



Bethany Boyd

Bill Analysis
Legislative Service Commission

S.B. 273

126th General Assembly
(As Introduced)

Sens. Cates, Padgett, Schuring, Wachtmann, Fingerhut, Jordan, Coughlin

BILL SUMMARY

- Exempts from the Ohio income tax retired military personnel pay for service in the United States Army, Navy, Air Force, Coast Guard, or Marine Corps or reserve components thereof, or the National Guard.

CONTENT AND OPERATION

Deduction for military personnel retirement benefits

(R.C. 5747.01(A)(22); Section 3)

The bill permits taxpayers receiving military retirement benefits to deduct the benefits in computing their Ohio income tax liability. To be deductible, the retired military personnel pay (hereinafter "retirement benefits") must be for service in the United States Army, Navy, Air Force, Coast Guard, or Marine Corps or reserve components thereof, or the National Guard. The retirement benefits are deductible only to the extent that they are included in the taxpayer's federal adjusted gross income (which is the starting point for computing the taxpayer's Ohio taxable income). In other words, if the retirement benefits were deducted in deriving the taxpayer's federal adjusted gross income, they cannot be deducted twice, once on the federal return and once on the state return. The retirement benefits are not deductible if they are disability and survivor benefits deducted under continuing law (R.C. 5747.01(A)(4)).

Law not affected by the bill grants taxpayers a credit of up to \$200 per year if they receive retirement benefits from or pursuant to a pension, retirement, or profit-sharing plan (R.C. 5747.055). The retirement benefit deduction may reduce the value of the credit for some taxpayers.

The deduction is available for taxable years beginning on or after the bill's effective date.

COMMENT

Federal law authorizes states to tax federal employees' compensation if the taxation does not discriminate against the employees because of the compensation's source. This so-called doctrine of intergovernmental tax immunity is set forth in 4 U.S.C. 111: "The United States consents to the taxation of pay or compensation [of a federal officer or employee] by a duly constituted taxing authority having jurisdiction, if the taxation does not discriminate against the officer or employee because of the source of the pay or compensation." This federal law has been construed by the United States Supreme Court to apply to military retirement benefits, holding that a state income tax on military retirement benefits, but not on state and local government retirement benefits, is inconsistent with the federal law's prohibition against discriminatory taxes. *Barker v. Kansas*, 503 U.S. 594 (1992).

HISTORY

ACTION	DATE
Introduced	02-16-06

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