

**DEPARTMENT OF TAXATION
2020 Fiscal Impact Statement**

1. **Patron** Bryce E. Reeves

2. **Bill Number** SB 460

3. **Committee** Senate Finance and Appropriations

House of Origin:
 X **Introduced**
 Substitute
 Engrossed

4. **Title** Individual and Corporate Income Tax; Credit
for Employers of Military Spouses

Second House:
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would provide an individual or corporate income tax credit to an employer of the spouse of an active member of the armed forces of the United States of America. This bill would also provide the self-employed spouse of an active member of the armed forces of the United States of America an individual or corporate income tax credit. The amount of the credit would be equal to 25 percent of a military spouse's wages as an employee and income attributable to his or her trade or business.

The credit would not be subject to an annual credit cap.

This bill would be effective for taxable years beginning on and after January 1, 2020 and before January 1, 2025.

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

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

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 unknown, but potentially significant, negative General Fund revenue impact beginning in Fiscal Year 2021. In 2019, there were approximately 129,083 active duty members of the military living in Virginia. On average, 51.5 percent of active duty members of the military are married. However, it is unknown to what extent employers and self-employed military spouses would qualify for and claim this credit.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Virginia Military Tax Preferences

Taxpayers may subtract the following military 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.

Sunset Dates for Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the Appropriation Act provides that the General Assembly may not advance the sunset date for any existing income tax credit or sales tax exemption beyond June 30, 2022. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2021 Session must have a sunset date not later than June 30, 2022. This requirement does not apply to sales tax exemptions related to nonprofit entities or to income tax credits or sales tax exemptions with sunset dates after June 30, 2022 that were enacted or advanced during the 2016 Session.

Proposed Legislation

This bill would provide an individual or corporate income tax credit to an employer of the spouse of an active member of the armed forces of the United States of America. This bill would also provide the self-employed spouse of an active member of the armed forces of the United States of America an individual or corporate income tax credit. The amount of the credit would be equal to 25 percent of a military spouse's wages as an employee and income attributable to his or her trade or business.

The credit would not be subject to an annual credit cap.

"Military spouse" would be defined as the spouse of an active member of the armed forces of the United States of America that is also an employee of an employer.

"Self-employed military spouse" would be defined as the spouse of an active member of the armed forces of the United States of America who derives a substantial portion of his or her income from a trade or business;

- Operated by the spouse as a sole proprietor,
- Through which the spouse has attempted to earn taxable income, and
- For which the spouse has filed the appropriate Internal Revenue Service Form 1040, Schedule C or F, for the previous taxable year.

"Employer" would be defined the same as that term is defined for Virginia income tax withholding purposes.

"Wages" would be defined the same as that term is defined for Virginia income tax withholding purposes.

Self-employed military spouses would be prohibited from claiming this credit if an employer is also claiming the credit for the same military spouse. Any credit not usable for the taxable year for which the credit was first allowed would be permitted to be carried over for the next succeeding five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

This bill would be effective for taxable years beginning on and after January 1, 2020 and before January 1, 2025.

Similar Bills

House Bill 230, House Bill 1620, Senate Bill 218 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.

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

Senate Bill 965 would provide a subtraction for individual income tax for all active duty military income of service members deployed outside of the United States.

House Bill 80 would provide an additional personal income tax deduction of \$930 for veterans who have been rated with a 100 percent service-connected, permanent, and total disability.

House Bill 125, House Bill 1619 and **Senate Bill 456** would provide an income tax subtraction for all military retirement income received by a veteran who has been rated with 100-percent service-connected, permanent, and total disability, and whose federal adjusted gross income is no greater than 150 percent of the federal poverty level for a four-person household.

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

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

cc : Secretary of Finance

Date: 1/26/2020 RWC
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