

DEPARTMENT OF TAXATION

2024 Fiscal Impact Statement

1. **Patron** Jennifer D. Carroll Foy

3. **Committee** Senate Finance and Appropriations

4. **Title** Individual Income Tax Subtraction; Military Retirement Benefits; Emergency.

2. **Bill Number** SB 651

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 in Taxable Year 2023.

Under current law, only taxpayers 55 years of age or older may claim the subtraction in Taxable Years 2022 and 2023. However, beginning in Taxable Year 2024 there is no age requirement for the subtraction.

This bill contains an emergency clause, which states that it would be in force from its passage.

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

7. **No Fiscal Impact** (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 a negative General Fund revenue impact of \$21.8 million in Fiscal Year 2024. However, 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 was limited to recipients of such military benefits that are age 55 or older.

The twenty-first enactment clause of the 2023 Special Session I Amendments to the 2023 Appropriation Act allowed Virginia's military benefit subtraction to be claimed regardless of age, effective for taxable years beginning on and after January 1, 2024, which means the age restriction still applies to taxable years 2023 and 2022.

"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.

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	=Federal Adjusted Gross Income ("FAGI")
+Federal Adjustments	+Virginia Additions (only if not included in FAGI)
-Federal Adjustments	-Virginia Subtractions (only if not excluded from FAGI)
=Federal Adjusted Gross Income ("FAGI")	=Virginia Adjusted Gross Income ("VAGI")
-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)
=Federal Taxable Income	=Virginia Taxable Income

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

Proposed Legislation

This bill would eliminate the age requirement to claim the individual income tax subtraction for military benefits in Taxable Year 2023.

Under current law, only taxpayers 55 years of age or older may claim the subtraction in Taxable Years 2022 and 2023. However, beginning in Taxable Year 2024 there is no age requirement for the subtraction.

Similar Legislation

SB10 and HB1407 would expand the individual income tax subtraction for “military benefits” to include retirement income for service in the U.S. uniformed services.

SB61 and HB1292 would establish an individual income tax subtraction for certain firefighters receiving professional firefighting retirement income.

SB662 would establish an individual income tax subtraction for up to \$10,000 of state police retirement benefits of Virginia State Police officers who are at least 55 years of age.

HB518 would establish an individual income tax subtraction for certain individuals receiving Foreign Service retirement income.

cc : Secretary of Finance

Date: 1/27/2024 SJH
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