

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** Michael T. Futrell

3. **Committee** House Finance

4. **Title** Individual Income Tax; Military Retirement
Pay Subtraction

2. **Bill Number** HB 777

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 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 would be prohibited from claiming this subtraction if he also claimed another subtraction or deduction for annual retirement compensation received for such service.

This bill would be effective for taxable years beginning on or after January 1, 2014.

6. **Budget amendment necessary:** Yes.

Page 1, Revenue Estimates.

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

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2013-14	\$0	GF
2014-15	(\$291.6 million)	GF
2015-16	(\$190.7 million)	GF
2016-17	(\$187.8 million)	GF
2017-18	(\$185.1 million)	GF
2018-19	(\$182.4 million)	GF
2019-20	(\$179.7 million)	GF

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 decrease General Fund revenue by \$291.6 million for Fiscal Year 2015, \$190.7 for Fiscal Year 2016, \$187.8 million for Fiscal Year 2017, \$185.1 million for Fiscal Year 2018, \$182.4 million for Fiscal Year 2019, and \$179.7 million for Fiscal Year 2020.

According to the "Fiscal Year 2012 Department of Defense Statistical Report on the Military Retirement System," there were 175,025 non-disabled retirees living in Virginia who were receiving retirement compensation paid by the Department of Defense or the Department of Homeland Security. Of these retirees, 62,467 were age 65 or older and the remaining 112,558 were under age 65. These groups received average annual retirement compensation of \$33,029 and \$29,247, respectively. Retirees age 65 or older would be eligible to claim an income-based age deduction in addition to this subtraction.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Law

Under federal law, adjusted gross income generally includes pension income, such as military retirement compensation. Certain pension payments for disabilities paid by the U.S. Department of Veteran Affairs, however, are explicitly excluded from federal adjusted gross income.

Other States

At least thirty-four states offer some form of tax benefit to taxpayers receiving military retirement compensation, although this number also includes states that provide benefits for a broad range of retirement income. Of these states, thirteen have exempt military retirement compensation from personal income tax. The remaining twenty-one states allow taxpayers to exclude a specified amount of military retirement compensation from their income.

Of the jurisdictions surrounding Virginia, the District of Columbia and Maryland offer exemptions ranging from \$3,000 to \$5,000. North Carolina offers a full exemption for retirees with five years of service as of August 12, 1989; otherwise, retirees may claim a deduction of up to \$4,000. In addition, Kentucky and West Virginia offer exemptions of \$41,100 and \$20,000, respectively.

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.

Virginia's Age and Disability Deductions

Taxpayers age 65 and older may claim an additional \$800 personal exemption and certain taxpayers may qualify for an age deduction of up to \$12,000. For taxpayers born on or before January 1, 1939, the amount of the age deduction is \$12,000. For taxpayers born after January 1, 1939 who have attained the age of 65, the amount of the age deduction is income-based. Accordingly, the \$12,000 age deduction is reduced dollar-for-dollar for single taxpayers whose income exceeds \$50,000 and for married taxpayers whose combined income exceeds \$75,000.

Taxpayers who are totally and permanently disabled may exclude up to \$20,000 of disability income, as defined under federal law, in calculating Virginia taxable income. Taxpayers may claim either an age deduction or a disability deduction, but not both.

Proposed Legislation

This bill 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 Virginia National Guard.

A taxpayer would be prohibited from claiming this subtraction if he claimed another subtraction or deduction for annual retirement compensation received for such service. For example, a taxpayer who receives military retirement compensation and who has also been awarded the Congressional Medal of Honor would be prohibited from utilizing both this subtraction and the subtraction for the military retirement income of Medal of Honor recipients.

This bill would be effective for taxable years beginning on or after January 1, 2014.

Similar Legislation

House Bill 1021 is identical to this bill.

House Bill 782 would allow an 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.

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: 1/27/2014 mjm
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