VERMONT LEGISLATIVE
Joint Fiscal Office
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Fiscal Note
March 18, 2022
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S.53: An act relating to feminine hygiene products

As passed by the Senate, amended by the House, and further amended by the Senate

https://legislature.vermont.gov/Documents/2022/WorkGroups/Senate%20Finance/Bills/S.214/Drafts,%20Amendments%20and%20Legal%20Documents/S.214~Abby%20Shepard~%20Draft%203.4,%203-9-2022~3-9-2022.pdf

Bill Summary

This bill makes numerous changes to Vermont tax laws. Many of the provisions are focused on changes to Vermont corporate income taxation including:

- Repealing the rule that requires the throwback of sales to Vermont when a firm makes sales into a state where it is not taxed.
- Making changes to the determination of nexus for unitary taxpayers with subsidiaries (Joyce to Finnigan methodology).
- Requiring corporations with subsidiaries with significant overseas operations to include that income as part of the total income for the corporation's sales apportionment (repeals 80/20 language).

The other changes to the bill focus primarily on new exemptions from the income tax for certain types of retirement income

- It exempts the first $10,000 in military retirement pay for military retirees with adjusted gross income (AGI) below $45,000 for a single filer and $60,000 for a married filer.[1]
- It fully exempts military survivor benefit pay from income tax, regardless of the taxpayer's income.
- It exempts the first $10,000 in retirement pension payments for Civil Service Retirement System (CSRS) annuitants, as well as for other pension beneficiaries that do not qualify for Social Security. The exemption is subject to the same income thresholds as the military retirement exemption in this bill.

Fiscal Impact

JFO estimates that on net this bill will generate $2.24 million in General Fund revenues in FY 2023, growing to over $7 million per year beginning in FY 2024. The growth in revenue generated are due to the corporate income tax provisions only being effective for half of one fiscal year in FY2023.

[1] Note these income thresholds are the same for Vermont's existing Social Security tax exemption.

Beginning in FY 2024, they will be fully implemented. Table 1 lays out the overall revenue changes.

Table 1: S.53 Revenue Impacts, As Amended by Senate Finance in millions of dollars					
Section	Provision	FY2023	FY2024	FY2025	FY2026
	Corporate Tax Changes				
3	Throwback Rule Repeal	-$0.30	-$0.85	-$0.85	-$0.85
1	Repeal of 80/20 Language	$0.83	$2.28	$2.29	$2.35
4	Joyce to Finnigan Methodology	$2.65	$7.27	$7.30	$7.51
	Retirement/Survivor Tax Changes				
8	$10,000 CSRS/No Social Security Pay Exemption*	-$0.49	-$0.49	-$0.49	-$0.49
8	$10,000 Military Retirement Pay Exemption*ǂ	-$0.17	-$0.17	-$0.17	-$0.17
6	Full exemption for military survivor benefits	-$0.28	-$0.28	-$0.28	-$0.28
	Total	**$2.24**	**$7.77**	**$7.81**	**$8.08**

Note: Exemptions are subject to same AGI thresholds as VT Social Security Exemption ($45k single, $60k married)

ǂMilitary retirees with Social Security benefits can claim either the $10,000 military retirement exemption or the VT Social Security Exemption

Explanation/Detail

Section 1: Repeal of 80/20 Language for Overseas Businesses

Under current law, if a corporation that has a subsidiary whose primary source of sales comes from overseas sales (defined as 80% or more), it is excluded from the sales of the parent corporation for the purposes of determining their sales factor.

This change would repeal that language so that any subsidiary operating in Vermont, even if 20% or less of its operations are based in the United States, would be counted as a member of a unitary group's sales for sales apportionment.

JFO estimates that this change will raise $830,000 in General Fund revenue in FY 2023 and $2.28 million in FY 2024.

Section 3: Repeal of the Throwback Rule

Under current law, the portion of a corporation's net income attributable to Vermont is determined using a three-factor formula of Vermont payroll, property, and sales relative to its nationwide payroll, property, and sales. That is, a company's net income attributable to Vermont is determined by the share of their Vermont payroll, property, and sales relative to their national payroll, property, and sales.

This section repeals the Throwback Rule for corporations. Under current law, if a corporation sells into a state in which it has no nexus (and therefore, no taxability), Vermont requires the corporation to count those sales as Vermont sales for the purposes of determining their sales apportionment factor. This proposal would repeal that rule. **This is expected to reduce General Fund revenues by $300,000 in FY2023 and $850,000 each fiscal year thereafter.**

Section 4: Joyce to Finnigan Methodology

This section of the bill addresses how corporations with many subsidiaries determine their presence in Vermont. Under current law (Joyce), a corporation's nexus in Vermont is limited to only the group of subsidiaries that have nexus in Vermont. Under this proposal, if one subsidiary has nexus, the entirety of the group of subsidiaries is considered to have nexus in Vermont. This change impacts the apportionment formula for corporations.

