



Bill Analysis

Author: Committee on
Budget

Analyst: Davi Milam

Attorney: Shane Hofeling

Sponsor:

Phone: (916) 845-2551

Related Bills: See Legislative
History

Bill Number: AB 1876

Amended: August 28, 2020

SUBJECT

California Earned Income Refundable Tax Credit (CalEITC)/ Young Child Tax Credit (YCTC)/Identification Numbers: Social Security Numbers (SSN) and Federal Individual Taxpayer Identification Numbers (federal ITINs)

SUMMARY

This bill, under the Personal Income Tax Law (PITL), would modify the CalEITC by allowing the use of federal ITINs for all eligible individuals, eligible individuals' spouses, and qualifying children.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

The August 28, 2020, amendments removed provisions expressing Legislative intent related to the Budget Act of 2020, and replaced them with the provisions discussed in this analysis.

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

REASON FOR THE BILL

The reason for this bill is to reduce California poverty by increasing the number of Californians eligible for the CalEITC and YCTC.

ANALYSIS

Under current law, there are specific requirements in order to be eligible for the CalEITC. This bill expands eligibility by modifying the identification number requirements.

For each taxable year beginning on or after January 1, 2020, this bill, under the PITL, would revise the CalEITC 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. Use of a federal ITIN would no longer be conditioned on having a qualifying child younger than six years old as of the last day of the taxable year.

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(a) and (c), and related regulations for purposes of establishing documents acceptable to prove identity.
- Identifying documents used to report earned income for the taxable year.

Additionally, upon receiving a valid social security number, the individual shall notify the FTB in the time and manner prescribed by the FTB.

As a result of the expanded eligibility for the CalEITC, eligibility for the YCTC would be expanded by allowing a "qualified taxpayer" and "qualifying child" to have either an SSN or federal ITIN.

Effective/Operative Date

This bill, providing for appropriations related to the Budget Bill and identified as a bill related to the budget in the Budget Bill, would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2020.

Federal/State Law

Federal Law

Existing federal law (Internal Revenue Code (IRC) section 32) allows eligible individuals a refundable Earned Income Tax Credit (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. For 2019, the EITC is available to individuals and families earning up to \$ 55,952. The federal credit rate varies from 7.65 percent to 45 percent, depending on the number of qualifying children, up to a maximum of three children.

To claim the federal EITC, an eligible individual (and spouse, if filing a joint return), and any qualifying children must have a SSN issued by the Social Security Administration that is valid for employment.

State Law

CalEITC

State law provides a refundable CalEITC that is generally determined in accordance with IRC section 32, as applicable for federal income tax purposes for the taxable year, except as modified.

State law for taxable years beginning before January 1, 2020, conforms to the federal requirement that an eligible individual (and spouse, if filing a joint return) and any qualifying child must have a valid SSN.

Starting with taxable years beginning on or after January 1, 2020, state law modifies the identification number requirement as follows.

Eligible individuals, their spouses, if married, and any qualifying children may have an SSN without regard to whether it was issued for employment or issued solely for the purpose of receiving federally funded benefits.

Additionally, CalEITC is allowed to these federal ITIN holders:

- An eligible individual who has a qualifying child younger than six years old as of the last day of the taxable year.
- An eligible individual whose spouse has a qualifying child younger than six years old as of the last day of the taxable year.
- Any qualifying children of an eligible individual who has a qualifying child younger than six years old as of the last day of the taxable year.
- Any qualifying children of an eligible individual's spouse who has a qualifying child younger than six years old as of the last day of the taxable year.

As a result of the expanded eligibility for the CalEITC, eligibility for the YCTC (discussed below) is expanded by allowing a "qualified taxpayer" and "qualifying child" to have either an SSN or federal ITIN.

For taxable year 2019, the refundable CalEITC is generally available to households making \$30,000 or less regardless of whether the eligible individual has a qualifying child.

Young Child Tax Credit

For taxable years beginning on or after January 1, 2019, state law allows the refundable YCTC for a qualified taxpayer, as defined below. The maximum credit is limited to \$1,000 per taxable year.

The credit amount is reduced by \$20 for every \$100 by which the qualified taxpayer's earned income exceeds the threshold amount, initially set at \$25,000.

For purposes of the YCTC, the following terms and phrases are defined:

- “Qualified taxpayer” means an eligible individual who has been allowed the CalEITC under Section 17052, and has at least one qualifying child.
- “Qualifying child” has the same meaning as under the CalEITC (Section 17052), except that the child must be younger than six years old as of the last day of the taxable year.

Implementation Considerations

Implementing this bill would require changes to existing tax forms and instructions, education and outreach, and changes to information systems to limit improper payments, which have been accounted for in the fiscal impact below.

Technical Considerations

None noted.

Policy Concerns

This bill would create additional differences between federal and California eligibility rules for the CalEITC, thereby increasing the complexity of California tax return preparation, making free tax assistance programs (e.g., VITA) an increasingly important resource.

The proposed use of federal ITINs could lead to an increase in improper claims and payments.

LEGISLATIVE HISTORY

SB 831 (Committee on Budget and Fiscal Review, 2019/2020), substantially similar to this bill, would have modified the CalEITC by allowing the use of federal ITINs for all eligible individuals, eligible individuals' spouses, and qualifying children, without limitations under AB 93. SB 831 failed to pass by the constitutional deadline.

AB 93 (Committee on Budget, Chapter 19, Statutes of 2020), for taxable years beginning on or after January 1, 2020, modified the CalEITC by removing certain restrictions on SSNs and allowing limited use of federal ITINs by eligible individuals who have a qualifying child younger than six years old as of the last day of the taxable year. As a result of the changes to the CalEITC, this bill also expanded eligibility for the YCTC.

AB 91 (Burke, Chapter 39, Statutes of 2019) expanded the CalEITC, established the YCTC, and made a number of changes conforming to federal law.

AB 1593 (Reyes, 2019/2020), would have retroactively expanded the CalEITC by allowing eligible individuals, their spouses, and qualifying children to have either a federal ITIN or a SSN without regard to being valid for employment. AB 1593 failed to pass by the constitutional deadline.

SB 855 (Committee on Budget and Fiscal Review, Chapter 52, Statutes of 2018) increased the maximum Annual Gross Income (AGI) limits and for an eligible individual without a qualifying child change modified the age requirement.

AB 131 (Assembly Committee on Budget, Chapter 252, Statutes of 2017) modified the 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 CalEITC 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 to be consistent with the federal EITC.

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

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

Staff estimates a cost of approximately \$1.7 million for fiscal year 2021/2022 and thereafter for resources to update information systems, review returns, and prevent improper refunds from being issued.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1876 Amended August 28, 2020
Assumed Enactment after June 30, 2020

(\$ in Millions)

Fiscal Year	Revenue
2020-2021	-\$60
2021-2022	-\$60
2022-2023	-\$60

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.

Revenue Discussion

Based on output from the FTB's EITC micro-simulation model, it is estimated that expanding the CalEITC and YCTC to taxpayers with a federal ITIN would result in a revenue loss of \$60 million in the 2020 taxable year that would be in addition to the revenue loss attributable to enactment of AB 93.

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

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

None noted.

ARGUMENTS

None noted.

LEGISLATIVE STAFF CONTACT

Davi Milam
Legislative Analyst, FTB
(916) 845-2551
Davi.milam@ftb.ca.gov

Tiffany Christiansen
Revenue Manager, FTB
(916) 845-5346
tiffany.christiansen@ftb.ca.gov

Annette Kunze
Legislative Director, FTB
(916) 845-6333
annette.kunze@ftb.ca.gov