



Bill Analysis

Author: Irwin and Caballero

Sponsor:

Bill Number: AB 1002

Related Bills: See Legislative
History

Introduced: February 15, 2023
Amended: March 23, 2023,
and April 17, 2023

SUBJECT

EITC, FYTC and YCTC: Filing

SUMMARY

This bill would, under the Administration of the Franchise and Income Tax Law (AFITL), expand the existing data sharing provision between the California Department of Social Services (DSS), the Department of Health Care Services (DHCS), and the Franchise Tax Board (FTB), to allow for the exchange of data directly connected with the filing of the form to claim the California Earned Income Tax Credit (CalEITC), the Young Child Tax Credit (YCTC), and the Foster Youth Tax Credit (FYTC).

This bill would also, under the AFITL, provide that qualified individuals may claim the CalEITC, YCTC, and FYTC on a form that does not require the qualified individual to file an individual income tax return.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 23, 2023, amendments removed intent language relating to the Earned Income Tax Credit Information Act and replaced it with a provision that would have required the FTB to commence a study on potential programs for eligible taxpayers to claim the CalEITC, the YCTC, and the FYTC, without filing a return.

The April 17, 2023, amendments removed the language described above and replaced it 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 simplify the ability to claim the CalEITC, the YCTC, and the FYTC by not requiring the filing of a California personal income tax return.

Introduced February 15, 2023, Amended March 23, 2023, and April 17, 2023

ANALYSIS

This bill would, under the AFITL, expand the existing data sharing provision between the DSS, the DHCS and the FTB, to allow for the exchange of data directly connected with the filing of the form as provided for under Section 19582.6 that would be added by this bill. Data that may be exchanged would include, but not be limited to, names, addresses, and contact information of individuals that may qualify for the program.

This bill would, under the AFITL, for taxable years beginning on or after January 1, 2026, provide that qualified individuals may claim a qualified credit on a form that does not require the qualified individual to file an individual income tax return.

The form would initially be available for taxable years beginning on or after January 1, 2026, and before January 1, 2027, to a qualified individual who is an individual with no dependents or who is a spouse filing a separate return with no dependents. For taxable years beginning on or after January 1, 2027, the form would be available to all qualified individuals.

This bill would define the following terms:

“Qualified credit” means the CalEITC, the YCTC, or the FYTC.

“Qualified individual” means an individual that meets all of the following requirements for the taxable year:

- Is eligible for a qualified credit.
- Does not have a tax return filing requirement under Section 18501.
- Receives an invitation from the FTB to submit the form to claim a qualified credit.

This bill would provide that the form would be filed in the form and manner prescribed by the FTB and would be subject to the same requirements as an individual income tax return required pursuant to Section 18501. An individual who can claim withholding or other credits would not be eligible to use the form provided by this bill.

The FTB would be exempt from all provisions of state contracting laws, as provided, for purposes of administering this provision.

The bill specifies the Legislature's intent to protect sensitive information of California taxpayers from inadequate disclosure to protect privacy and increase compliance.

Effective/Operative Date

The provision amending the disclosure of information with DHCS, DSS, and FTB would be effective and operative on January 1, 2024.

Introduced February 15, 2023, Amended March 23, 2023, and April 17, 2023

The provision authorizing the use of a form to claim the CalEITC, YCTC, and FYTC would be effective January 1, 2024, and specifically operative for taxable years beginning on or after January 1, 2026.

Federal/State Law

Current federal law provides that returns and tax information are confidential and may not be disclosed to federal or state agencies or employees except for authorized purposes. Agencies allowed access to federal return information include certain federal and state agencies, such as the FTB. A federal return is defined as any tax return, information return, declaration of estimated tax, or claim for refund under the IRC. Any FTB employee or member responsible for the improper disclosure of federal tax information is subject to felony criminal prosecution.

Current state tax law provides that information collected from income tax returns is considered confidential and, unless specifically available for other uses, must be used only to administer the income tax laws. The FTB may disclose taxpayer information only in limited circumstances and only to specific agencies as authorized by law. Improper disclosure of federal tax information is punishable as a felony, and improper disclosure of state tax information is punishable as a misdemeanor.

Federal Law

Current federal law mandates the Internal Revenue Service (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 online 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, including those with AGI above \$73,000, can use the "Free File Fillable Forms" program.

State Law

Under current state law, in order to claim credits under the PITL, taxpayers are required to file a California personal income tax return.

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

Introduced February 15, 2023, Amended March 23, 2023, and April 17, 2023

Implementation Considerations

The FTB has identified the following considerations and is available to work with the author's office to resolve these and other considerations that may be identified.

In subdivision (a) of Section 19551.3, remove "that may qualify for the California Earned Income Tax Credit and the form established under Section 19582.6."

