



Analysis of Original Bill

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Sponsor:

Bill Number: AB 1942

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Introduced: January 29, 2018

Attorney: Bruce Langston

Related Bills: See Legislative
History

Subject: Earned Income Refundable Credit/ Franchise Tax Board Revise Form 540 to Include All Information Needed to Claim California Earned Income Tax Credit/ Earned Income Tax Credit Information Act

Summary

This bill, under the Administration of Franchise and Income Tax Laws (AFITL), would do the following:

Provision No.1: Require the Franchise Tax Board (FTB) to revise personal income tax returns, related to the California Earned Income Tax Credit (California EITC).

Provision No.2: Amend *The Earned Income Tax Credit (EITC) Information Act*.

This analysis only addresses those provisions of the bill that would impact the department's operations.

Recommendation – No position.

Reason for the Bill

The reason for this bill is to increase awareness of and ease the filing process for claiming the California EITC.

Effective/Operative Date

This bill would be effective January 1, 2019. The operative dates of the provisions vary and are addressed separately below.

Provision No. 1: The requirement for the FTB to modify the personal income tax return would be operative January 1, 2019.

Provision No. 2: The amendments made to *The EITC Information Act* would be specifically operative for notices furnished on or after January 1, 2019.

Provision No.1: Require the FTB to revise personal income tax returns, related to the California EITC.

Program Background

California began offering its own California EITC starting with calendar year 2015 tax returns. This refundable tax credit puts money back in the pockets of California’s working families and individuals. For taxpayers who owe taxes, the California EITC reduces the amount of taxes they might owe and may allow them a refund when they file their taxes. If they do not owe taxes, the California EITC will provide them a tax refund when they file their taxes.

To claim the California EITC, eligible taxpayers must file their California personal income tax return¹ and attach Form 3514 *California Earned Income Tax Credit*.² Individuals may access [CalEITC 4 Me](#) to find free help to file a 2017 personal tax return through Tax Day, April 17, 2018.³

Federal Law

Existing federal law (Internal Revenue Code (IRC) 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 federal credit rate varies from 7.65 percent to 45 percent, depending on the number of qualifying children.

The 2017 earned income amounts at which the EITC is completely phased-out and the maximum credit amounts are shown below:

An eligible individual with:	Completely Phased-Out at:⁴	2017 Max. Credit
No qualifying children	\$15,010 (\$20,600 if married filing jointly)	\$510
1 qualifying child	\$39,617 (\$45,007 if married filing jointly)	\$3,400
2 qualifying children	\$45,007 (\$50,597 if married filing jointly)	\$5,616
3 or more qualifying children	\$48,340 (\$53,930 if married filing jointly)	\$6,318

¹ Individual income tax returns include the Form 540 *California Resident Income Tax Return*, Form 540 2EZ *California Resident Income Tax Return*, or Form 540-NR *California Nonresident or Part-Year Resident Return*. These forms are available at [Franchise Tax Board Homepage](#).

² *California Earned Income Tax Credit 2017 Form 3514*.

³ If April 15 falls on a Saturday, Sunday, or holiday, the filing deadline is extended to the next working day. April 16, 2018, Emancipation Day, is a legal holiday in Washington DC. Therefore, the 2018 Tax Day is April 17, 2018.

⁴ Under IRC section 32(a)(2)(B), the credit is phased-out based on adjusted gross income (AGI), or, if greater, the earned income.

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.⁵

For purposes of the California EITC, the federal definition of “earned income” is modified to include wages, salaries, tips, and other employee compensation, includable in federal AGI, but only if such amounts are subject to California withholding.⁶ For taxable years beginning on or after January 1, 2015, and before January 1, 2017, earned income specifically excluded net earnings from self-employment.

For taxable years beginning on or after January 1, 2017, the California EITC was modified to include, in the definition of earned income, net earnings from self-employment, consistent with federal law, and to increase the maximum AGI amounts at which the California EITC is completely phase-out.

