

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Mark L. Cole

2. **Bill Number** HB 80

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Individual Income Tax: Additional Personal Exemption Deduction for Veterans with a 100 Percent Service-Connected Disability

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill provides an additional personal exemption deduction of \$930 for veterans of the Armed Forces of the United States or the Virginia National Guard who have been rated with a 100 percent service-connected, permanent, and total disability by the U.S. Department of Veterans Affairs. This deduction would be allowed regardless of whether the taxpayer elected for the taxable year to itemize deductions on his or her federal income tax return.

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

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

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

7b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2019-20	\$0	GF
2020-21	(\$2.3 Million)	GF
2021-22	(\$1.6 Million)	GF
2022-23	(\$1.6 Million)	GF
2023-24	(\$1.7 Million)	GF
2024-25	(\$1.7 Million)	GF
2025-26	(\$1.8 Million)	GF

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have an estimated negative General Fund revenue impact of \$2.3 million in FY 2021, \$1.6 million in FY 2022, 1.6 million in FY 2023, \$1.7 million in FY 2024, \$1.7 million in FY 2025, and \$1.8 million in FY 2026. According to data from the US Department of Veterans Affairs, there were an estimated 26,125 Virginia military veterans with a 100 percent disability rating in 2018.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Under current law, a \$930 personal exemption deduction may be claimed for each person filing a return (for married couples, each spouse is entitled to an exemption) and for each dependent. In 1971, when Virginia studied conforming to federal income tax law, Virginia's personal exemptions were originally intended to be the same as the federal personal exemptions. However, by 1972, when Virginia voted to conform to federal income tax law, Virginia's personal exemption amount was less than the federal amount because Virginia did not conform to the 1972 federal increase. Virginia's personal exemption amounts have changed over the years, as shown below:

Year(s)	Virginia Personal Exemption
1972	\$600
1973-1986	\$600
1987	\$700
1988-2005	\$800
2006-2007	\$900
2008-present	\$930

In addition to the \$930 personal exemption, an \$800 personal exemption for age or blindness may be claimed for each filer who is blind or who has attained the age of 65 before the close of the taxable year. Virginia's additional personal exemptions for age or blindness have changed over the years, as shown below:

Year(s)	Personal Exemption for Blindness/Age
1972	\$600
1973-1986	\$600 for blindness \$1,000 for age
1987	\$900
1988-present	\$800

Beginning in Taxable Year 1973, the General Assembly allowed an additional \$400 personal exemption for taxpayers who claimed the additional federal personal exemption for age. Therefore, for Taxable Years 1973 through 1986, the total Virginia additional personal exemption for age was \$1,000. There was no additional amount allowed for blindness. Thus, taxpayers who claimed the federal personal exemption for blindness were entitled to only a \$600 additional personal exemption on Virginia returns filed from 1973 through 1986.

For Taxable Years 2018 through 2025, the TCJA effectively eliminated the federal personal exemption by making the amount of the exemption equal to \$0. However, the TCJA did not remove the statutory language in the IRC granting personal exemptions. Therefore, federal law still contains a provision allowing personal exemptions, but the amount of such exemption is \$0. Because Virginia's personal exemption deduction is based on the number of personal exemptions allowable for federal income tax purposes and not on the amount of such exemptions, the TCJA has no effect on Virginia's personal exemption.

Virginia Law Regarding Standard and Itemized Deductions, and the Personal Exemption

When completing their Virginia income tax returns, taxpayers are bound by the election they made for federal purposes regarding whether to claim a standard deduction or to itemize their deductions. Therefore, if they claimed the standard deduction on their federal income tax return, they are not allowed to claim itemized deductions on their Virginia return. In contrast, if they claimed itemized deductions on their federal income tax return, they are not allowed to claim the standard deduction on their Virginia return.

This limitation does not apply to the Virginia personal exemption deduction or to several other Virginia-specific deductions. Instead, a taxpayer may claim the personal exemption on their Virginia return regardless of whether the taxpayer elected to claim the standard deduction or to itemize their deductions for federal purposes. That is because Virginia's personal exemption is not considered a federal itemized deduction.

Virginia Military Tax Preferences

Since the starting point for determining an individual's Virginia income tax is federal adjusted gross income, any income exempt for federal income tax purposes is generally exempt for Virginia income tax purposes.

In addition, taxpayers may subtract the following military-related items for the purposes of computing Virginia taxable 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 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 for periods in excess of ninety days. The subtraction amount is reduced dollar-for-dollar by the amount which the taxpayer's 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 or her 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 VA 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 Tax Preferences

Virginia provides an individual income tax deduction to certain taxpayers based on their age. For taxpayers born on or before January 1, 1939, the deduction is equal to \$12,000. For taxpayers born after January 1, 1939, the age deduction is subject to an income-based limitation. This limitation reduces the \$12,000 deduction 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 that the total combined adjusted federal adjusted gross income of both spouses 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 provides an additional personal exemption deduction of \$930 for veterans of the Armed Forces of the United States or the Virginia National Guard who have been rated with a 100 percent service-connected, permanent, and total disability by the U.S. Department of Veterans Affairs. This deduction would be allowed regardless of whether the taxpayer elected for the taxable year to itemize deductions on his or her federal income tax return.

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

Similar Bills

Senate Bill 191 would provide an individual income tax subtraction for income received by active duty military and military retirement income.

House Bill 230, Senate Bill 281, and Senate Bill 457 would provide an individual and corporate income tax credit for wages paid to an employee who is a Virginia National Guard member or for income of a self-employed Virginia National Guard member attributable to their business.

House Bill 125 and Senate Bill 456 would provide an individual income tax subtraction for the amount of the annual retirement compensation received for service as a member of the United States Armed Forces or the Virginia National Guard by a veteran who has a 100 percent service-connected permanent and total disability.

Senate Bill 460 would provide would provide an individual and corporate income tax credit for wages paid to an employee who is a military spouse or for income of a self-employed military spouse attributable to their business.

Senate Bill 745 would exclude from Virginia adjusted gross income any income received by a totally and permanently disabled veteran from the cancellation or discharge of student loan debt.

House Bill 243 would provide an individual income tax subtraction equal to the annual retirement compensation received by military veterans for their service.

cc : Secretary of Finance

Date: 1/12/2020 RWC
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