



## Bill Analysis

Author: Assembly Committee  
on Budget

Sponsor:

Bill Number: AB 93

Analyst: Davi Milam

Phone: (916) 845-2551

Amended: June 22, 2020

Attorney: Shane Hofeling

Related Bills: See Legislative  
History

### SUBJECT

California Earned Income Tax Credit (CalEITC)/Young Child Tax Credit (YCTC)  
/Identification numbers: social security number (SSNs) and Federal individual taxpayer  
identification numbers (federal ITINs)

### SUMMARY

This bill, under the Personal Income Tax Law (PITL), would modify the CalEITC by removing restrictions on the use of certain SSNs and allowing the limited use of federal ITINs by eligible individuals who have a qualifying child under six years old as of the last day of the taxable year and other specified individuals.

As a result of the changes to the CalEITC, this bill also would expand eligibility for the YCTC.

### RECOMMENDATION

No position

### SUMMARY OF AMENDMENTS

The June 22, 2020, amendments removed provisions related to an appropriation from the General Fund and added the provisions discussed in this analysis.

This is the department's first analysis.

### REASON FOR THE BILL

The reason for this bill is to provide financial relief to an expanded group of California's low-income taxpayers without regard to the type of identification number possessed.

### ANALYSIS

Under current law, there are specific requirements in order to be eligible for the CalEITC. This bill expands eligibility for individuals meeting certain requirements.

For each taxable year beginning on or after January 1, 2020, this bill, under the PITL, would expand eligibility for the CalEITC by modifying the identification number requirement as follows.

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

Additionally, a federal ITIN would be allowed for:

- 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, this bill would also expand eligibility for the YCTC 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 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.

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 specified. 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**

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 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 is in the Senate Governance and Finance Committee.

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.

AB 1942 (Santiago, 2017/2018), would have required the FTB to modify the Form 540 related to the CalEITC, and modify The EITC Information Act. AB 1942 was held in the Assembly Appropriations Committee.

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 \$1.23 million for fiscal year 2020/2021, \$1.149 million for fiscal years 2021/2022 and 2022/2023, and \$896,000 for fiscal year 2023/2024 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 93 Amended June 22, 2020  
Assumed Enactment after June 30, 2020

(\$ in Millions)

<b>Fiscal Year</b>	<b>Revenue</b>
2020-2021	-\$65
2021-2022	-\$65
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 Franchise Tax Board's EITC micro-simulation model, it is estimated that expanding the CalEITC and YCTC to ITINs with a qualifying child under six would result in a \$65 million revenue loss in the 2020 taxable year.

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**

To be determined.

**ARGUMENTS**

To be determined.

**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