

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Enrolled

House Bill 1093

(Delegate P. Young, *et al.*)

Ways and Means

Budget and Taxation

Income Tax - Subtraction Modification - Retirement Income (The Jonathan
Porto Act)

This bill specifies that death benefits paid as a result of service in the U.S. Uniformed Services qualify for the existing military retirement subtraction modification. **The bill takes effect July 1, 2019, and applies to tax year 2019 and beyond.**

Fiscal Summary

State Effect: The impact on State finances, if any, is not expected to be significant.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Military Death Benefits – Federal and State Law

Family members of military personnel who die while serving on active duty, active duty for training, or initial duty training may be eligible for several federal benefits. These U.S. Department of Defense benefits include (1) a lump sum gratuitous payment; (2) unpaid pay and allowances; (3) housing allowances and relocation expenses; (4) Servicemembers' Group Life Insurance payments; and (5) Survivor Benefit Plan annuities. Federal law generally exempts all but Survivor Benefit Plan annuities from federal adjusted gross income. Maryland law conforms to federal law; any amounts excluded for federal income tax purposes are not taxable under the State and local income tax. As discussed below, the retirement income received by a surviving spouse as a result

of the military service of the deceased spouse qualifies for the State military retirement subtraction modification. In general, life insurance proceeds, whether paid for a service-related death or not, and paid by the U.S. government or otherwise are not taxable for federal and State income tax purposes.

The U.S. Department of Veterans Affairs provides burial reimbursement payments for the service-related and nonservice-related deaths of active and retired military members. These payments are not taxable for federal and State income tax purposes.

The U.S. Social Security Administration provides benefit payments to widows and dependents. These benefits may be partly taxable for federal income tax purposes. Social Security benefits are generally not taxable under the State income tax.

Military Retirement Income Subtraction Modification

Chapter 226 of 2006 expanded a \$2,500 military retirement income subtraction that was previously limited to enlisted military members with federal adjusted gross income of \$22,500 or less. An individual can exempt certain military retirement income from State and local taxation if the retirement income resulted from service (1) in an active or reserve component of the U.S. Armed Forces; (2) as a member of the Maryland National Guard; or (3) as an active duty member with the Commissioned Corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey. The subtraction modification can also be claimed by a surviving spouse or ex-spouse.

Legislation enacted in the 2015 and 2018 sessions expanded the maximum value of the subtraction modification to:

- \$15,000 for individuals who are at least age 55; and
- \$5,000 for all other individuals.

Military retirees who are at least age 65 or are totally disabled can qualify and claim the State pension exclusion for retirement income that is not excluded under the military retirement income subtraction.

State Revenues: The bill specifies that death benefits paid as a result of service in the U.S. Uniformed Services qualify for the existing military retirement subtraction modification. These payments are generally not taxable for State income tax purposes or qualify under current law for the military retirement income subtraction modification. Accordingly, the bill is not expected to significantly impact State revenues.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): CCH Intelliconnect; U.S. Department of Defense; Internal Revenue Service; Comptroller's Office; Department of Legislative Services

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Analysis by: Robert J. Rehrmann

Direct Inquiries to:
(410) 946-5510
(301) 970-5510