

DEPARTMENT OF TAXATION

2024 Fiscal Impact Statement

1. **Patron** David A. Reid

2. **Bill Number** HB 1327

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Individual Income Tax; Active-Duty National
Guard Subtraction

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create an individual income tax subtraction for military pay received by an individual for active service in the Virginia National Guard during either (i) an out-of-state deployment or (ii) a state of emergency declared by the Governor.

This bill would be effective for taxable years beginning on and after January 1, 2024.

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

7. **Fiscal Impact Estimates are:** Preliminary. (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 negative General Fund revenue impact beginning in Fiscal Year 2025 and each year thereafter. This bill would apply to both out-of-state deployments and a state of emergency declared by the Governor. The Department anticipates that pay for state active-duty service would likely already qualify under Virginia's existing subtractions. However, the subtraction offered by this bill would most likely be claimed by those Guard members on federal active-duty service, as their pay would likely exceed the thresholds required to claim the subtractions allowed under current law.

According to data from the Virginia National Guard, federal deployments have ranged from 200 Guard members to 3,000 Guard members in any given year, and average annual pay is about \$50,000 a year. Assuming that the average number of 950 Guard members were deployed in any given year and based upon an average annual pay of \$50,000, this bill could result in an average annual revenue impact of approximately \$2 million. However, the

actual revenue impact of this bill is unknown and could vary greatly from year to year, from \$450,000 to as high as \$7 million.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Virginia National Guard Tax Preferences

The compensation for being in the National Guard is less than full-time pay since the commitment is only on weekends and special training sessions. This type of pay is often referred to as “drill pay” along with other pays for special duties. If they are placed on active-duty, their pay will change from drill pay to the same monthly pay structure as their active-duty counterparts. During federal service activation, they receive pay and benefits comparable to their active-duty counterparts, in the form of deployment pay. National Guard members are also eligible for retirement benefits based on their years of service and the points they earned through drills and other training activities.

Currently, taxpayers may subtract the following National Guard related items for the purposes of computing Virginia taxable income:

- Wages or salaries received for service in the Virginia National Guard, for taxable years beginning before January 1, 2023, shall not exceed 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. For taxable years beginning on or after January 1, 2023, the subtraction shall not exceed the amount of income derived from thirty-nine calendar days of such service or \$5,500, whichever is less. In this case, only individuals in the ranks of O6 and below are entitled to the subtractions.
- 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.

Virginia’s Individual Income Tax Modifications

Federal Adjusted Gross Income

Virginia’s Individual Income Tax substantially conforms to federal income tax law by using federal adjusted gross income (“FAGI”) as the starting point for computing Virginia income taxes. Virginia law then provides various modifications to FAGI that must be taken into account that figure in determining Virginia taxable income.

Virginia Adjusted Gross Income

When completing a Virginia individual income tax return, a taxpayer starts with the amount of FAGI reported on his federal return. A taxpayer then calculates Virginia adjusted gross income by making two types of adjustments: (1) “additions” which increase the amount of income taxable by Virginia and (2) “subtractions” which reduce such amount. These adjustments are made only to the extent that they have not already been included or excluded from FAGI.

Virginia Taxable Income

The taxpayer calculates his Virginia taxable income by making another type of modification referred to as “deductions,” which further reduce the amount of income taxable by Virginia. These modifications are made regardless of federal treatment unless specifically stated otherwise in the provision.

Please find below an illustration of how taxable income is computed for federal and Virginia income tax purposes and how they interrelate:

Federal Income Tax	Virginia Income Tax
+Wages and Other Income	= <i>Federal Adjusted Gross Income (“FAGI”)</i>
+Federal Adjustments	+Virginia Additions (only if not included in FAGI)
-Federal Adjustments	-Virginia Subtractions (only if not excluded from FAGI)
= <i>Federal Adjusted Gross Income (“FAGI”)</i>	= <i>Virginia Adjusted Gross Income (“VAGI”)</i>
-Federal Standard Deduction or Itemized Deductions	-Virginia Standard Deduction or Federal Itemized Deductions (depends on federal election)
-QBI Deduction	-Deduction for Virginia Exemptions -Virginia Deductions (regardless of federal treatment)
= <i>Federal Taxable Income</i>	= <i>Virginia Taxable Income</i>

Because this bill would establish a new Virginia income tax subtraction, the amount allowed under this bill could be taken whether the taxpayer chooses to take the Virginia standard deduction or itemized their deductions.

Proposed Legislation

This bill would create an individual income tax subtraction for military pay received by an individual for active service in the Virginia National Guard during either (i) an out-of-state deployment or (ii) a state of emergency declared by the Governor.

This bill would be effective for taxable years beginning on and after January 1, 2024.

cc : Secretary of Finance

Date: 2/4/2024 SJH
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