

SUMMARY ANALYSIS OF AMENDED BILL

Author: Lieu/Jones Analyst: Jennifer Bettencourt Bill Number: AB 650
 Related Bills: See Prior Analysis Telephone: 845-5163 Amended Date: June 1, 2007
 Attorney: Tommy Leung Sponsor: _____

SUBJECT: Earned Income Tax Credit Information Act/Employers Notify All Employees Of Federal Earned Income Credit (EITC)

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 21, 2007, STILL APPLIES.
- OTHER – See comments below.

SUMMARY

This bill would require employers to notify employees of their potential eligibility for the federal earned income tax credit (EITC).

SUMMARY OF AMENDMENTS

The June 1, 2007, amendments removed language that would have required the Franchise Tax Board to send notification to any taxpayer who may qualify for the federal EITC. Except for the "This Bill," "Implementation Considerations," "Fiscal Impact," and "Policy Concerns" as discussed below, the department's analysis of the bill as introduced February 21, 2007, still applies.

Board Position:	Legislative Director	Date
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THIS BILL

This bill would require an employer, as defined, to notify all employees that they may be eligible for the EITC. The employer would be required to provide notification by either handing it to the employee or mailing it to their last known address during the period beginning one week before and ending one week after the day the employer provides the annual wage summary (i.e., W-2 or 1099) to the employee.

This bill would require that the notice be either of the following:

- Any notice available from the IRS, including but not limited to IRS Notice 797 or any succeeding notice or form, or
- Any notice created by the employer, if it contains substantially the same language as IRS Notice 797, or the same language as referenced in Revenue and Taxation Code section 19854(a).

Upon request of the employee, this bill would also require every employer to provide and process, in accordance with federal law, IRS Form W-5 for advance payments of the EITC.

This bill includes a sample notice to be furnished to employees and requires the employer to update the notice annually to include all appropriate updates to the EITC program as determined by the federal government.

This bill would define the following terms:

- “Employer” means any California employer who is subject to the Unemployment Insurance Code and is required to provide unemployment insurance to his or her employees under the Unemployment Insurance Code.
- “Employee” means any person who is covered by unemployment insurance by his or her employer.
- “Earned income tax credit” means the federal earned income tax credit, as defined in section 32 of the Internal Revenue Code.

IMPLEMENTATION CONSIDERATIONS

Implementing the employer requirements of this bill would not significantly impact the department because W-2s are issued by the State Controller’s Office (SCO). SCO would be responsible for including notification to qualified employees. In addition, the department already provides the Form W-5 for advance payments of the EITC upon an employee’s request.

FISCAL IMPACT

This bill would not impact the department’s costs.

POLICY CONCERNS

This bill lacks an enforcement mechanism or penalty that would result in the event an employer fails to comply with the requirements of this bill. Without an enforcement provision, an employer could interpret the notification requirement as optional, which may be contrary to the author's intent.

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