



Summary Analysis of Amended Bill

Author: Reyes

Sponsor:

Bill Number: AB 1593

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Amended: June 11, 2019

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Related Bills: See Prior Analysis

Subject: Earned Income Refundable Tax Credit/Federal Individual Taxpayer Identification Numbers (Federal ITINs)

Summary

This bill would, under the Personal Income Tax Law (PITL), modify the California Earned Income Tax Credit (California EITC).

Recommendation – No position.

Summary of Amendments

The June 11, 2019, amendments added restrictions on the use of the additional identity documentation provided by individuals using Federal ITINs for the California EITC.

Except for the “This Bill” section, the remainder of the department's analysis of the bill as amended April 24, 2019, still applies. The “Effective/Operative Date,” “Fiscal Impact,” “Economic Impact,” and “Policy Concerns” sections have been restated below for convenience.

Effective/Operative Date

This bill would be effective January 1, 2020, and would be specifically operative for taxable years beginning on or after January 1, 2019.

This Bill

For each taxable year beginning on or after January 1, 2019, this bill, under the PITL, would revise the California EITC by allowing eligible individuals, their spouses, and qualifying children to have either a (1) Federal ITIN or (2) social security number (SSN) without regard to its being valid for employment.

This bill would require that an eligible individual, eligible individual's spouse, or qualifying child using a Federal ITIN, provide upon request of the Franchise Tax Board (FTB):

- Identifying documents acceptable for purposes of proving identity as authorized by Vehicle Code section 12801.9(c), and related regulations for purposes of establishing documents acceptable to prove identity.
- Identifying documents used to report earned income for the taxable year.

This bill would provide that the above information or documents obtained by the FTB, including the name and address of any individual who applies for the earned income tax credit using a Federal ITIN, shall be treated as private and confidential and shall be subject to Sections 19542, 19542.1, and 19552.¹

Additionally, such documents obtained by the FTB shall not be used as evidence of an individual's citizenship or immigration status and shall not be disclosed to any individual or used for any purpose except as required by state law, notwithstanding Sections 19547, 19550, 19551, and 19559.²

This bill also would require an individual using a Federal ITIN who is subsequently issued a valid SSN by the Social Security Administration, to notify the FTB, in the time and manner prescribed by the FTB.

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.

¹ These sections under current state law prohibit the disclosure of any taxpayer information except as specifically authorized by statute. Improper disclosure of state tax information is a misdemeanor and improper disclosure of federal tax information is a felony.

² The FTB is authorized under these sections to disclose specified tax return information. Section 19547 allows disclosure of information to the Attorney General, as specified. Section 19550 requires the FTB, under specified requests, to provide to the Department of Justice the address of certain persons in violation of the Penal Code, as specified. Section 19551 allows for the disclosure of specified information to the Commissioner of the Internal Revenue Service. Section 19559 allowed the FTB to disclose returns and return information to federal agencies to the same extent they could have been disclosed to the Secretary of the Treasury.

Absent an SSN, the department would be unable to accurately match or verify the taxpayer-reported wage and withholding information with employer-reported wages to the Employee Development Department, increasing the likelihood of improper claims.

Fiscal Impact

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

Economic Impact

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1593 as Amended June 11, 2019
Assumed Enactment after June 30, 2019.

(\$ in Millions)

Fiscal Year	Revenue
2019-2020	-\$60
2020-2021	-\$65
2021-2022	-\$65

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Based on output from the FTB's California EITC micro-simulation model comparing current law and proposed law model results, it is estimated that expanding the California EITC to taxpayers with federal ITINs would result in a \$60 million revenue loss in the 2019 taxable year.

The tax year estimates are converted to fiscal year estimates and rounded to arrive at the amounts shown in the above table.

Policy Concerns

This bill would create additional differences between federal and California eligibility rules for the California EITC, thereby increasing the complexity of California tax return preparation.

The department is concerned that the proposed use of federal ITINs could lead to an increase in improper claims and payments.

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