For 2017, the California EITC is available to households with AGI of up to:

- \$15,008 if there are no qualifying children,
- \$22,322 if there is one qualifying child (the approximate full-time, state minimum wage as of January 1, 2017), and
- \$22,309 if there are two qualifying children, and \$22,302 if there are three or more qualifying children.

This Provision

This provision, under the AFITL, would require the FTB to revise the Form 540 to include all of the information necessary for a taxpayer to claim the California EITC.

Implementation Considerations

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

Implementing this provision would require substantial changes to existing tax forms and instructions and information systems. For example, the Form 540 would likely increase by at least one page incorporating relevant information from the Form 3514 *California Earned*

⁵ Revenue and Taxation Code (R&TC) 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 [Franchise Tax Board Homepage](#).

⁶ Pursuant to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

Income Tax Credit, and the Form 540 booklet would likely be increased several pages to incorporate the instructions for Form 3514.

This provision uses the undefined phrase “all of the information necessary to claim the California EITC.” For clarity and ease of administration, it is recommended that this provision be amended to define this phrase.

This provision limits the revisions to the Form 540, rather than all personal income tax returns, including the Form 540-2EZ and Form 540-NR. If the author’s intent is to revise all personal income tax returns on which the California EITC may be claimed, this provision should be amended.

This provision is silent on the applicable taxable years to which the revision would apply. To alleviate this concern, the author may wish to specify that this provision would apply to personal income tax returns required to be filed for taxable years beginning on or after January 1, 2019.

Legislative History

AB 131 (Assembly Committee on Budget, Chapter 252, Statutes of 2017) provided technical clarification to previous budget trailer bills related to the 2017 Annual Budget Act, including SB 106 discussed below.

SB 106 (Senate Committee on Budget and Fiscal Review, Chapter 96, Statutes of 2017), expanded the California EITC by modifying the earned income computation to include net earnings from self-employment, consistent with federal law, and increasing the maximum AGI phase-out amounts.

SB 1073 (Monning, Chapter 722, Statutes of 2016) made permanent the enhanced 45-percent credit rate for three or more qualifying children consistent with federal law.

SB 80 (Senate Committee on Budget and Fiscal Review, Chapter 21, Statutes of 2015) enacted the California EITC.

Other States’ Information

Because this provision would only modify the California Form 540, a review of other states’ tax information would not be relevant.

Fiscal Impact

The department’s costs to implement this provision have yet to be determined, but are anticipated to be significant. As the bill moves through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

Economic Impact

Revenue Estimate

This provision would not impact state income or franchise tax revenue.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Provision No. 2: Amend *The EITC Information Act*.

State Law

State law, known as *The EITC Information Act*, requires California employers and specified state departments and agencies serving those who may qualify for the federal EITC and the California EITC to provide formal notification regarding possible eligibility for the federal EITC, and the California EITC.⁷

This Provision

This provision would amend *The EITC Information Act* by adding the *State Department of Social Services: California Work Opportunity and Responsibility to Kids (CalWORKs)* program to the list of agencies that must provide benefit recipients with formal notification regarding possible eligibility for the federal EITC and the California EITC.

Implementation Considerations

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

Legislative History

AB 1847 (Stone, Chapter 294, Statutes of 2016) modified *The EITC Information Act* by requiring that California employers, state departments, and certain agencies also provide formal notification regarding possible eligibility for the California EITC.

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.

⁷ R&TC sections 19850 through 19854.

Other States' Information

Because this provision would only modify an EITC noticing requirement, a review of other states' tax information would not be relevant.

Fiscal Impact

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

Economic Impact

Revenue Estimate

This provision would not impact state income or franchise tax revenue.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Support/Opposition

Support: None Provided.

Opposition: None Provided.

Arguments

Proponents: Some may say that this bill, by increasing both awareness of and ease of claiming the California EITC, would encourage eligible individuals to claim this valuable resource for improving the economic security of California families.

Opponents: Some may argue that the cost of the enhanced notification and form revisions that would be required by this bill would outweigh the benefit of increased California EITC claims.

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