



Legislative Fiscal Bureau

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September 22, 2005

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 668 and LRBs0217/2: Expand Eligibility for Refundable Individual Income Tax Credit for Veterans Property Taxes

Assembly Bill 668 would modify the refundable veterans property tax credit created under 2005 Act 25 (the 2005-07 budget act) to allow a disabled, married veteran aged 65 or over to claim the credit for 100% of the property taxes paid by the veteran and the veteran's spouse on the veteran's principal dwelling. AB 668 was introduced on September 15, 2004, and referred to the Assembly Committee on Veterans Affairs. On September 20, 2005, that Committee voted to recommend AB 668 for passage and referred the bill to the Joint Committee on Finance. LRBs0217/2 is a substitute amendment to AB 668, which has been drafted to provide technical corrections and clarifications to the provisions of AB 668.

CURRENT LAW

Act 25 created a refundable individual income tax credit for property taxes paid on a principal dwelling by certain veterans and unremarried surviving spouses of certain former service members. The veterans property tax credit first applies to tax year 2005 and is equal to real and personal property taxes (exclusive of special assessment, delinquent interest, and charges for service) paid on a principal dwelling by the following:

a. The unremarried surviving spouse of a person who died while on active duty in the U.S. armed forces and who was a resident of this state at the time of entry into service and at the time of death.

b. The unremarried surviving spouse of a person who: (1) served on active duty in the U.S. armed forces; (2) was a resident of this state at the time of entry into active service; (3) was a

resident of this state at the time of death; (4) was at least 65 years of age at the time of death (or would have been 65 at the close of the year in which the death occurred); and (5) had a service-connected disability of 100%, based on related federal provisions.

c. The unremarried surviving spouse of a person who served in the National Guard or Reserves, who was a resident of this state at the time of entry and at the time of death, and who died in the line of duty while on active or inactive duty.

d. A person who served on active duty in the U.S. armed forces and: (1) was a resident of this state at the time of entry into that service; (2) is a resident of the state for purposes of receiving veterans benefits under Chapter 45; (3) is at least 65 years old; and (4) has a service connected disability of 100% based on related federal provisions.

In the case of a person who is eligible for the veterans property tax credit based on the criteria under "d", if the principal dwelling on which the taxes were paid is owned by two or more persons or entities as joint tenants or tenants in common or is owned by spouses as marital property, then "property taxes," for purposes of the credit, is that part of property taxes paid that reflects the ownership percentage of the claimant.

The veterans property tax credit is not allowed if an individual or the individual's spouse files a claim for the property tax/rent credit (PTRC), the farmland tax relief credit, the farmland preservation credit, or the homestead credit.

SUMMARY OF BILL

AB 668 would modify the veterans property tax credit to provide that the Act 25 provision defining "property taxes" as that part of property taxes paid that reflects the ownership percentage of the claimant would not apply to spouses who own the principal dwelling jointly or as marital property. The intention of AB 668 is to permit a married veteran who is eligible for the credit based on "d," above, to claim the credit for the entire property tax imposed on the veteran's principal dwelling, rather than for the share of property taxes that reflects the veteran's ownership interest in the dwelling (which is 50% for property owned as marital property). This provision would first apply to taxable years beginning on January 1, 2005.

In a technical memorandum on AB 668, the Department of Revenue (DOR) noted that if property taxes are paid from marital funds, then each spouse is considered to have paid half of the taxes. In the case of a married couple filing a joint return, in which one spouse is eligible for the veterans credit under "d," above, and the couple owns the claimant's principal dwelling jointly or as marital property, a modification would be needed to specify that the credit would apply for property taxes paid by both a claimant and the claimant's spouse (underline added for emphasis), rather than just the claimant, in order to allow the veterans tax credit to be based on 100% of the property taxes associated with the property.

DOR also raised a concern with respect to the treatment of a married couple filing separate returns, when one spouse is eligible for the veterans credit under "d," above, and the couple owns the claimant's principal dwelling jointly or as marital property. It appears that AB 668 would allow the disabled veteran to claim the veterans property tax credit on 100% of the property taxes on the jointly owned property that served as the claimant's principal dwelling, regardless of the other spouse's ownership interest in the property. However, under both AB 668 and Act 25, the credit is disallowed if either the claimant or the claimant's spouse claims the PTRC, the farmland tax relief credit, the farmland preservation credit, or the homestead credit. Therefore, both under current law and under the bill, the impact on married couples filing separate returns (with respect to eligibility for the veterans tax credit for disabled veterans aged 65 or older), would depend on whether or not the non-veteran spouse claimed one of the other income tax credits based on property taxes.

SUMMARY OF SUBSTITUTE AMENDMENT LRBs0217/2

Assembly substitute amendment, LRBs0217/2, to AB 668 has been drafted to address the points raised by DOR. For purposes of the veterans property tax credit, the substitute amendment would broaden the Act 25 definition of a claimant to include an "eligible spouse," which would be defined to mean the spouse of an eligible veteran who files a separate return. In addition, with respect to married couples, the following provisions would apply for purposes of the tax credit: (a) for a married couple filing a joint return, property taxes would mean such taxes paid by a claimant and the claimant's spouse; and (b) for a married couple filing separate returns, each spouse would be able to claim the veterans property tax credit based on their respective ownership interest in the eligible veteran's principal dwelling.

FISCAL EFFECT

The estimated fiscal effect of the veterans property tax credit under Act 25 was based on the Department of Veterans Affairs' estimates of the number of eligible claimants and on data from the Department of Revenue on home ownership and average property taxes. Based on this same information, it is estimated that the substitute amendment would increase the cost of the refundable veterans property tax credit (which is paid through a sum sufficient, annual GPR appropriation) by \$683,000 per year, starting in 2005-06 (\$1,366,000 for the 2005-07 biennium).

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Attachment