

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1395

Bill Subtitle: TO CREATE AN INCOME TAX CREDIT FOR TAXPAYERS THAT EMPLOY A RECENTLY RETURNED VETERAN.

Basic Change :

**Sponsors: Representatives Leding, E. Armstrong, Blake, K. Ferguson, V. Flowers, M.J. Gray, M. Hodges, Johnson, Murdock, Sabin, D. Whitaker
Senators D. Wallace, S. Flowers**

HB1395 adds a new Arkansas code section, § 26-51-515, that creates an income tax credit for taxpayers that employ a recently returned veteran. The credit is equal to \$1,500 per year for up to two years for each veteran hired by a qualifying small business under Small Business Administration rules in effect July 1, 2016. Veterans must have served on active duty on or after January 1, 2001. The credit may not exceed the income tax liability of the claimant with no carryover provisions. The bill is effective for tax years beginning on or after January 1, 2018.

Revenue Impact :

FY2019 - \$6.9M reduction to General Revenue.

FY2020 - \$13.8M reduction to General Revenue.

FY2021 - \$20.8M reduction to General Revenue.

[Revenue impact for FY2022 and following is undetermined at this time.]

Taxpayer Impact :

Taxpayers who employ a "recently returned veteran" under this bill may claim an income tax credit of \$1500 for each veteran hired if the veteran has been employed for at least eight months during the tax year and at the time the income tax credit is claimed. The credit will be available for a maximum of two consecutive tax years for each veteran hired. The tax credit shall not exceed the amount of income tax due by the taxpayer. Taxpayers would need to document veteran status and length of employment for each credit claimed.

Resources Required :

Tax forms and instructions will need to be revised, along with programming of the processing system.

Time Required :

Adequate time is provided.

Procedural Changes :

None.

Other Comments :

None.

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Legal Analysis :

HB1395 provides a qualified small business (QSB) a \$1,500 tax credit for hiring "recently returned" veterans. The tax credit cannot exceed the amount of income tax due for the tax year for which it is claimed. The tax credit is available for a maximum of two (2) consecutive tax years for each veteran hired. The bill does not contain any provision authorizing carry-forward of unused credit and unused credit would be lost. As written, the tax credit will be available to any QSB required to file an Arkansas income tax return, including out of state companies that hire persons meeting the definition of "recently returned veteran". This can include the hiring of veterans in another state in which the QSB is located.

The credit is only available if a QSB: (1) hires a recently returned veteran, and (2) employs the veteran for at least 8 months during the tax year for which the credit is claimed, and (3) is still employing the veteran at the time the credit is claimed. Thus, if a QSB hires a veteran in January of one tax year, but is no longer employing the veteran in January of the following year, the QSB will not be eligible for the credit.

The bill is ambiguous as to whether a veteran must be a combat veteran in order for the business to qualify for the tax credit. More specifically, page 2, lines 3-4, § 26-51-515(a)(3) of the bill defines a "recently returned veteran" to be a veteran "who has served on active duty on or after January 1, 2001". Also, page 2, lines 5-14, § 26-51-515(b) provides a tax credit for the hiring of each "recently returned veteran". Page 2, lines 15-17, § 26-51-515(c) then provides that the tax credit is available for a maximum of two consecutive years for each "recently returned combat veteran" hired. The term "recently returned combat veteran" is not defined in the bill. As written, it is unclear whether the intent of the bill is to limit the tax credit to the hiring of combat veterans.

The bill can currently be interpreted to mean that the tax credit is available for the hiring of any person who has served in active duty on or after January 1, 2001, regardless of the length of service, current service, or any blemish on the service record. This would mean the tax credit would be available to persons who enlisted but perhaps never made it through basic training, for persons who choose a Military Occupational Specialty (MOS) that will not result in a deployment to a combat zone, persons who are still in the military and have not yet been discharged, and for persons who may have actively served but were dishonorably discharged. It is recommended that the definition of "recently returned veteran" be amended in consistency with certain provisions of 38 C.F.R. § 3.6 that define "active duty" as well as 38 C.F.R. § 101 which defines the term "veteran".

The bill does not specifically limit the terms "hired" and "employed" to mean compensating individuals for services rendered. Thus, a "recently returned veteran" could be hired or employed as an unpaid intern or in another similar role and the QSB would still be eligible to claim the credit.

The bill does not provide a method for certification or verification of entitlement to the tax credit, nor does it contain a specific mechanism to recover credits later determined to be improperly obtained. For verification purposes, a copy of a discharged veteran's DD-214 form (Certificate of Release or Discharge from Active Duty) may be requested by the employer and later from the employer's records; however, a DD-214 is not considered a public record and a copy of a DD-214 can only be obtained directly from the veteran or from the National Archives with the veteran's written consent. For service

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members still on active duty, it appears that a certificate of service may be obtained by the service member from the Defense Manpower Data Center (DMDC); however, the certificate appears to be limited to providing only the active duty status for an individual on a specified date. Thus, it may not provide any information concerning a service member's MOS, length of service, or combat role (if needed).