provide an annuity to their survivors, and the reduction is excluded from gross income. However, payments received by beneficiaries of the survivor annuity accounts, are included in gross income calculation for those beneficiaries.

California is the only state that fully taxes military retirement. Most states exclude all or some military retirement pay from being taxed in the state, and California is an outlier. Twenty-seven states do not tax military retirement pay and fourteen states tax military retirement income partially through income exemptions and exclusions. Five states (Arizona, Utah, Indiana, Nebraska, and North Carolina) passed laws to fully exclude military retirement income from taxation starting for the 2021 or 2022 taxable year. Vermont and Virginia enacted legislation in 2022 exempting the first \$10,000 in military retirement pay from state income taxation for qualifying taxpayers. A significant number of states also do not tax annuity payments from the

Survivor Benefit Plan. Arizona, North Carolina, and Utah passed legislation to exclude survivor annuity payments in 2021 from gross income for income taxation purposes.

Seeking to reward military veterans for their service, and provide an incentive for military retirees to reside in the state, the author wants to exclude military retirement and survivor benefit payments from state income tax. Military retirees are often high skilled employees who will contribute to the community and generate taxable economic activity.

### **COMMENT**

According to the DOD's Statistical Report on the Military Retirement System for Fiscal Year 2021 (the most recent data available), there are 145,308 military retirees residing in California, fourth only to Texas (222K), Florida (210K), and Virginia (156K).

A 40-year old E-6 who retires in July 2023 after 20 years will receive approximately \$26,448 a year in a defined-benefit military pension (which is adjusted annually for inflation), akin to just about \$2,204 a month. In this example, the state of California would likely benefit from another 25-years+ worth of state income taxes as the retiree moves on to a second career in California during their working-age retirement years post-military service (~40-65+). Enlisted personnel make up approximately 83 percent of the military while the Officer Corps makes up just 17 percent. Thus, the vast majority of retirees who will benefit from the provisions in AB46 are enlisted.

The ratio of California public-school teachers to military retirees living in California is more than 2:1. There are approximately 319,000 public school teachers in California, all California residents. Whereas, there are only about 158,000 active-duty military personnel stationed in California at any one time, most of whom are not California residents and will not retire in California. Compared to public school teachers, the number of military retirees who would benefit from this provision is relatively modest.

In the active-duty U.S. Army, for instance, 46,000 Soldiers consider California their Home of Record. Statistically speaking, just 17 percent of military personnel serve the 20 years required to receive a defined-benefit pension. Assuming all 46,000 Californians return home after their military service, which is unlikely, only about 7,820 would be eligible for the benefits outlined in this provision.

The State of California is the only state that fully taxes the pay of its 145,308 military retirees. In deciding where to live, housing costs, prior living locations, and employment opportunities are important. From 2010 to 2021, the veteran retiree population grew by 17% in the United States. California, which was one of only five states to see a decrease in military retiree population, saw a 14% reduction in the number of military retirees over that same time period.

Currently, in California, approximately 60,000 high-tech jobs remain unfilled. Armed Forces retirees are highly skilled, often in areas requiring technical and management expertise. These men and women are likely to continue to be valuable assets to our schools, local charities, and non-profit organizations. Substantial new federal funds are infused into the state and local economies not only from retirement pay, but also from the full taxation of their second careers. These retirees may also qualify for federal veterans' benefits, which further bring new monies into the state.

According to the author:

AB 46 recognizes members of the Armed Forces and their contribution to our nation and seeks to exempt their retirement pay once they retire after twenty years of service. The purpose of the bill is twofold; to honor those who dedicated their life to serving their country, and to retain and attract uniformed service retirees to California for the purposes of strengthening the state's skilled workforce, bringing stability to communities, and contributing to the state and local tax base. AB 46 has received unanimous Bi-partisan support through the process.

Proposed Amendments:

- 1) Clarify reporting requirements to specify tracking of "retired" veterans taking advantage of the tax exclusions and also the economic security of "retired" veterans.
- 2) Includes collaboration between CalVet and the Franchise Tax Board in writing and submitting the report on the effectiveness of the exclusions to the Legislature.
- 3) Adds a data column for the earned income generated by retired veterans and survivor benefit plan beneficiaries subject to California state income tax.
- 4) Adds co-authors.

**POSITIONS**

**Sponsor:** Military Officers Association of America, California Council of Chapters.

**Support:**

Aerospace and Defense Alliance of California  
 American Legion, Department of California  
 AMVETs, Department of California  
 Association of The U.S. Army, Northern & Southern California Chapters  
 California Association of County Veteran Services Officers  
 California Association of Highway Patrolmen  
 California Enlisted Association of The National Guard of The United States  
 California Manufacturers and Technology Association  
 California State Commanders Veterans Council  
 City of Fairfield  
 County of Monterey  
 Howard Jarvis Taxpayers Association  
 Military Officers Association of America - Alameda Chapter  
 Military Officers Association of America - Alta CA Chapter  
 Military Officers Association of America - California Council of Chapters  
 Military Officers Association of America - Miramar Chapter  
 Military Officers Association of America - Redwood Empire Chapter  
 Military Officers Association of America - Sacramento Chapter  
 Military Officers Association of America - Solano County  
 Military Officers Association of America - Ventura County Chapter

Peace Officers Research Association of California  
San Diego Military Advisory Council  
San Diego Regional Chamber of Commerce  
Scottish-American Military Society  
Vietnam Veterans of America, California State Council  
41 Individuals

**Oppose:**

California Federation of Teachers, AFL-CIO

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