STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Rubio & Hueso

Sponsor:

Bill Number: SB 860

Related Bills: See Legislative History

Introduced: January 20, 2022
Amended: March 24, 2022

SUBJECT

Young Child Tax Credit (YCTC)

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), expand the eligibility of the YCTC to individuals with zero earned income or less but whose California wage income does not exceed the maximum earned income amount allowed for the California Earned Income Tax Credit (CalEITC). This bill would also require the indexing of the credit starting with taxable year 2022, require the indexing of the $20 phaseout amount for taxable year 2022 only, add additional reporting requirements for the Franchise Tax Board (FTB), and make other nonsubstantive changes.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 24, 2022, amendments added provisions requiring the indexing of the credit and the phaseout amount, as specified, removed the $1,000 credit cap and removed the provision that would have prevented offsetting the credit that is in excess of the tax liability against other existing debt. In addition, the amendments added additional reporting requirements for the FTB.

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 families raising young children eligible for the YCTC.

ANALYSIS

This bill would, under the PITL, modify the definition of a "qualified taxpayer" for purposes of the YCTC to include individuals who have earned income, as defined under the CalEITC, of zero dollars or less and whose wages subject to withholding, if any, do not exceed the maximum earned income amount allowed for the CalEITC.

This bill would provide for the amount of the YCTC to be indexed for inflation. This bill would also remove the $1,000 credit maximum to allow for the credit indexing but continue to limit the credit to one per qualifying taxpayer.

This bill would, for taxable year 2022, require the $20 phaseout amount to be indexed for inflation, with the resulting amounts rounded off to the nearest cent.

This bill would clarify that the threshold amount would be indexed for inflation for taxable years beginning after the taxable year in which the minimum wage is $15 for employers with 26 or more employees.

This bill would provide for purposes of complying with Section 41 that the goal, purpose, and objective of the credit is to reduce poverty among California's poorest working families and individuals. This bill further establishes the following performance indicators:

- The total number of persons or accounts whose credits were reduced through offsets and debt collection each year, broken down by referring agency or jurisdiction.
- The total dollar amount of credits offset each year.
- The average dollar amount per account of credits offset each year.
- The total expenses associated with offsets undertaken by FTB each year.

The FTB would be required to prepare a written report that includes an analysis of the manner and extent of offsets and government debt collection conducted by the FTB. The FTB would be required to make recommendations to provide relief to low-income California taxpayers whose credits are reduced through offsets and debt collection. The analysis would include, but is not limited to, all of the following:

- Data detailing current offsets and debt collection conducted by the FTB. The data would include the performance indicators listed above. Debt collection data would also include the number of persons subject to debt collection, type of debt, and value of the debt.
- An examination of how to best provide relief for tax filers eligible for the credit.
- An outline of the statutory or regulatory changes needed to protect low-income California taxpayers from offset and debt collection through the FTB.

In fulfilling these requirements, the FTB would be required to engage any state agency task force and may engage individual or organizational stakeholders that exist to reduce poverty or address debt burden of low-income households.

Additionally, this bill would require the FTB to provide the written report, by January 1, 2024, to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate and Assembly Committees on Appropriations, the Senate Committee on Governance and Finance, the Assembly Committee on Revenue and Taxation, and the Senate and Assembly Committees on Human Services. This bill would provide an exception to the section 19542 disclosure rules.

Effective/Operative Date

If enacted, this bill would be effective and operative January 1, 2022. The indexing of the threshold amount would be specifically operative for taxable years beginning on or after January 1, 2023.

Federal/State Law

Federal Law

Existing federal law (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 2021, the EITC is available to individuals and families earning up to $57,414. The federal credit rate varies from 15.3 percent to 45 percent, depending on the number of qualifying children.

An eligible individual is defined as follows:

- Any individual who has a qualifying child for the taxable year, or
- Any other individual that does not have a qualifying child for the taxable year, if they meet the following requirements:
    - Has attained the applicable minimum age of:
        - 19 at the end of the tax year,
        - 24 at the end of the taxable year in the case of a specified student, and
        - 18 at the end of the taxable year for a qualified former foster youth or qualified homeless youth.
    - Has a principal place of abode in the United States for more than one-half the taxable year.
    - Not be a dependent of another taxpayer.

An eligible individual (and spouse, if filing a joint return) also must be a U.S. citizen or resident alien. If the eligible individual or spouse were a nonresident alien for any part of the tax year, the qualified individual can only claim the EITC if their filing status is married filing jointly and the individual or spouse is a:

- U.S. Citizen with a valid Social Security number, or
- Resident alien who was in the U.S. at least 6 months of the year and has a valid Social Security number.

Certain individuals are specifically excluded from the definition of an eligible individual. For example, a qualifying child, an individual who claims benefits relating to citizens or residents living abroad, a nonresident alien not treated as a US resident for tax purposes.

Generally, a qualifying child must live with the eligible individual for more than one-half the taxable year in the United States, and must be under the age of 19, unless the child is a full-time student under age 24, or the child is permanently and totally disabled. Only one person can claim a qualifying child.

The name, age, and SSN of the qualifying child must be reported on the tax return.

