

# DEPARTMENT OF TAXATION

## 2009 Fiscal Impact Statement

1. **Patron** Jeffrey M. Frederick

3. **Committee** House Finance

4. **Title** Individual Income Tax; Deduction for Military Retirement Compensation

2. **Bill Number** HB 2593

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would allow an individual income tax deduction for the amount of annual retirement compensation received for service as a member of the U.S. Armed Forces. A taxpayer could not claim this deduction if he has also claimed the age deduction on his individual income tax return.

This bill would be effective for taxable years beginning on and after January 1, 2010.

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

#### 6b. **Revenue Impact:**

| <i><b>Fiscal Year</b></i> | <i><b>Dollars</b></i> | <i><b>Fund</b></i> |
|---------------------------|-----------------------|--------------------|
| 2008-09                   | \$0                   | GF                 |
| 2009-10                   | \$0                   | GF                 |
| 2010-11                   | (\$265.5 million)     | GF                 |
| 2011-12                   | (\$186.0 million)     | GF                 |
| 2012-13                   | (\$193.4 million)     | GF                 |
| 2013-14                   | (\$201.3 million)     | GF                 |
| 2014-15                   | (\$209.1 million)     | GF                 |

7. **Budget amendment necessary:** Yes.

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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

According to the "Fiscal Year 2007 Department of Defense Statistical Report on the Military Retirement System," there are 150,153 non-disabled individuals living in Virginia who are receiving retirement compensation paid by the Department of Defense or the Coast Guard. Of these individuals, 49,189 are 65 or older and the remaining 100,964 are younger than 65. These groups receive average annual retirement compensation of \$29,738 and \$25,701, respectively. Based on this analysis, it was determined that, for those over 65, the deduction for military retirement income would be more advantageous than the existing age deduction, which allows a deduction of up to \$12,000 for taxpayers aged 65 and over.

Using this data, it was estimated that this bill would have a significant negative revenue impact. This bill would decrease General Fund revenue by \$265.5 million for Fiscal Year 2011, \$186 million for Fiscal Year 2012, \$193.4 million for Fiscal Year 2013, \$201.3 million for Fiscal Year 2014, and \$209.1 million for Fiscal Year 2015.

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

Department of Taxation

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

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

#### Other States

At least 26 states offer some form of specific tax benefit to those receiving military retirement compensation. Out of those states, 16 offer a complete tax exemption. Nine states allow taxpayers to exclude a specified amount of their military retirement compensation.

Out of the surrounding states, the District of Columbia, Maryland, and North Carolina offer exemptions ranging from \$3,000 to \$5,000. In addition, Kentucky and West Virginia offer exemptions of \$41,110 and \$20,000, respectively.

#### Military Tax Preferences

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 whose rank is O3 or less;

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

### Age Deduction

The Commonwealth provides an individual income tax deduction of \$12,000 for individuals who are 65 or older. The amount of the deduction allowed for taxpayers whose income exceeds \$50,000 for single taxpayers and \$75,000 for married taxpayers is reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction is reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

### Proposal

This bill would allow an individual income tax deduction for the amount of annual retirement compensation received for service as a member of the U.S. Armed Forces. A taxpayer could not claim this deduction if he has also claimed the age deduction on his individual income tax return.

Taxpayers who receive military retirement compensation and who have also been awarded the Congressional Medal of Honor would not be allowed to utilize both the Medal of Honor subtraction and this deduction because, under regulation 23 VAC 10-110-142, taxpayers can only subtract or deduct an amount to the extent that it has been included in federal adjusted gross income. If an amount has already been subtracted from Virginia taxable income, a taxpayer may not also deduct the amount.

This bill would be effective for taxable years beginning on and after January 1, 2010.

cc : Secretary of Finance

Date: 1/25/2009 JKL  
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