

**EAANG RESOLUTION AR 14-01 (Amended by EAANG Resolution 15-01)**

**PERTAINING TO: State Tax Exemption for Military Retiree Pay and Compensation**

**ISSUE:** Current law and tax code for the state of Arkansas does not include military retiree compensation paid from the Department of Defense for the 100% state tax exemption that military members currently serving receive under Arkansas code 26-51-306 (a)(1)(D)(i).

**BACKGROUND:** Since being signed into law in 1943 and through each amendment, the Arkansas tax code has continued to exclude military retiree compensation and pay from it wording. Neighboring states and several others throughout the United States all have laws that grant income tax exemptions to those military members who have served their time and earned a DOD compensated retirement. Several neighboring states all offer retired members a 100% income tax exemption. There have been several attempts over the last few years in both the Arkansas House and the Senate to provide this benefit to our retired members but all have died on the floor without ever being brought to a vote. Our retired service members have served this country, and for our Guardsmen, this state with loyalty and selflessness, extending this benefit to some of our greatest citizens continues to show them that we are thankful for the time and sacrifices that they have made during their service.

**RECOMMENDATION:** Amend Arkansas code 26-51-306 such that section **(a)(1)(D)(i)** reads "For tax years beginning on or after January 1, 2014, the service pay or allowance received by an active duty or retired member of the armed services is exempt from the income tax imposed under this chapter.", **(a)(1)(D)(ii)** reads "Active duty member of the armed services" means all members of the armed forces, including the National Guard and Reserve units. Retired member means all members of the armed forces, including the National Guard and Reserve units, that are drawing a retiree compensation payment from the Department of Defense for time served in the armed forces." and **(b)** reads "Nothing in this section shall exempt from taxation the income of members of the armed services derived from other sources than their service pay, retirement pay, and allowances."

**SUBMITTED BY:** Jeffrey James Frisby

**CURRENT LAW**

**26-51-306. Compensation and benefits from military service. [Effective January 1, 2014.]**

**(a) (1) (A)** For tax years beginning before January 1, 2007, no member of the armed services of the United States shall be liable for or required to pay any income tax on the first six thousand dollars (\$6,000) of service pay or allowances.

**(B) (i)** For tax years 2005 and 2006, enlisted personnel of the armed services of the State of Arkansas or of the United States shall not be liable for or required to pay any income tax on the first nine thousand dollars (\$9,000) of service pay or allowances.

**(ii)** For tax years 2005 and 2006, an officer or a warrant officer of the armed services of the State of Arkansas or of the United States is only entitled to the exemption in subdivision (a)(1)(A) of this section and is not entitled to the exemption in subdivision (a)(1)(B)(i) of this section.

**(C)** For tax years beginning on and after January 1, 2007, any member of the armed services of the State of Arkansas or the United States is not liable for or required to pay any income tax on the first nine thousand dollars (\$9,000) of service pay or allowance.

**(D) (i)** For tax years beginning on or after January 1, 2014, the service pay or allowance received by an active duty member of the armed services is exempt from the income tax imposed under this chapter.

**(ii)** "Active duty member of the armed services" means all members of the armed forces, including the National Guard and Reserve units.

**(2)** The compensation and benefits are declared exempt, to the extent of the amounts provided in subdivision (a)(1) of this section, from the state income tax.

**(3)** All service pay or allowances of members of the armed services of the State of Arkansas or the United States in excess of the amounts provided in subdivision (a)(1) of this section shall be subject to the state income tax, unless otherwise provided for in this section.

**(4) (A)** Title 26 U.S.C. §§ 112 and 692, as in effect on January 1, 2007, regarding combat zone compensation of members of the armed forces and income taxes of members of the armed forces on death are adopted.

**(B)** The provisions contained in 26 U.S.C. § 112 are in addition to all other provisions contained in this section.

**(b)** Nothing in this section shall exempt from taxation the income of members of the armed services derived from other sources than their service pay and allowances.

**(c)** As used in this section, "armed services" means any and all members of the National Guard, reserve components of the armed forces, United States Army, Navy, Marine Corps, Coast Guard, Air Force, and any and all other branches of the military and naval forces or auxiliaries.

**HISTORY:** Acts 1943, No. 61, §§ 1-3; 1971, No. 226, § 1; 1973, No. 587, § 1; A.S.A. 1947, §§ 84-2009 -- 84-2011; Acts 1989 (3rd Ex. Sess.), No. 27, § 2; 1991, No. 386, § 1; 1997, No. 951, § 19; 2005, No. 29, § 1; 2005, No. 2187, § 2; 2007, No. 160, § 1; 2007, No. 218, § 11; 2013, No. 1408, § 1.

<http://www.arkleg.state.ar.us/>

### **RECOMMENDED CHANGE**

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(C) For tax years beginning on and after January 1, 2007, any member of the armed services of the State of Arkansas or the United States is not liable for or required to pay any income tax on the first nine thousand dollars (\$9,000) of service pay or allowance.

(D) (i) For tax years beginning on or after January 1, 2014, the service pay or allowance received by an active duty **or retired** member of the armed services is exempt from the income tax imposed under this chapter.

(ii) "Active duty member of the armed services" means all members of the armed forces, including the National Guard and Reserve units. **Retired member means all members of the armed forces, including the National Guard and Reserve units, that are drawing a retiree compensation payment from the Department of Defense for time served in the armed forces.**

(2) The compensation and benefits are declared exempt, to the extent of the amounts provided in subdivision (a)(1) of this section, from the state income tax.

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(B) The provisions contained in 26 U.S.C. § 112 are in addition to all other provisions contained in this section.

(b) Nothing in this section shall exempt from taxation the income of members of the armed services derived from other sources than their service pay, **retirement pay**, and allowances.

(c) As used in this section, "armed services" means any and all members of the National Guard, reserve components of the armed forces, United States Army, Navy, Marine Corps, Coast Guard, Air Force, and any and all other branches of the military and naval forces or auxiliaries.