This section of the bill is expected to increase General Fund revenues by $2.65 million in FY2023 and $7.27 million in FY2024, growing slowly thereafter.

Section 8: $10,000 Military Retirement Pay Exemption

This section creates a new personal income tax exemption for the first $10,000 in military retirement pay. **This is expected to reduce personal income tax revenues, and therefore General Fund revenues, by $170,000 per year.**

The individuals who take this exemption will be subject to the same income thresholds as Vermont's Social Security Exemption. Military retirees with adjusted gross income (AGI) below $45,000 for a single filer and $60,000 for a married couple will receive the full $10,000 exemption. Over the next $10,000 of AGI, the $10,000 retirement exemption is phased out.

Under this bill, military retirees who are receiving Social Security benefits will need to choose to take the existing Vermont Social Security exemption or the new military retirement pay exemption. For those military retirees not receiving Social Security, they will receive the $10,000 exemption.

JFO estimates that roughly 1,150 of Vermont's 3,900 military retirees will benefit in some way from this exemption.

- Just under 300 are estimated to be those who are receiving military retirement but not receiving Social Security. These are estimated to be military retirees who are still of working age. The average tax benefit is about $210 per year.
- JFO estimates about 870 military retirees will opt to take the military retirement exemption instead of the existing Vermont Social Security exemption because the $10,000 military retirement exemption provides a better tax benefit. However, because these taxpayers were already benefiting from the Social Security exemption under current law, the *net new* tax benefit for them is approximately $189 per year.

Because some military retirees who receive Social Security will opt to take the military retirement exemption instead of the Social Security exemption, JFO estimates a modest decrease in the State cost of the Social Security tax exemption.

Section 8: $10,000 Civil Service Retirement System (CSRS) Pension Exemption

Individuals who were hired into the Federal government prior o 1983 are members of the Civil Service Retirement System. Under this system, retirees receive a pension payment from the Federal government each month. However, these retirees are not eligible to receive Social Security because they did not make Social Security contributions during their careers in the civil service. Under current law, between 90-95% of the pension payment is taxable at the Federal and Vermont level.

Section 8 of the bill also exempts the first $10,000 of pension income received from the Civil Service Retirement System (CSRS). The bill also offers the same treatment for individuals in similar situation as CSRS. There are some state and local pension systems whose members did not pay into Social Security and therefore do not receive it upon retirement. This exemption would also be subject to the taxpayer having AGI below $45,000 for a single filer and $60,000 for a married couple.

Like the military retirement pay exemption in the bill, the annuitants receiving this exemption and Social Security will need to choose either this exemption or the existing Social Security exemption. While these individuals did not pay into Social Security when they were employed with the civil service, some retirees in this group may have paid into Social Security if they left the civil service and took another job (and therefore receive Social Security for that portion of their working experience) or that their spouse receives Social Security.

JFO estimates that this section of the bill will reduce personal income tax, and therefore General Fund, revenues by $490,000 per year. Because the Federal government transitioned to a new retirement system in 1983 where the retirees are eligible for Social Security, JFO estimates that over the long-term, the cost of this exemption will gradually decline.

JFO estimates that between 1,500 and 1,800 taxpayers will benefit. The estimated average tax benefit of this exemption is approximately $240.

Section 6: Exemption for military survivor benefits

Section 6 of the bill provides a full income tax exemption for military survivor benefits received. Unlike the other two income tax exemptions in this bill, this exemption is not subject to the AGI thresholds of the Social Security exemption. They are also not required to choose this exemption or the Social Security exemption when they begin receiving Social Security.

JFO estimates that this provision will reduce personal income tax, and therefore General Fund, revenues by $280,000 per year. Just over 750 individuals receiving military survivor benefits will be eligible for the exemption. The average tax benefit is estimated to be approximately $375 per year.

Appendix: Resources

- Sources for Corporate Income tax changes:
    - Vermont Department of Taxes corporate income tax data and modeling.
    - Throwback rule repeal:
        - Oregon 2020 Tax Expenditure Report estimate for throwback repeal.
        - Department of Taxes analysis of corporate tax returns with throwback sales.
    - Joyce to Finnegan change:
        - Comptroller of Maryland reports from tax years 2006 and 2007 on the impact of switching from Joyce to Finnigan methodology.
        - Estimates from Rhode Island and Colorado
    - Repeal of 80/20 language:
        - Information provided to the Department of Taxes and JFO from the Minnesota Department of Revenue.
        - Fiscal estimates from the Colorado Legislative Council
- Sources for retirement pay exemptions
    - Department of Defense, Office of the Actuary, Statistical Report on the Military Retirement System, Fiscal Years 2012-2020
    - "Federal Employees' Retirement System: Summary of Recent Trends." January 10, 2020. Congressional Research Service. https://sgp.fas.org/crs/misc/98-972.pdf