



Bill Analysis

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Sponsor:

Bill Number: SB 1409

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Amended: March 25, 2020

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Related Bills: See Legislative
History

SUBJECT

California Earned Income Tax Credit (CalEITC) Non-filer Report

SUMMARY

This bill would require the Franchise Tax Board (FTB) to analyze and develop a plan to implement a "no return" tax filing pilot program with the goal of increasing the number of CalEITC claims.

The FTB would be required to report to the Legislature by January 1, 2022, its analysis and plan.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

The March 25, 2020, amendments removed nonsubstantive technical provisions, 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 consider an alternative option to the traditional tax return in order to reduce barriers and increase the number of CalEITC claims among eligible individuals and families.

ANALYSIS

This bill, under Section 2, would require the FTB to analyze and develop a plan to implement a "no return" tax filing pilot program with the goal of increasing the number of claims of the CalEITC allowed pursuant to Revenue and Taxation Code (R&TC) section 17052.

The analysis would be required to include, but is not limited to, the following:

- An overview of the changes needed to the income tax system that would reduce any barriers to tax filing for non-filers of tax returns who are eligible for the CalEITC; and
- An outline of the necessary changes needed to increase collaboration and coordination among state agencies to reach the greatest number of individuals eligible for the CalEITC.

The FTB would be required to engage any state agency task force or group that exists to reduce poverty and other stakeholders that work to reduce poverty.

The FTB would be required to report to the Legislature on or before January 1, 2022, on its analysis and plan required by this section. The report would be submitted in compliance with Government Code section 9795.

Effective/Operative Date

Assuming enactment of this bill by September 30, 2020, this bill would be effective January 1, 2021, and operative as of that date.

Federal/State Law

Federal Law

Currently, taxpayers meeting certain requirements are required to file a federal income tax return to report items of income and claim deductions or credits. This includes taxpayers who are eligible to claim a refundable EITC.

To claim the federal EITC, eligible individuals must file a federal personal income tax return (Form 1040 or Form 1040-SR) with the Internal Revenue Service (IRS). Federal Schedule EIC *Earned Income Credit* must be included with the income tax return, if the eligible individual claims a qualifying child.

The IRS does not offer a “no return” filing program. Please see the “Program Background” section below for additional information on free filing options.

State Law

Similarly, state law provides that individuals are required to file a California personal income tax return if either their gross income or adjusted gross income meets specified limits or to claim refundable credits, including the CalEITC. State law also does not provide a “no return” filing option.

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

State law also allows the refundable Young Child Tax Credit (YCTC) for a qualified taxpayer, who has at least one qualifying child younger than six years old as of the last day of the taxable year. The maximum credit is limited to \$1,000 per taxable year, and phases out as the qualified taxpayer's earned income exceeds the threshold amount, initially set at \$25,000.

To claim the refundable CaEITC and the refundable YCTC, eligible taxpayers must file their California personal income tax return and attach Form 3514, *California Earned Income Tax Credit*, similar to the IRS requirements.

Please see the "Program Background" section below for additional information on free filing options.

Implementation Considerations

None noted.

Technical Considerations

To permit the FTB to consult with external stakeholders, it is recommended that the term "shall" be replaced with the term "may" in subdivision (c) of Section 2.

Policy Concerns

Even if the state develops a pilot program providing a "no return" filing option, individuals would still need to file a federal personal income tax return as the IRS does not offer a "no return" filing option.

LEGISLATIVE HISTORY

AB 74 (Ting, Chapter 23, Statutes of 2019), among other provisions, specified that \$10 million appropriated to the FTB (The Budget Act of 2019) would be allocated in a manner that emphasizes nonprofit and community-based organizations that provide increased awareness of the CalEITC and that provide free tax preparation services.

AB 91 (Burke, Chapter 39, Statutes of 2019), among other changes, modified the CalEITC and established the refundable YCTC.

PROGRAM BACKGROUND

Free Tax Help

Free tax help is available through *Volunteer Income Tax Assistance (VITA)* and *Tax Counseling for the Elderly (TCE)*.¹ Taxpayers living in California can get free tax help from these programs to file their federal and California personal income tax returns:

- VITA, is available to taxpayers that:
 - Make \$56,000 or less
 - Have disabilities, or
 - Speak limited English
 - Are active duty or retired military personnel, or a dependent
- Tax Counseling for the Elderly (TCE), is available to taxpayers over 60 years old

Individuals with adjusted gross income of \$69,000 or less for tax year 2019 may also be eligible for free online filing. For more detail refer to the IRS website *Free File Online Lookup Tool*.

Additionally, CalFile, is the FTB's free online direct to government e-filing program of the California personal income tax return. For the 2019 process year, the FTB received 122,015 returns through the CalFile application.

Education and Outreach

The Legislative Analyst (LAO) report "*The 2019-20 Budget: Analysis of Proposed Earned Income Tax Credit Expansion*" noted that the Legislature in 2016, 2017, and 2018, authorized funding for education and outreach by "community-based organizations and other state and local government agencies (such as school districts and county social services offices) to raise awareness about the state and federal EITC."

According to the LAO report, these efforts included advertising and media outreach, distribution of printed materials, and canvassing—direct contact with individuals in targeted residential neighborhoods. Additionally, starting in 2018, grant recipients were allowed to fund tax filing assistance.

In the Budget Act of 2019, the Governor and the Legislature set aside \$10 million for state outreach grants to promote the CalEITC and to promote free tax preparation. Grantees will carry out statewide and local outreach efforts aimed at reaching eligible families.

¹ The IRS website includes the following alert: Due to COVID-19, a number of VITA sites and all TCE sites are closed for an undetermined period of time. To locate an open VITA site near you, use the VITA Locator Tool or call 800-906-9887. For fastest service visit IRS.gov for a variety of online resources and tax help including tax forms, instructions and publications, online payment options and to file with IRS Free File – free for most taxpayers.

FISCAL IMPACT

This bill's requirement to develop a plan would not significantly impact the department's costs. However, the plan would identify the department's implementation costs associated with the "no return" filing pilot and program noted in the plan.

ECONOMIC IMPACT

Revenue Estimate

This bill as amended March 25, 2020, would not impact the calculation of 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 or for the net final payment method of accrual.

Revenue Discussion

The bill requires the FTB report to the Legislature on or before January 1, 2022 on the development of a plan to implement a "no return" tax filing program for the CalEITC. As a result, there is no impact on state income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE STAFF CONTACT

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