In Section 19551.3, add the following as subdivision (f):

(f) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

In Section 19582.6, add the following language, as subdivision (c), to provide the FTB with authority to pre-populate the form with data received via the data sharing agreement in Section 19551.3:

(c) (1) The Franchise Tax Board may prepopulate the form utilizing the data received pursuant to Section 19551.3.

(2) Taxpayers shall edit and correct information, as appropriate, on the form prior to filing, including filing status and information on dependents.

Replace Section 19582.6 (d) with "The form shall be treated as a return filed pursuant to Section 18501."

In subdivision (d) of Section 19582.6, replace "The form shall be subject to the same requirements as an individual income tax return required pursuant to Section 18501" with "The form shall be treated as a return filed pursuant to Section 18501".

In subdivision (e) of Section 19582.6, replace "Individuals who can claim withholding or other credits shall not be eligible to use the form under this section" with "An individual cannot claim withholding or other credits on a form filed pursuant to this Section".

Technical Considerations

In Section 19582.6 (a)(1) and (d) replace "an individual" with "a California personal".

The language included in Section 3 of this bill may not be necessary because Section 1 of the bill is not limiting the public's access to information but is providing for limited disclosure of information for purposes of implementing Section 2 of this bill. Revenue and Taxation Code (RTC) section 19542 already precludes the disclosure of tax return information.

Renumber the subdivisions in Section 19582.6 to account for the new subdivision (c).

Introduced February 15, 2023, Amended March 23, 2023, and April 17, 2023

Policy Considerations

Long standing policy and statutes require tax credits to be claimed on a tax return. Amendments mentioned above will clarify that this alternative method of filing is not in lieu of filing a return, rather it is a simplified method of filing.

Many taxpayers eligible for CalEITC, YCTC, and FYTC may be eligible to claim withholding or other credits and would be precluded from using the form that would be authorized by Section 2 of the bill. The author may wish to clarify instead that withholding and other credits cannot be claimed using the form and that taxpayers claiming credits in addition to the CalEITC, YCTC, and FYTC must file a California personal income tax return in lieu of the form.

The form proposed by this bill would be available to qualified individuals to claim their CalEITC, YCTC and the FYTC. Individuals would need to file their federal return separately to meet any federal filing requirements or to claim specific federal credits.

The invitations to participate in the program provided by this bill will be sent in March and April. This is likely after many of the qualified individuals will have filed their income tax returns.

LEGISLATIVE HISTORY

AB 441 (Haney, 2023/2024) would, under the Personal Income Tax Law (PITL), require the FTB to establish a program for making advance periodic payments to qualified taxpayers allowed the CalEITC, the YCTC, and the FYTC. AB 441 is currently in the committee process.

AB 1128 (Santiago, et al., 2023/2024) would, under the PITL, expand the eligibility of the YCTC by changing the definition of a qualifying child to have the same meaning as under the CalEITC. AB 1128 is currently in the committee process.

AB 1355 (Valencia, 2023/2024) would, under the AFITL, amend the Earned Income Tax Credit Information Act to allow for providing notifications by email. AB 1355 is currently in the legislative process.

AB 1498 (Gipson, 2023/2024) would, under the PITL, establish a minimum CalEITC, subject to appropriation, provided for the indexing of the minimum credit amount, and provided for a phaseout of the minimum credit amount among other provisions. AB 1498 is currently in the committee process.

SB 565 (Caballero, 2023/2024) would, under the AFITL, require the FTB to provide a free tax return preparation program to individuals eligible for the CalEITC, the YCTC, and the FYTC. The program would utilize prepopulated data and would allow taxpayers to edit or correct information before filing their California personal income tax return. This bill would also include a data sharing provision to accomplish this purpose. SB 565 is currently in the legislative process.

Introduced February 15, 2023, Amended March 23, 2023, and April 17, 2023

AB 158 (Committee on Budget, Chapter 737, Statutes of 2022), under the AFITL, allowed for the FTB to exchange data with the California DSS, and the DHCS for purposes of identifying taxpayers who may qualify for specified antipoverty credits, Volunteer Income Tax Assistance, and CalFile, among other provisions.

AB 1863 (Irwin, Chapter 953, Statutes of 2022) required the FTB to notify potential eligible individuals of available paperless filing options offered through FTB and to include information in the notification about the CalEITC.

SB 201 (Committee on Budget, Chapter 72, Statutes of 2022) Section 2 of the bill, under the PITL, for taxable years beginning on or after January 1, 2022, modified the YCTC to expand the definition of a qualified taxpayer, provided for indexing of the YCTC, enacted the FYTC and made other technical nonsubstantive changes.

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.

