

# DEPARTMENT OF TAXATION

## 2020 Fiscal Impact Statement

1. **Patron** Mark J. Peake

2. **Bill Number** SB 965

3. **Committee** Senate Finance and Appropriations

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Individual Income Tax; Subtraction for active duty military income for service outside of the United States

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

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

This bill would provide an individual income tax subtraction for any income received for service as an active duty member of the United States Armed Forces, United States Armed Forces Reserves, or the Virginia National Guard, while such service member is deployed outside the United States.

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

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

Item(s): Page 1, Revenue Estimates

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

#### 7b. **Revenue Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2019-20	\$0	GF
2020-21	(\$30.2 Million)	GF
2021-22	(\$21.4 Million)	GF
2022-23	(\$22.5 Million)	GF
2023-24	(\$23.7 Million)	GF
2024-25	(\$25.0 Million)	GF
2025-26	(\$26.3 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 \$30.2 million in FY 2021, \$21.4 million in FY 2022, \$22.5 million in FY 2023, \$23.7 million in FY 2024,

\$25.0 million in FY 2025, and \$26.3 million in FY 2026. The negative impact of this bill would be attributable to the exemption of qualifying active duty income of certain service members who are deployed overseas to the extent that such income is currently subject to taxation.

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

Department of Taxation

**10. Technical amendment necessary:** None.

**11. Other comments:**

Federal Law

*Taxation of Active Duty Military Income*

For federal income tax purposes, military income is subject to taxation unless an exception applies. Taxable military income includes, but is not limited to, pay for active duty service and training, bonuses, certain incentive pay, and hazard compensation. In addition, several items are exempt from taxation including, but not limited to, combat pay, certain death, moving, and travel allowances, and disability severance payments.

Other States

Of the forty-one states that currently impose an income tax 10 completely exempt active duty military income (Arizona, Arkansas, Illinois, Iowa, Kentucky, Michigan, Minnesota, Montana, New Mexico, and Oklahoma). The remaining 31 states and the District of Columbia either follow the federal rules for including active duty military income or provide a partial exemption of military income from individual income tax.

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, such disability compensation from the United States Department of Veterans Affairs or Combat Related Special Compensation payments from the Defense Finance and Accounting Service, 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.

#### Proposed Legislation

This bill would provide an individual income tax subtraction for any income received for service as an active duty member of the United States Armed Forces, United States Armed Forces Reserves, or the Virginia National Guard, while such service member is deployed outside the United States. To the extent that another subtraction or deduction was claimed for such income, this subtraction would not be allowed.

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.

**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.

**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 230, House Bill 1620, Senate Bills 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.

**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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