State Law

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

State law conforms to the federal definitions of an "eligible individual" and a "qualifying child" with the following exceptions:

- An eligible individual without a qualifying child must have a principal place of abode in "this state" (rather than the United States) for more than one-half of the taxable year, and for taxable years beginning on or after January 1, 2018, may have reached the age of 18 by the close of the taxable year (rather than have attained the age of 25 but not attained the age of 65 before the close of the taxable year).
- A qualifying child also must have a principal place of abode in "this state" (rather than the United States) for more than one-half of the taxable year.

State law conformed to the federal requirement that an eligible individual and any qualifying child must have a valid SSN. Starting in taxable years beginning on or after January 1, 2020, CalEITC eligibility is extended to individual with a taxpayer identification number (ITIN).

For purposes of the CalEITC, the federal definition of "earned income" is modified to include wages, salaries, tips, and other employee compensation, includable in federal Adjusted Gross Income (AGI), but only if such amounts are subject to California withholding.

For 2021, the CalEITC is generally available to households with AGI of $30,000 or less.

Starting in 2019, a taxpayer who has been allowed the CalEITC and who has a qualifying child younger than six years old as of the last day of the taxable year may qualify for the YCTC. 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 taxable years after the minimum wage as defined by Section 1182.12 of the Labor Code is set at $15 per hour, the threshold amount will be recomputed annually in the same manner as the income tax brackets.

Implementation Considerations

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional considerations 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 considerations that may be identified.

This bill includes a provision under SEC. 2 outlining a list of FTB reporting requirements. The proposed provision of the bill is not necessarily intended to measure the success of the YCTC, but rather would provide for certain additional responsibilities for the FTB related to policy matters, research activities, decision making and expertise which are outside of the scope of the department. The additional FTB requirements go beyond the duty of the department and relate primarily to matters outside the scope of tax administration. Additionally, the items are not related to the YCTC effectiveness but to departmental offsets. Section 41 was intended to aid the Legislature in evaluating the effectiveness of tax expenditures.

The bill would further require the FTB to engage with other state agencies and authorizes FTB to engage with organizations and advocate groups, for purposes that are beyond the requirements of Section 41. These provisions may not be necessary for FTB to provide reporting on the YCTC.

The FTB currently provides YCTC reporting annually under the existing YCTC Section 41 requirement. The new provision is not clear as to whether the intent is to remove, replace, or supplement the existing requirements. The author may wish to amend the bill to address these items.

Technical Considerations

The definition of "qualified taxpayer" states "(B) Has wages subject to withholding pursuant to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code equal to or less than the maximum earned income amount allowed for a tax credit under Section 17052." This definition may lead to confusion with regards to the wage requirement. We suggest updating this language as follows:

(B) If eligible individual received wages, those wages cannot exceed the maximum earned income amount allowed for a tax credit under Section 17052.

Policy Considerations

This bill modifies the definition of "qualified taxpayer" to include individuals who have earned income, as defined under the CalEITC of zero dollars or less and whose wages do not exceed the maximum earned income amount allowed for the CalEITC. This definition may bring in individuals with significant losses that offset income and/or gains. If this is not the intent, the author may wish to amend the bill to add a maximum limit for losses or specify the type of income and loss specifically excluded.

LEGISLATIVE HISTORY

AB 91 (Burke, et al., Chapter 39, Statutes of 2019) enacted the California YCTC and made a number of changes conforming to Federal law.

AB 217 (Burke, et al., 2019/2020) substantially similar to AB 91 would have modified the CalEITC, establish the YCTC and make a number of changes conforming to Federal law. AB 217 did not pass out of committee.

SB 855 (Committee on Budget and Fiscal Review, Chapter 52, Statutes of 2018) expanded the CalEITC qualifying income range and revised the age range for eligible individuals.

AB 131 (Assembly Committee on Budget, Chapter 252, Statutes of 2017) provided technical clarification to 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 California EITC by modifying the earned income computation to include net earnings from self-employment, consistent with federal law, and increasing the maximum AGI phaseout 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 California EITC.

PROGRAM BACKGROUND

Starting in 2019, a taxpayer who has been allowed the CalEITC and who has a qualifying child younger than six years old as of the last day of the taxable year may qualify for the YCTC. 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 taxable years after the minimum wage as defined by Section 1182.12 of the Labor Code is set at $15 per hour, the threshold amount will be recomputed annually in the same manner as the income tax brackets.

The YCTC includes the following terms and phrases:

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

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 and resources will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 860 as Amended March 24, 2022
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	Revenue
2022-2023	-$70
2023-2024	-$100
2024-2025	-$130

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.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Support

CalEITC Coalition – SPONSOR
Mayor Libby Schaaf- City of Oakland
Bet Tzedek Legal Services
California Catholic Conference
California Immigrant Policy Center
Coalition of California Welfare Rights Organizations
Economic Security Project Action (UNREG)
End Poverty in California (EPIC)
Friends Committee on Legislation of California
Golden State Opportunity

Inland Equity Partnership
John Burton Advocates for Youth
Law Foundation of Silicon Valley
San Diego Immigrant Rights Consortium
United Ways of California (UWCA)
Universal Income Project
Young Invincibles

Opposition

None submitted

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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