

**DEPARTMENT OF TAXATION  
2008 Fiscal Impact Statement**

**REVISED  
2/1/08**

**1. Patron** Benjamin L. Cline

**3. Committee** House Finance

**4. Title** Individual Income Tax: Subtraction for  
National Guard/Reserve Personnel Pay

**2. Bill Number** HB 1364

**House of Origin:**

  X   **Introduced**

      **Substitute**

      **Engrossed**

**Second House:**

      **In Committee**

      **Substitute**

      **Enrolled**

**5. Summary/Purpose:**

This bill would allow an individual income tax subtraction for all military pay for National Guard and Reserve personnel when they serve outside the United States on extended active duty for periods of 90 days or longer in areas not designated as combat zones or qualified hazardous duty areas.

This bill would be effective for taxable years beginning on or after January 1, 2008.

**6. Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

**7. Budget amendment necessary:** Yes. (See Line 8.)

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**8. Fiscal implications:**

Administrative Costs

TAX 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, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX 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, TAX will identify the costs at that time.

## Revenue Impact

Based on data provided to the Patron by the Department of Defense, there were 91,984 National Guard and Reserve members on active duty as of June 13, 2007. Out of this number, 2,640 were from units located in Virginia. According to the Office of the Assistant Secretary of Defense, it is estimated that 65% of these members (1,716) are active in a combat zone or a qualified hazardous duty area and would, therefore, not qualify for the proposed subtraction. This leaves 924 members that could possibly qualify, because they would be located in non-combat zones. However, it is estimated that only 739 of these members (80%) are on active duty for more than 90 days in a non-combat zone.

Members of the armed forces on active duty are taxed on their military pay according to the state in which they are domiciled (home of record), not on the location in which they are stationed. The Office of the Assistant Secretary of Defense estimates that 66% of the National Guard and Reserve personnel stationed in Virginia are Virginia residents for income tax purposes, which would mean that 488 members are potentially eligible for the subtraction. It is unknown what percentage of these remaining personnel are on active duty outside the United States.

Based on a profile of taxpayers who claim similar military subtractions, TAX estimates that if all 488 potentially eligible National Guard and Reserve personnel claimed the subtraction, the negative revenue impact would be a maximum of \$440,000 per year. This estimate is based on tax data for returns that claim similar military subtractions. TAX considers the estimate of \$150,000 per year that was provided by the Patron, which assumed that only 100 members would claim the subtraction and used alternate income data sources, to be a minimum estimate. The revenue impact of this bill would fluctuate as the number of National Guard and Reserve being activated increases and decreases.

To implement this subtraction, a reduction of an equal amount of general fund support from other areas in the introduced budget would be required.

### **9. Specific agency or political subdivisions affected:**

Department of Taxation

### **10. Technical amendment necessary: No.**

### **11. Other comments:**

#### Current Law

The Commonwealth provides the following subtractions to active duty and retired military personnel:

- The lesser of the income derived from 39 calendar days of service or \$3,000 for active and inactive members of the Virginia National Guard of the Commonwealth of Virginia whose rank is O3 or less;

- All military pay for service in a combat zone or qualified hazardous duty area;
- The first \$15,000 of military active duty pay reduced dollar for dollar by the amount of military basic pay that exceeds \$30,000; and
- All military retirement income for individuals awarded the Congressional Medal of Honor.

### Proposal

This bill would allow an individual income tax subtraction for military pay for National Guard and Reserve personnel when they serve outside the United States on extended active duty for periods of 90 days or longer in areas not designated as combat zones or qualified hazardous duty areas. Such income would be required to be included in federal adjusted gross income in order to qualify. In addition, individuals would not be allowed to use this subtraction if the income has already been subtracted, deducted, or exempted through a different Virginia income tax preference.

Unlike the subtraction for the active and inactive members of the Virginia National Guard whose rank is O3 or less and the subtraction for the first \$15,000 of military active duty, this subtraction would be allowed to be claimed even if the taxpayer has also claimed the Virginia credit for low-income taxpayers.

This bill would be effective for taxable years beginning on or after January 1, 2008.

### Similar Legislation

**House Bill 473 and Senate Bill 502** are identical to this bill.

The tax provision of **House Bill 1193** is identical to this bill.

**Senate Bill 293** is similar to this bill, but it would also allow individuals to subtract military allowances.

cc : Secretary of Finance

Date: 2/1/2008 TG  
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