

**DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement**

1. **Patron** Terry G. Kilgore

2. **Bill Number** HB 131

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Income Tax: Disabled Military Veterans Tax
Credit

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would allow an individual income tax credit to a veteran with a military service-connected disability. The tax credit would be computed by multiplying the veteran's Virginia income tax by his disability rating for the taxable year. If the veteran is totally disabled, then the disability rating would be 100 percent.

This bill would be effective for taxable years beginning on and after January 1, 2012.

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

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

8. Fiscal implications:

Administrative Costs

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. Although this bill would have no impact on a veteran's military disability benefits (because they are already exempt from federal and Virginia tax), this bill would apply to a disabled veteran's income tax on earnings, investments and income from other services. The U.S.

Department of Veterans Affairs (“VA”) prohibits the release of information on individual veterans. Therefore, the Department is unable to match individual veterans with Virginia tax records determine how many disabled veterans pay income taxes in Virginia. According to the Virginia Department of Veterans Services (“VDVS”), there were 131,776 disabled military veterans in Virginia as of September 30, 2010. The following table shows the number of veterans in Virginia by their degree of disability:

Combined Degree of Disability	Number of Veterans
0%	407
10%	28,833
20%	19,583
30%	17,570
40%	14,991
50%	9,719
60%	10,908
70%	7,180
80%	5,263
90%	2,467
100%	8,355
Individual Unemployability	6,500
Total	131,766

The VDVS commented that veterans in the individual unemployability category are veterans who are paid, and are treated by, the VA as if they were rated 100% disabled, even though their actual disability rating may be lower. Therefore, these veterans would be added to the number of veterans with a 100 percent disability rating.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Law

A military veteran who is disabled due to service-connected conditions may qualify for disability compensation. When the VA determines that a military veteran is disabled due to a service-connected condition, the VA provides the veteran with a disability rating. The amount of disability compensation awarded to a veteran is based on the disability rating, as well as the number of dependents. Under federal law, military disability compensation paid to a military veteran for disabilities that are a result of or made worse by injuries or diseases that happened while on active duty, active duty for training, or certain inactive duty training, may be exempt from income tax.

Since the starting point for determining an individual’s Virginia income tax is federal adjusted gross income, any disability compensation excluded for federal income tax purposes would also be excluded for Virginia income tax purposes.

Other States

The State of Minnesota allows a nonrefundable income tax credit equal to \$750 to military veterans for past service or service-connected disability. In order to qualify for the credit, the veteran must (i) have served in the military, including the National Guard and reserves, for at least 20 years; or (ii) have a service-connected disability rated by the U.S. Department of Veterans' Affairs as being 100 percent total and permanent.

Virginia 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;
- All military retirement income for individuals awarded the Congressional Medal of Honor; and
- The military death gratuity payment to a survivor of deceased military personnel killed in the line of duty.

For taxable years beginning on or after January 1, 2011, a military veteran (or widow or widower of a veteran) who has been determined by the United States Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, may be exempt from real property taxation. In addition, the land, not to exceed one acre, upon which the dwelling is situated, may also be exempt from taxation. The surviving spouse of a veteran is eligible for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, the surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as his or her principal place of residence.

Virginia Age Deduction

The Commonwealth provides an individual income tax deduction of \$12,000 for individuals who are 65 or older that is available to all taxpayers, including retired military personnel. 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 credit to a veteran with a military service-connected disability. The tax credit would be computed by multiplying the veteran's Virginia income tax by his disability rating for the taxable year. If the veteran is totally disabled, then the disability rating would be 100 percent.

The Department would be required to promulgate guidelines, which would be exempt from the Administrative Process Act, that establish policies and procedures for claiming this tax credit, including the documentation required to be furnished by the veteran in order to claim the credit.

"Disability rating" would mean the percentage rating of disability determined by the U.S. Department of Veterans Affairs, or any successor agency, pursuant to federal law for a veteran with a military service-connected disability.

This bill would be effective for taxable years beginning on and after January 1, 2012.

Other Bills

House Bill 130 would allow an individual income tax subtraction for the amount of annual retirement compensation received for service as a member of the U.S. Armed Forces or the Virginia National Guard. A taxpayer could not claim this subtraction if he has also claimed another subtraction or deduction for annual retirement compensation received for such service.

House Bill 1041 would create an individual and corporate income tax credit for each new full-time job created and filled by a veteran with an annual salary of at least \$50,000. The amount of the credit would be equal to \$500 for each new full-time job that is filled with a returning military veteran, or \$1,000 if the new full-time job that is filled with a disabled military veteran.

House Bill 1050 would create an individual and corporate income tax credit for taxpayers employing former military persons in STEM internship positions in the Commonwealth. The credit would be equal to 25 percent of the wages or salary paid to the intern. The total amount of tax credits that may be allocated in a fiscal year would be limited to \$2 million.

cc : Secretary of Finance

Date: 1/21/2012 tlg
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