

BILL SUMMARY
1st Session of the 57th Legislature

Bill No.:	SB 310
Version:	ENGR
Request Number:	NA
Author:	Rep. Miller
Date:	3/26/2019
Impact:	Tax Commission:
	Decrease in Sales Tax Revenue
	FY-20: \$879,000
	FY-21: \$1,520,000

Research Analysis

Engrossed SB310 amends the criteria for a sales tax exemption for qualifying 100 percent disabled veterans and their surviving spouse. The modification allows the exemption to be provided to:

- any honorably discharged veteran that has been awarded service-connected disability compensation rated at 100 percent that is permanent and total by the U.S. Department of Veteran Affairs (US DAV), provided the disability is sustained through military action or accident, from disease contracted while in active military service or from medical treatment or vocational rehabilitation services provided by the US DAV or its service providers; and
- any unremarried surviving spouse of an eligible veteran if the veteran qualified for the benefit prior to death or if the spouse has been awarded Dependency and Indemnity Compensation.

The current annual limit on exempted sales is \$25,000 per living veteran and \$1000 per surviving spouse. The measure keeps the limits for living veterans the same, but proposes an increase to \$5000 in annual exempted sales for an eligible surviving spouse.

Prepared By: Quyen Do

Fiscal Analysis

Analysis provided by the Tax Commission:

The measure proposes amendment to Section 1357(34) of Title 68 by expanding the sales tax exemption for qualifying 100% disabled veterans and their surviving spouse to include:

- Sales of tangible personal property or services to persons who have been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard which have been awarded service-connected disability compensation rated at 100% which is permanent and total and have sustained their disability from medical treatment or vocational rehabilitation services provided by the U.S. Department of Veterans Affairs or its service providers as provided in Section 1151 of Title 38 of the United States Code.¹ The exemption is subject to an annual \$25,000 sales allowance.

- Sales of tangible personal property or services to a surviving spouse who has not remarried and has been awarded Dependency and Indemnity Compensation pursuant to Section 1318 of Title 38 of the United States Code at any time after the death of their veteran spouse. The exemption is subject to an annual \$5,000 sales allowance.

The measure also proposes to increase the annual purchase allowance from \$1,000 to \$5,000 for unremarried surviving spouses of a veteran qualifying for exemption under Section 1357(34) of Title 68.

The Oklahoma Department of Veterans Affairs (“ODVA”) advised that compensation awarded under the 38 USC § 1151 is based on a disability rating in the same manner as active-duty disability compensation. Information received from ODVA indicates that approximately 10 Oklahoma veterans receiving Section 1151 disability benefits could potentially qualify for the sales tax exemption under the proposed parameters. Multiplying the 10 eligible veterans by the expenditure threshold limitation of \$25,000, results in total annual sales taxable expenditures of \$250,000 for FY 19. Applying the state sales tax rate of 4.5% yields a decrease in state sales tax collections of \$11,250.

Based on U.S. Department of Veterans Affairs information, 9,760 surviving spouses and surviving dependents are in receipt of Dependency and Indemnity Compensation. Department of Veteran Affairs has advised that it does not separately account for surviving spouses and surviving dependents receiving the described benefits. For purposes of this impact it is assumed that 25% or 2,440 of these persons are surviving dependents. OTC records indicate that 3669 persons may already be sales tax exempt as a surviving spouse of a 100% disabled veteran leaving 3,651 surviving spouses which could qualify for the proposed exemption. Multiplying the 3,651 surviving spouses by the expenditure threshold limitation of \$5,000, results in total annual sales taxable expenditures of \$18,255,000 for FY 19. Applying the state sales tax rate of 4.5% yields a decrease in state sales tax collections of \$821,475.

The Oklahoma Tax Commission records indicate that 3669 surviving spouses have qualified for exemption pursuant to Section 1357(34) of Title 68. Multiplying the 3669 eligible persons by the increase in the sales limitation amount of \$4,000 and applying the state sales tax rate results in a decrease in state sales tax revenues of \$660,420. $[3669 \times \$4,000 \times 4.5\% = \$660,420]$.

¹ 38 USC § 1151 provides in pertinent part as follows:

(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability or a qualifying death of a veteran in the same manner as if such additional disability or death were service-connected. For purposes of this section, a disability or death is a qualifying additional disability or qualifying death if the disability or death was not the result of the veteran's willful misconduct and —

(1) the disability or death was caused by hospital care, medical or surgical treatment, or examination furnished the veteran under any law administered by the Secretary, either by a Department employee or in a Department facility as defined in section 1701(3)(A) of this title, and the proximate cause of the disability or death was —

(A) carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault on the part of the Department in furnishing the hospital care, medical or surgical treatment, or examination; or

(B) an event not reasonably foreseeable; or

(2) the disability or death was proximately caused (A) by the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title, or (B) by participation in a program (known as a "compensated work therapy program") under section 1718 of this title.

²38 USC § 1151 provides in pertinent part as follows:

(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability or a qualifying death of a veteran in the same manner as if such additional disability or death were service-connected. For purposes of this section, a disability or death is a qualifying additional disability or qualifying death if the disability or death was not the result of the veteran's willful misconduct and —

(1) the disability or death was caused by hospital care, medical or surgical treatment, or examination furnished the veteran under any law administered by the Secretary, either by a Department employee or in a Department facility as defined in section 1701(3)(A) of this title, and the proximate cause of the disability or death was —

(A) carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault on the part of the Department in furnishing the hospital care, medical or surgical treatment, or examination; or

(B) an event not reasonably foreseeable; or

(2) the disability or death was proximately caused (A) by the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title, or (B) by participation in a program (known as a "compensated work therapy program") under section 1718 of this title.

² Based on an annual comparison of surviving spouses exempted under Section 1357(34) of Title 68 and persons receiving Dependency and Indemnity Compensation, an average annual growth in eligible persons qualifying for exemption under this section is estimated at .89%.

³ Includes seven months of sales tax collections.

Prepared By: Mark Tygret

Other Considerations

None.