

Introduced by Senator Morrow
(Principal coauthor: Assembly Member Chavez)

February 15, 2002

An act to add and repeal Section 17052.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as introduced, Morrow. Personal income taxes: credits: surviving spouses of military veterans.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2002, and ending on or before January 1, 2005, in the amount of \$50 for a qualified surviving spouse of a military retiree, as defined, who receives federal military survivors benefits.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature of the State of California
- 2 finds and declares all of the following:
- 3 (1) The federal government has established military survivors
- 4 benefits programs for the spouses and children of military retirees.
- 5 (2) Military retirees receive a reduced salary pension if they
- 6 make an election to provide for their survivors after their death.

1 (3) When a surviving spouse of a military retiree attains 62
2 years of age, his or her survivor payments are reduced from 55
3 percent of his or her spouse's base pay to 35 percent of his or her
4 spouse's base pay.

5 (4) This reduction is based on the assumption that the surviving
6 spouse will receive Social Security benefits when that surviving
7 spouse reaches 62 years of age. However, under current federal
8 law, an individual who applies for Social Security benefits prior
9 to attaining 65 years of age may not receive his or her full Social
10 Security benefit amount.

11 (5) This assumption, as followed in the administration of
12 existing military survivors benefits programs, unfairly penalizes
13 surviving spouses by reducing their pension income under
14 circumstances where there may not be a corresponding increase in
15 the Social Security benefit amount received by the surviving
16 spouse.

17 (6) Various associations representing military retirees and
18 surviving spouses of military retirees have attempted, to no avail,
19 to convince Congress to remedy this inequitable practice.

20 (b) Accordingly, the Legislature finds and declares that it is in
21 the best interests of this state to provide a small measure of relief
22 in the form of a fifty dollar (\$50) credit against their personal
23 income tax liability to the surviving spouses of military retirees
24 who have attained 62 years of age and who are beneficiaries of a
25 military survivors benefits program.

26 SEC. 2. Section 17052.1 is added to the Revenue and Taxation
27 Code, to read:

28 17052.1. (a) For each taxable year beginning on or after
29 January 1, 2002, and ending on or before January 1, 2005, there
30 shall be allowed a credit against the "net tax," as defined in
31 Section 17039, in the amount of fifty dollars (\$50) for a qualified
32 surviving spouse of a military retiree who receives federal military
33 survivors benefits.

34 (b) For purposes of this section, "qualified surviving spouse"
35 means an individual who is a widow or widower of a military
36 retiree, who has attained 62 years of age at the end of the taxable
37 year, and whose adjusted gross income, as defined in Section
38 17072, in the case of an individual, does not exceed thirty thousand
39 dollars (\$30,000) or, in the case of a married person, does not
40 exceed sixty thousand dollars (\$60,000).



1 (c) In the case where the credit allowed by this section exceeds
2 the “net tax,” the excess may be carried over to reduce the “net
3 tax” in the following year, and succeeding years if necessary, until
4 the credit is exhausted.

5 (d) This section shall remain in effect only until December 1,
6 2005, and as of that date is repealed.

7 SEC. 3. This act provides for a tax levy within the meaning of
8 Article IV of the Constitution and shall go into immediate effect.

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