AB 91 (Burke, et al., 2019/2020, Chapter 39, Statutes of 2019) enacted the California YCTC and made a number of changes conforming to Federal law.

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

PROGRAM BACKGROUND

CalFile

CalFile is a free, direct online program that allows taxpayers to e-file their California only personal income tax returns with FTB. A MyFTB account provides individuals online access to tax account information and online services. The CalFile program expanded the taxpayer population 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 personal income tax return in 2015. This portal also allowed for pre-population of data if taxpayers registered and obtained a MyFTB account. This portal does not provide a mechanism for the taxpayer to file a federal personal income tax return.

Introduced February 15, 2023, Amended March 23, 2023, and April 17, 2023

Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE)

Free tax help is available through VITA and 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 \$60,000 or less.
- Have disabilities.
- Speak limited English.
- Are active duty or retired military personnel, or a dependent.

TCE is available to taxpayers over 60 years old and specializes in questions about pensions and retirement-related issues unique to seniors.

Report to the Legislature

In 2022, FTB reported to the Legislature potential concepts to increase the number of CalEITC claims and the federal EITC, including alternative filing systems. The concepts included, but were 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.

New Outreach Beginning Summer 2023

As the result of the report to the legislature and AB 1863, the FTB has been resourced to begin a robust outreach program to target both filers and non-filers who appear to be eligible for CalEITC but failed to claim the credit. Beginning in the summer of 2023, the FTB will mail the following letters to filers and non-filers:

- Filers – A letter acknowledging a return was received and information noting that they may have missed the CalEITC. The letter will include marketing material for the CalEITC as well as the CalEITC website and online calculator information to calculate their potential credit.
- Non-filers – The FTB will identify outreach recipients using filing history and W-2 wage data, to determine a likely credit range. The letter will inform taxpayers they may be eligible for the credit and include marketing material for the CalEITC as well as the CalEITC website and online calculator information to calculate their potential credit. The letter will direct eligible taxpayers to file a return and include information on CalFile, VITA and the Free File Alliance program to also encourage filing of a federal return.

Introduced February 15, 2023, Amended March 23, 2023, and April 17, 2023

FISCAL IMPACT

This bill would impact the FTB systems, resulting in programming, processing, and form revisions as well as the need for taxpayer outreach.

The resources and system changes needed for this proposal as well as that proposed under SB 565, free state tax return preparation program, are significantly intertwined, therefore, FTB computed the cost based on both proposals moving forward and then split the total cost equally between the two bills. If only one bill moves forward, FTB will need to reevaluate the cost for the proposal that progresses forward.

The FTB's costs to implement this bill are estimated to be approximately \$0.6 million for fiscal year 2023-2024, and \$4.1 million for fiscal year 2024-2025, annual costs of approximately \$7 million for fiscal years 2025-2026 through 2027-2028, and ongoing costs of \$4.8 million starting in fiscal year 2028-2029.

ECONOMIC IMPACT

Revenue Estimate

This bill as amended April 17, 2023, does not change the way income tax is calculated under the RTC. However, it may change the number of taxpayers claiming the CalEITC, the YCTC, or the FYTC.

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

This bill would not change the way income tax is calculated under the RTC. However, it is estimated that by offering a simplified filing experience, under this bill, and the free state tax return preparation program as proposed under SB 565, that approximately 139,000 qualified taxpayers would file and claim the CalEITC, YCTC, or the FYTC in taxable year 2025 using these new tools, this would increase to about 420,000 in the 2026 taxable year and would increase each year thereafter.

Taxable Year	2025	2026	2027
Current Year Filer - Non-Claimant	34,000	101,000	107,000
New Filers	15,000	44,000	57,000
Total Number of New Claimants	49,000	145,000	164,000
Historical Filers/Claimants that will now choose to file using the new tools	90,000	275,000	385,000
Total Number of Individuals Impacted	139,000	420,000	549,000

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LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

As per the May 8, 2023, Assembly Committee on Appropriations analysis of AB 1002, the Economic Security Project Action, and other family resource groups, are in support of this bill.

No opposition noted.

ARGUMENTS

As per the May 19, 2023, Assembly Floor Committee, the following argument in support of this bill was provided:

Proponents

The Economic Security Project Action, writing in support of this bill, states, in part:

Eligible CalEITC recipients state time and time again that not meeting the filing threshold, combined with the complex filing methods that are currently used in California, hinder their ability to claim the credit. Analysis from Code for America found that 21 percent of low-income filers could not provide earnings documentation required to file taxes, making this a significant barrier. AB 1002 will create a stand-alone tax return form that would allow certain qualified CalEITC recipients to claim the CalEITC, the YCTC, and the FYTC.

Opponents

None on file.

LEGISLATIVE CONTACT

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