

PROPERTY TAX EXEMPTION FOR QUALIFIED DISABLED VETERANS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4110 (Substitute H-2)

Sponsor: Rep. Ben Glardon

Committee: Tax Policy

Complete to 6-11-13

A SUMMARY OF HOUSE BILL 4110 AS REPORTED FROM COMMITTEE 6-5-13

House Bill 4110 (H-2) would amend the General Property Tax Act to exempt the principal residence of a "qualified disabled veteran" or an unremarried surviving spouse from taxation under the act. A "qualified disabled veteran" would mean a veteran who is totally and permanently disabled resulting from a service-connected disability. The bill includes the following definitions:

- **Service-connected disability:** A disability incurred or aggravated in the line of duty in the active military, naval, marine, coast guard, or air service as described in 38 USC 101(6).¹
- **Totally and permanently disabled:** "Disability" as defined Section 216 of Title II of the federal Social Security Act, 42 USC 416.²
- **Veteran:** A person who served in the active military, marine, coast guard, or air service and who was discharged or released from his or her service with an honorable discharge.

[Note: Section 7b of the General Property Tax Act (MCL211.7b) currently provides a property tax exemption for the principal residence of a veteran with a service-connected disability who requires their residence to be specially adapted to accommodate their service-connected disability and who has received financial assistance from the U.S. Department of Veterans Affairs (VA) to adapt the home to the disability. This bill would not amend or repeal that section.]

¹ 38 USC 101(16) states: "The term 'service-connected' means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service."

² 42 USC 416 defines "disability" to generally mean (a) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (b) blindness, including central visual acuity of 20/200 or less in the better eye with the use of a correcting lens.

BACKGROUND INFORMATION:

Totally and Permanently Disabled

The bill incorporates the definition of "disability" under the federal Social Security Act (42 USC 416) to define a veteran who is "totally and permanently disabled" for the purposes of the property tax exemption created by the bill. This is a completely different standard from the standard used for determining a total and permanent disability for the purpose of receiving disability compensation benefits from the U.S. Department of Veterans Affairs. Although they are similar in concept, the Social Security Administration's (SSA) disability standards (and the application of those standards) are quite different from standards used by the VA. In general, whether an individual is a service-connected disabled veteran is based on a disability evaluation and determination made by the VA not the SSA.

The Department of Veterans Affairs utilizes a disability evaluation and rating system to determine the progression of the severity of a veteran's disability over time and the effect of that disability on the veteran's employability within the civilian job market. The VA devised a rating system, known as the Veterans Administration Schedule for Rating Disabilities (VSARD), assessing the medical conditions and illnesses incurred or aggravated during the veteran's military service and assigning a percentage rating (0%-100% specified in 10% increments) based on the severity of the disability. The basic premise is that this disability rating "represent[s] as far as can practicably be determined the average impairment in earning capacity resulting from such diseases and injuries [incurred in military service] and their residual conditions in civil occupations. Generally, the degrees of disability specified are considered adequate to compensate for considerable loss of working time from exacerbations or illnesses proportionate to the severity of the several grades of disability."³

The Department of Veterans Affairs disability rating schedule notes that "permanence of total disability will be taken to exist when such impairment is reasonably certain to continue throughout the life of the disabled person. The permanent loss or loss of use of both hands, or of both feet, or of one hand and one foot, or of the sight of both eyes, or becoming permanently helpless or bedridden constitutes permanent total disability. Diseases and injuries of long standing which are actually totally incapacitating will be regarded as permanently and totally disabling when the probability of permanent improvement under treatment is remote. Permanent total disability ratings may not be granted as a result of any incapacity from acute infectious disease, accident, or injury, unless there is present one of the recognized combinations or permanent loss of use of extremities or sight, or the person is in the strict sense permanently helpless or bedridden, or when it is reasonably certain that a subsidence of the acute or temporary symptoms will be followed by irreducible totality of disability by way of residuals. The age of the disabled person may be considered in determining permanence."⁴

³ 38 CFR 4.1. The VA rating schedule is specified in Title 38 (Pensions, Bonuses, and Veterans' Relief), Part 4 (Schedule for Rating Disabilities) of the Code of Federal Regulations.

⁴ 38 CFR 3.340.

The disability evaluations used by the SSA to determine eligibility for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) do not have percentage ratings similar to the VA rating schedule and do not, by themselves, determine the level of benefits payable to a person with disabilities.⁵

Definition of Veteran

To be eligible for the array of benefits through the Department of Veterans Affairs (VA), a claimant must first be a "veteran", which is defined in federal law [38 USC 101(2)] as "a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable." In contrast, the bill makes the tax exemption available to veterans who are released from service under an honorable discharge.

There are presently five types of discharges from military service: (1) honorable discharge; (2) discharge under honorable conditions or general discharge; (3) discharge under other than honorable conditions or undesirable discharge; (4) bad conduct discharge; and (5) dishonorable discharge. On this point, the Congressional Research Service has noted, "[t]he language of the statute does not precisely match the current categories of discharges, and the VA often determines on a case-by-case basis whether the claimant's discharge satisfies any of the criteria and which category of discharge applies. In most cases, the VA considers honorable discharges and discharges under honorable conditions to fall within the "conditions other than dishonorable" category, and will usually qualify the claimant as a veteran under the first step of the eligibility test. Usually, honorable and general discharges qualify a veteran for most benefits."⁶

FISCAL IMPACT:

To the extent that the expanded exemption is claimed, State Education Tax (which is earmarked to the School Aid Fund) and local property tax revenue would decline. However, without knowing the number of veterans that would qualify and the corresponding taxable values of their homesteads, an accurate fiscal impact cannot be determined.

Legislative Analyst: Mark Wolf
Fiscal Analyst: Jim Stansell

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

⁵ For a comparison of SSDI and veterans disability compensation see, *Disability Benefits Available Under the Social Security Disability Insurance (SSDI) and Veterans Disability Compensation Programs*, Congressional Research Service, Report R41289, http://assets.opencrs.com/rpts/R41289_20120912.pdf.

⁶ See, *"Who is a Veteran?" – Basic Eligibility for Veterans' Benefits*, Congressional Research Service, <http://www.fas.org/sgp/crs/misc/R42324.pdf>.