

STATE OF WISCONSIN
REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS
2003 SENATE BILL 421

[Introduced by Senators Brown, Lassa, Kanavas, Schultz, Stepp, Leibham and Roessler; cosponsored by Representatives Musser, Ainsworth, Freese, Gronemus, Hines, Hundertmark, Kreibich, Nass, Nischke, Petrowski, Pettis, Plouff, Seratti, J. Wood, Gunderson, McCormick, Kaufert and Van Roy.]

General Nature of Proposal

The bill adopts, for state income and franchise tax purposes, amendments made to the federal Internal Revenue Code contained in the federal Military Family Tax Relief Act of 2003, which was adopted by Congress via Public Law 108-121. The specific changes made by the bill through the adoption of the federal act are described in the "Fiscal Effect" portion of this Report.

Legality Involved

There are no questions of legality involved.

Fiscal Effect Upon the State and Its Subdivisions

The Department of Revenue has described the fiscal effect of the provisions of the bill, as follows:

This bill adopts, for state income and franchise tax purposes, changes to the Internal Revenue Code made by Public Law 108-121, the Military Family Tax Relief Act of 2003 (MFTRA).

MFTRA provides tax relief for members of the military serving in the Middle East and their families that will affect the tax returns filed for 2003. Wisconsin taxpayers who claim the tax relief on their 2003 federal returns would need to make adjustments on their state returns to recognize differences between state and federal law until Wisconsin adopts these provisions in 2004, at which time these taxpayers would need to file amended returns for 2003 to claim this tax relief for Wisconsin purposes.

This bill would reduce state income tax revenues for tax year 2003 by \$500,000 in FY 04, due to a deduction for travel expenses for National Guard and Reserve personnel. The loss from other provisions would be minimal. The provisions of MFTRA that would be adopted for state tax purposes under this bill include the following:

- The military death benefit is doubled from \$6,000 to \$12,000 and the full amount of the benefit is excluded from income; previously, one-half of the benefit was taxable. These changes are retroactive to September 11, 2001, and thus apply to military operations in Afghanistan and Iraq, as well as other locations since that date.
- The act clarifies that dependent care assistance provided by the U.S. Department of Defense is a qualified military benefit that is excluded from a taxpayer's gross income. The exclusion is effective for tax years beginning after December 31, 2002.
- The act eases a restriction on the exclusion for the gain from the sale of a residence for uniformed and foreign service personnel. Under current law, taxpayers may exclude up to \$250,000 (\$500,000 for married couples filing jointly) of gain from the sale of a principal residence if they owned and used the property as a principal residence for two or more years during the five years preceding the sale. Uniformed and foreign service personnel called to active duty away from home may elect to suspend the five-year test, for one property, for up to five years. If the election is made, the five-year period does not include any period, up to five years, during which the service member is on extended duty (more than 90 days) at least 50 miles from home or in government quarters under government orders. The provision is retroactive to sales made after May 6, 1997.
- An exclusion from income is provided for reimbursement paid to members of the military for losses on the sale of their homes resulting from declines in home values due to a military base closure or reduction in operations. The exclusion, effective on November 12, 2003, is limited to the fair market value of the property.
- MFTRA provides a deduction from gross income for travel expenses for members of the National Guard and Reserve when they travel more than 100 miles away from home and must stay away overnight. Under previous law, the deduction was from adjusted gross income, and thus limited to persons itemizing their deductions. The deduction applies to expenses paid or incurred for tax years starting after December 31, 2002.
- MFTRA expands the income and estate tax relief provided under the Victims of Terrorism Act of 2001 to astronauts who die in the line of duty, effective for deaths occurring after December 31, 2002. These provisions benefit the families of the astronauts killed in the space shuttle Columbia accident.

- MFTRA also allows the filing extension provided to military personnel serving in a combat zone under current law to troops deployed in contingency operations, that is, those who may become involved in military actions. Wisconsin automatically adopts federal filing extensions under current law.
- Other provisions of the act do not have a substantive effect on Wisconsin.

Public Policy Involved

The bill is good public policy.

3/03/04

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