

DEPARTMENT OF TAXATION

2023 Fiscal Impact Statement

1. **Patron** John J. McGuire, III

3. **Committee** House Finance

4. **Title** Individual Income Tax; Subtraction for
Military Benefits

2. **Bill Number** HB 1436

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would eliminate the age requirement to claim the individual income tax subtraction for military benefits. Currently only taxpayers age 55 years of age or older may claim the subtraction.

The age requirement would be eliminated for taxable years beginning on and after January 1, 2023.

This is an Executive bill.

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

7. **Fiscal Impact Estimates are:** 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 estimated negative General Fund Revenue impact of \$37.8 million in Fiscal Year 2024, \$33.4 million in Fiscal Year 2025, \$34.7 million in Fiscal Year 2026, \$34.4 million in Fiscal Year 2027, \$34.1 million in Fiscal Year 2028, and \$33.7 million in Fiscal Year 2029. No budget amendment is needed because the revenue impact of this bill is assumed in the Introduced Executive Budget.

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-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. The exemption applies without any restriction on the spouse's moving to a different principal place of residence.

Virginia's Military Benefits Individual Income Tax Subtraction

Legislation enacted by the General Assembly during 2022 created a new Virginia individual income tax subtraction for recipients of certain military benefits. The amount of the subtraction is equal to up to \$10,000 of military benefits in Taxable Year 2022; up to \$20,000 in Taxable Year 2023; up to \$30,000 in Taxable Year 2024; and up to \$40,000 in Taxable

Year 2025 and each taxable year thereafter. The subtraction is limited to recipients of such military benefits that are age 55 or older.

"Military benefits" are defined as any:

- Military retirement income received for service in the Armed Forces of the United States;
- Qualified military benefits received pursuant to a section of the Internal Revenue Code regarding certain military benefits;
- Benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S. Department of Defense; and,
- Military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States.

Proposed Legislation

This bill would eliminate the age requirement to claim the individual income tax subtraction for military benefits. Currently only taxpayers age 55 years of age or older may take the subtraction. The age requirement would be eliminated for taxable years beginning after December 31, 2022.

Similar Legislation

House Bill 1690 is identical to this bill.

House Bill 1460 would provide an individual income tax subtraction for the military retirement income received by a veteran whose income is not greater than 150 percent of the federal poverty guideline for a four-person household, and who has been rated with a 100 percent service-connected, permanent, and total disability.

cc : Secretary of Finance

Date: 1/19/2023 RWC
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