



Senate Finance Committee

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BILL SUMMARY

Legislation: Senate Bill 382, P.N. 368
Sponsor: Senator Baker
Act Amended: Local Tax Enabling Act
Topic: Exemption for active duty military pay
Date: November 14, 2011

Summary:

Senate Bill 382 amends the definition of “earned income” for local income tax purposes to exclude active duty military pay earned for service within the Commonwealth.

The legislation would take effect in 60 days.

Current Law:

The provisions of the Local Tax Enabling Act that apply until December 31, 2011 specifically exclude wages or compensation paid to individuals on active military service from the local earned income and net profits tax. However, under the provisions of law that will apply after December 31, 2011, an exclusion for military pay only will be available for active duty service outside Pennsylvania.

Act 32 of 2008 (SB 1063) made significant amendments to the Local Tax Enabling Act; among those amendments was a change to the definition of “earned income”. The amended version, which applies to income taxes levied and collected after December 31, 2011, largely defines “earned income” the same way “compensation” is defined for state income tax purposes. According to the Pennsylvania Department of Revenue, income received by a PA resident for military service performed inside Pennsylvania – even if on federal active duty or federal active duty for training – is taxable under the state personal income tax, unless it is for active military duty within PA for an emergency pursuant to 35 Pa.C.S. Ch. 76.

Background:

Act 166 of 2002 (HB 1700) amended the definition of “earned income” to correspond to the definition of “compensation” under the Tax Reform Code of 1971. The exclusion for wages or compensation paid to persons on active duty military service that was contained in prior law was not carried over to the new definition.

Act 24 of 2004 (HB 1206) amended the definition of “earned income” to specifically exclude wages or compensation paid to individuals on active military service.