

ANALYSIS OF AMENDED BILL

Author: Stone, et al. Analyst: Davi Milam Bill Number: AB 1847
 Related Bills: See Legislative History Telephone: 845-2551 Introduced & Amended Dates: February 09, 2016 & March 8, 2016
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	Refundable Earned Income Tax Credit Notification Requirements
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SUMMARY

Under the Administration Franchise and Income Tax Laws, this bill would amend *The Earned Income Tax Credit Information Act*.

RECOMMENDATION

No position.

Summary of Amendments

The March 8, 2016, amendments added coauthors, defined a new term, removed obsolete information, and made other technical changes to the notice requirements in *The Earned Income Tax Credit (EITC) Information Act*.

This is the department's first analysis of the bill.

Summary of Suggested Amendments

An amendment has been suggested under the "Technical Considerations" discussion to resolve a technical concern.

REASON FOR THE BILL

The reason for the bill is to ensure eligible Californians claim both the federal and California EITC.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2017, and specifically operative for notices that are furnished on or after that date.

FEDERAL/STATE LAW***Federal Law***

Existing federal law (Internal Revenue Code section 32) allows eligible individuals a refundable EITC. A refundable credit allows for the excess of the credit over the taxpayer's tax liability to be refunded to the taxpayer. The EITC is a percentage of the taxpayer's earned income and is phased out as income increases. The percentage varies, based on whether the taxpayer has qualifying children.

Board Position:	Executive Officer	Date
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Federal law requires employers to notify their employees that they may be eligible for the federal EITC. IRS *Notice 797* provides a sample of the information to be provided to employees.¹

State Law

Beginning with the calendar year 2015 tax year, state law provides a refundable California EITC that is generally determined in accordance with IRC section 32 as applicable for federal income tax purposes for the taxable year, except as modified.²

State law, known as *The EITC Information Act*, requires California employers, state departments, and certain agencies to provide formal notification of possible eligibility for the federal EITC.³

THIS BILL

This bill would, under the Administration Franchise and Income Tax Laws, amend *The EITC Information Act* to require that California employers, state departments, and certain agencies also provide formal notification of possible eligibility for the new California EITC.

In addition, this bill would accomplish the following:

- Remove the reference to the federal Form W-5 as this advanced payment option was eliminated under federal law starting with taxable year 2011;
- Remove the reference to the Managed Risk Medical Insurance Board as that board was eliminated and the Healthy Families program was transitioned to the Department of Health Care Services; and
- Update the sample notice in R&TC section 19854 to remove obsolete federal information and to add information on the new California EITC. The new sample paragraph on the California EITC would read as follows:

YOU MAY ALSO BE ELIGIBLE TO RECEIVE THE CALIFORNIA EARNED INCOME TAX CREDIT (CALIFORNIA EITC) STARTING WITH THE CALENDAR YEAR 2015 TAX YEAR. THE CALIFORNIA EITC IS A REFUNDABLE STATE INCOME TAX CREDIT FOR LOW-INCOME WORKING INDIVIDUALS AND FAMILIES. THE CALIFORNIA EITC IS TREATED IN THE SAME MANNER AS THE FEDERAL EITC AND GENERALLY WILL NOT BE USED TO DETERMINE ELIGIBILITY FOR WELFARE BENEFITS UNDER CALIFORNIA LAW. TO CLAIM THE CALIFORNIA EITC, EVEN IF YOU DO NOT OWE CALIFORNIA TAXES, YOU MUST FILE A

¹ Refer to <https://www.irs.gov/pub/irs-pdf/n797.pdf>.

² Revenue and Taxation Code section 17052. The California EITC is only operative for taxable years the annual Budget Act specifies an adjustment factor and authorizes resources for the FTB to oversee and audit returns associated with the California EITC. For additional details on the California EITC, refer to www.ftb.ca.gov.

³ Revenue and Taxation Code sections 19850 through 19854.

CALIFORNIA INCOME TAX RETURN AND COMPLETE AND ATTACH THE CALIFORNIA EITC FORM (FTB 3514). FOR INFORMATION ON THE ELIGIBILITY OF THE CREDIT, ELIGIBILITY REQUIREMENTS, AND HOW TO OBTAIN THE NECESSARY CALIFORNIA FORMS AND GET HELP FILING, CONTACT THE FRANCHISE TAX BOARD AT 1-800-852-5711 OR THROUGH THE WEBSITE AT WWW.FTB.CA.GOV.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

TECHNICAL CONSIDERATIONS

On page 6, line 19, the first use of the term "eligibility" should be replaced with the term "availability".

LEGISLATIVE HISTORY

SB 80 (Committee on Budget and Fiscal Review, Chapter 21, Statutes of 2015), created the refundable California EITC for taxable years beginning on or after January 1, 2015.

AB 509 Skinner (Chapter 452, Statutes of 2011) amended *The EITC Information Act* by requiring specified state departments and agencies to notify benefit recipients that they may be eligible for the federal EITC.

AB 650 Lieu and Jones (Chapter 606, Statutes of 2007) enacted *The EITC Information Act* that requires employers to notify their employees that they may be eligible for the federal EITC.

OTHER STATES' INFORMATION

Because this bill only modifies an EITC notice requirement, a review of other states' tax information would not be relevant.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may say that the enhanced notification that would be required by this bill would help ensure that eligible Californians claim both the federal and state EITC.

Opponents: Some may argue that the enhanced notification that would be required by this bill could create an unnecessary burden on employers.

LEGISLATIVE STAFF CONTACT

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