



## Bill Analysis

Author: Irwin

Sponsor:

Bill Number: AB 1863

Related Bills: See Legislative  
History

Amended: March 24, April 19,  
May 19, and June 9, 2022

### SUBJECT

Income Tax Ready Return

### SUMMARY

This bill would require the Franchise Tax Board (FTB) to notify potential eligible individuals of available paperless filing options offered through FTB and to include information in the notification about the California Earned Income Tax Credit (CalEITC).

### RECOMMENDATION

No position.

### SUMMARY OF AMENDMENTS

The March 24, 2022, amendments removed the provisions related to the Military and Veterans Code and added the ReadyReturn provisions under the Revenue and Taxation Code (RTC).

The April 19, 2022, amendments modified the ReadyReturn provisions within the RTC.

The May 19, 2022, amendments removed the ReadyReturn provisions and added the provisions that require notification of paperless filing options and information about CalEITC.

The June 9, 2022, amendments added the requirement for the notifications to include information about free tax preparation services, including the Volunteer Income Tax Assistance (VITA) program.

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

### REASON FOR THE BILL

This bill is intended to broaden the use of free electronic filing programs and increase outreach for CalEITC.

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## ANALYSIS

This bill would require FTB beginning January 1, 2023, to notify potential eligible individuals of available paperless (electronic) filing options offered through FTB, including CalFile, and free tax preparation services, including the VITA program. The notification would include information about available paperless filing options and CalEITC. The notification would be in a form and manner FTB determines would incentivize potential eligible individuals to timely file their federal and state tax returns.

This bill would allow FTB to coordinate with other government agencies and nonprofit organizations to improve the effectiveness of the notices. The bill provides that no negative inference would be drawn from a taxpayer's decision not to file using CalFile or to file under a different method.

This bill would define the following terms:

- "CalEITC" is defined as the Earned Income Tax Credit as allowed under Section 17052 of the RTC.
- "Potential eligible individual" is defined as an eligible individual under the CalEITC in any of the three previous taxable years based upon information available to FTB.

On or before January 1, 2026, FTB would be required to provide a report to the Legislature that contains the following information organized by taxable years beginning on or after January 1, 2023, and before January 1, 2025:

- The cost to administer and implement the notification requirement.
- The total number of tax returns filed using paperless filing options offered through FTB, including the CalFile program.
- An analysis of the discernable efficacy and impact of the notification requirement.
- The number of returns filed using the paperless filing options offered through FTB that claimed the CalEITC.
- The estimated cost savings potential eligible individuals realized by using paperless filing options offered through FTB.

This bill would be repealed until January 1, 2027.

### *Effective/Operative Date*

If enacted, this bill would be effective and operative beginning January 1, 2023, and would be repealed on January 1, 2027.

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### *Federal/State Law*

#### *Federal Law*

Current federal law mandates the IRS to increase the percentage of returns filed electronically by taxpayers. Through the IRS Free File Program, a public-private partnership between the IRS and tax preparation and filing industry companies, there are two ways taxpayers can prepare and file their federal tax return on line for free.

- Under the “Guided Tax Preparation” program, taxpayers with adjusted gross income (AGI) under \$73,000 per year, can receive free online tax preparation and file electronic returns at no cost using private vendors to meet this objective.
- Taxpayers who know how to prepare their own tax return using form instructions and publications can use the “Free File Fillable Forms” program. This program is available to any income level. There is also a free filing option for taxpayers with AGI above \$73,000.

As outlined under the Free File Alliance Memorandum of Understanding and Agreements, the IRS is prohibited from developing its own “income tax electronic filing or preparation products or services.”

#### *State Law*

Current state law requires FTB to develop and make available forms for taxpayers that are as simple as possible for taxpayers to prepare. FTB is required to ease taxpayers’ compliance burden in the form and design of tax returns.

In 2022, FTB reported to the Legislature its plan to increase the number of CalEITC claims and the federal EITC, including alternative filing systems. The analysis included, but was not limited to, the following:

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

#### *Implementation Considerations*

FTB cannot provide confidential taxpayer information to another agency/entity without express statutory authority to disclose the information. The author may wish to clarify if the intent to coordinate notifications with other government entities and nonprofit organizations would require the department to share taxpayer data with these entities and organizations or in turn, if they would be required to share their data with FTB.

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The bill does not specify how often the notification should be made by FTB or in coordination with the other government entities and nonprofit organizations. As drafted, it appears to be a yearly notification process. The author may wish to identify the frequency of the notification to ensure it meets the bill's intent to increase the visibility of the CalFile program and claims allowed for CalEITC.

#### *Technical Considerations*

None noted.

#### *Policy Considerations*

Due to return filing extensions and processing times, complete taxpayer data may not be available to timely report the requested RTC section 41 information. If the author's intent is to be able to review a report that contains complete information for the 2024 taxable year, it is recommended that the due date of the report be moved to later in the year.

### **LEGISLATIVE HISTORY**

SB 1409 (Caballero, Chapter 114, Statutes of 2020) required the FTB to analyze and develop a plan to increase the number of CalEITC claims and the federal Earned Income Tax Credit. The FTB was required to report to the Legislature by January 1, 2022, its analysis and plan.

### **PROGRAM BACKGROUND**

Free tax help is available through VITA and Tax Counseling for the Elderly (TCE). 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 \$58,000 or less,
  - Have disabilities,
  - Speak limited English, or
  - Are active duty or retired military personnel, or a dependent.
- TCE is available to taxpayers over 60 years old.

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For more details, refer to the IRS website Free File Online Lookup Tool.

Additionally, CalFile is a free, direct online program that allows taxpayers to e-file their personal income tax returns with FTB. A MyFTB account provides individuals online access to tax account information and online services. The CalFile program greatly expanded taxpayers eligible for this service and also allowed taxpayers to file prior year returns. FTB began utilizing CalFile exclusively as a simplified filing portal for the California return in 2015. This portal also allowed for pre-population of data if taxpayers registered and obtained a MyFTB account.

### **FISCAL IMPACT**

FTB will be engaging in the following activities to achieve notifications regarding CalFile, CalEITC, and other tax benefits. We anticipate these outreach efforts will likely meet the intent of the bill:

- FTB's Webpage on [CalFile](#) and [free filing](#).
- [CalEITC calculator](#).
- CalEITC education and outreach materials made available for distribution to advocacy groups.
- Changes to employer and public assistance notification requirements (RTC sections 19850-19854) to specifically provide information on VITA, CalFile, and anti-poverty tax credits (achieving through Trailer Bill Language).
- Outreach to nonfilers resulting from SB 1409.

As a result, the department does not expect additional costs to implement the changes in this bill. If workload demands resulting from this program later increase, costs could change.

### **ECONOMIC IMPACT**

This bill as amended June 9, 2022, is not a law change that affects the computation of tax. Any revenue impact of this bill would be based on the number of new taxpayers incentivized to file a tax return as a result of the FTB's notifications of available paperless filing options, who otherwise would not have filed. Predicting taxpayer behavior and the potential amount of tax that would be due or refunded to the taxpayer is difficult and the revenue impact is unknown.

### **LEGAL IMPACT**

None noted.

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## **APPOINTMENTS**

None noted.

## **SUPPORT/OPPOSITION**

### *Support*

As per the June 28, 2022, Senate Floor Analysis of AB 1863, the following organization supports the bill:

California Society of Enrolled Agents

### *Opposition*

None on file.

## **ARGUMENTS**

To be determined.

## **LEGISLATIVE CONTACT**

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