

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** Michael T. Futrell

3. **Committee** House Finance

4. **Title** Individual Income Tax; Home Purchase from
Member of Armed Forces Tax Credit

2. **Bill Number** HB 782

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide a \$1,000 individual income tax credit to taxpayers who purchase a home from an active or reserved member of the armed forces who is selling his or her home because of deployment or relocation orders. The credit would be claimed for the taxable year in which the individual purchased the home. Any unused tax credit would be carried over for the next taxable year.

This bill would be effective for taxable years beginning on or after January 1, 2015, but prior to January 1, 2020.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8).

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

Revenue Impact

This bill would have an unknown negative impact on General Fund revenue, beginning in Fiscal Year 2016. It is unknown how many Virginia taxpayers would purchase a home from a member of the U.S. Armed Forces who is selling his home due to deployment or relocation orders.

According to the U.S. Census Bureau's American Community Survey, there were 109,390 Virginians in the U.S. Armed Forces during 2012. Based on data from the Census Bureau's American Community Survey and Navy surveys of military families, military home ownership rates in Virginia ranged from 38 to 41 percent during 2011. Assuming a home ownership rate of 39 percent, it is estimated approximately 43,000 Virginia servicemen and women own homes.

The Virginia Association of Realtors reports that there were 90,894 Virginia homes for sale during 2012. According the National Association of Realtors, approximately 16 percent of home sellers in the United States cited "job relocation" as the primary reason for selling a home during 2012. However, the actual incidence and reason for home sales among members of the U.S. Armed Forces in Virginia is unknown.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Military Housing Tax Preferences

Sale of Home by Military Member

Under federal law, taxpayers can exclude up to \$250,000 of gain (\$500,000, if married filing a joint return) realized on the sale or exchange of their primary residence. Taxpayers may claim this exclusion each time they sell or exchange their primary residence, but generally not more than once every two years. To be eligible, for the five-year period ending on the date of the sale, the taxpayer must have owned the home for at least two years (the ownership test), and used the home as his or her primary residence for at least two years (the use test).

Members of the military who do not meet the ownership and use tests due to relocation orders can exclude gain on the sale of their home, but the maximum amount of gain they can exclude will be reduced.

Additionally, servicemen and women can choose to suspend the five-year test period for home ownership and use for any period served on qualified official extended duty as a member of the Armed Forces. Suspending the five-year test period can allow servicemen and women to meet the use test who, because of their service, did not actually live in their home for at least two years during the five-year period ending on the date of sale.

Living and Moving Allowances Excluded from Income

Among the different types of compensation received by members of the Armed Forces, living allowances and moving allowances are generally excluded from income. Living allowances include: the basic allowance for housing ("BAH"), the basic allowance for subsistence ("BAS"), housing and cost-of-living allowances abroad paid by the U.S. Government or by a foreign government, and overseas housing allowances ("OHA"). Moving allowances include: dislocation allowance, military base realignment and closure benefits, move-in housing allowance, moving household and personal items, moving trailers or mobile homes, storage, temporary lodging allowance, and lodging expenses.

The BAH is paid to service members stationed in the United States who do not live in government-provided housing and is intended to help offset the cost of housing in the private sector. Although the BAH is excluded from income, service members may deduct any mortgage interest and real estate taxes paid with their allowance.

Virginia's Military Tax Preferences

In computing Virginia taxable income, taxpayers may subtract the following military related items from federal adjusted gross income:

- Wages or salaries received for service in the Virginia National Guard, not exceeding income for thirty-nine days of service or \$3,000, whichever is less. This subtraction only applies to persons in the ranks of O3 and below.
- All military pay and allowances earned while serving in a combat zone or a qualified hazardous duty area, to the extent they were included in federal adjusted gross income.
- \$15,000 of military basic pay for military personnel on extended active duty periods in excess of ninety days. The subtraction amount is reduced dollar-for-dollar by the amount which the military basic pay exceeds \$15,000 and will be reduced to zero if such pay is equal to or exceeds \$30,000.
- Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.
- The amount of military death gratuity payments received after September 11, 2001, by survivors of military personnel who are killed in the line of duty. This subtraction amount must be reduced dollar-for-dollar by the amount that is allowed as an exclusion from federal adjusted gross income to the survivor on his federal income tax return.

For taxable years beginning on or after January 1, 2011, Virginia exempts from taxation the real property, including the joint real property of a husband and wife, and the land, not exceeding one acre, upon which the real property is situated of any military veteran who

has been rated by the U.S. Department of Veterans Affairs to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as his or her principal place of residence. The surviving spouse of a veteran may also qualify for this exemption, so long as the following conditions are met: the veteran's death occurred on or after January 1, 2011; the surviving spouse does not remarry; and the surviving spouse continues to occupy such real property as his or her principal place of residence.

Proposed Legislation

This bill would provide a \$1,000 income tax credit to taxpayers who purchase a home from an active or reserved member of the armed forces who is selling his or her home because of deployment or relocation orders. The credit would be claimed for the taxable year in which the individual purchased the home. Any unused credit would be carried forward for the next taxable year.

In order to claim this credit, taxpayers would be required to submit an application to the Department of Taxation for a certificate to include with their income tax return. Such applications would include information documenting that the taxpayer's home was purchased from a member of the armed forces.

This bill would require the Department of Taxation develop guidelines implementing the provisions of this bill. Such guidelines would be exempt from the provisions of the Administrative Process Act.

This bill would be effective for taxable years beginning on or after January 1, 2015, but prior to January 1, 2020.

Similar Legislation

House Bill 777 and **House Bill 1021** would provide an individual income tax subtraction for annual retirement compensation received for service as a member of the U.S. Armed Forces or the Virginia National Guard.

House Bill 1020 would allow a veteran with a military service-connected disability to claim an individual income tax credit equal to his or her highest disability rating for the taxable year multiplied by the amount of tax imposed on him or her for the taxable year.

cc : Secretary of Finance

Date: 1/28/2014 mjm
HB782F161