

HOUSE BILL NO. 343

INTRODUCED BY D. ZOLNIKOV

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A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE EXEMPTION OF STATE INCOME TAXES FOR ACTIVE DUTY SALARY; DIRECTING THE DEPARTMENT OF REVENUE TO AMEND ARM 42.15.214; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, in amending section 15-30-2117, MCA, the 2015 Legislature intended to clarify that "active duty" in the national guard means a duty performed under an order issued pursuant to Title 10 or Title 32, U.S.C., for a homeland defense activity; and

WHEREAS, a Department of Revenue administrative rule could be construed to disallow Title 10 national guard annual training that is not part of a contingency operation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

COORDINATION SECTION. Section 1. The Department of Revenue shall amend ARM 42.15.214

to read:

"42.15.214 RESIDENT MILITARY SALARY EXCLUSION

(1) The following items of military compensation received by a resident service member are exempt from Montana income tax:

(a) basic, special, and incentive pay received for serving on active duty as a member of the regular armed forces;

(b) basic, special, and incentive pay received for serving on active duty as a member of the National Guard under Title 10 USC orders;

~~(b)(c)~~ basic, special, and incentive pay received by a member of a reserve component of the armed forces or a member of the National Guard, for active duty in a "contingency operation" as defined in 10 USC 101; and

~~(e)(d)~~ basic, special, and incentive pay received by a member of the National Guard performing a "homeland defense activity" as defined in 32 USC 901.

(2) Military compensation that is not exempt from Montana income tax includes:



1 (a) salary received for annual training and inactive duty training for service not described in (1)(b) or
2 ~~(1)(c)~~ through (1)(d);

3 (b) salary received by a member of a reserve component of the armed forces for service not described
4 in (1)(b) or ~~(1)(c)~~ through (1)(d);

5 (c) salary received by a member of the National Guard engaged in "active Guard and Reserve duty" as
6 defined in 10 USC 101, for service not described in (1)(b) or ~~(1)(c)~~ through (1)(d); and

7 (d) retired, retainer, or equivalent pay, or allowances.

8 (3) As provided in the Military Family Tax Relief Act of 2003, for federal income tax purposes a member
9 of a reserve component of the armed forces may deduct certain travel expenses incurred after December 31,
10 2002, in connection with serving more than 100 miles away from home. Because the deduction reduces federal
11 adjusted gross income, the deduction also reduces the service member's income subject to Montana tax."

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13 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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