



Bill Analysis

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Bill Number: AB 1002

SUBJECT

EITC, FYTC and YCTC: Filing

SUMMARY

This bill would, under the Administration of the Franchise and Income Tax Law (AFITL), allow the data shared under 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 be used for implementing the provision that allows qualified individuals to claim the California Earned Income Tax Credit (CalEITC), the Young Child Tax Credit (YCTC), or the Foster Youth Tax Credit (FYTC) on a form.

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.

This bill also includes language to prevent chaptering issues with SB 565 (Caballero and Irwin).

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.

ANALYSIS

This bill would, under the AFITL, allow the data shared under the existing data sharing provision between the DSS, the DHCS and the FTB, to be used for purposes of implementing the filing of the form as provided for under Section 19582.6 that would be added by this bill.

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 authorize the FTB to prepopulate the form utilizing the data received pursuant to Section 19551.3 that would be amended by this bill. In addition, this bill would require taxpayers to edit and correct information, as appropriate, on the form prior to submitting, including filing status and information on dependents, and would prohibit individuals from using this form to claim withholding or other credits.

This bill would provide that the form would be filed in the form and manner prescribed by the FTB and would be treated as an individual income tax return pursuant to Section 18501.

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.

This bill includes double-jointing language to incorporate changes proposed by SB 565 (Caballero and Irwin) to prevent chaptering issues if both bills are enacted.

Effective/Operative Date

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

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.

Section 4 of this bill provides that Section 1.5 of this bill would only become operative, if all of the following occur:

- 1) This bill and SB 565 are enacted and become effective on or before January 1, 2024,
- 2) Each bill amends Section 19551.3 of the Revenue and Taxation Code (RTC), and
- 3) This bill is enacted after SB 565 in which case Section 1 of this bill shall not become operative.

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.

Implementation Considerations

None noted.

Technical Considerations

In Section 19582.6 (a)(1) 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. RTC section 19542 already precludes the disclosure of tax return information.

Policy Considerations

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 free tax return preparation program will be sent annually in March and April after wage data is received from the Employment Development Department. This is likely after many of the qualified individuals will have filed their income tax returns. Data shows that these individuals typically file in February and March to claim their refunds.

This bill allows a qualified individual who is an individual with no dependents or who is a spouse filing a separate return with no dependents to utilize this form. A spouse filing a separate return with no qualifying child is not eligible for EITC, YCTC, or FYTC, therefore this type of individual would not meet the requirements to be a qualified individual.

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 has been amended to no longer impact the Revenue and Taxation Code.

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 did not pass out of the Assembly by the constitutional deadline.

AB 1355 (Valencia, 2023/2024) would, under the AFITL, amend the Earned Income Tax Credit Information Act to allow for providing notifications by email. This bill has passed both chambers and is currently enrolled.

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 did not pass out of the Assembly by the constitutional deadline.

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. This bill has passed both chambers and is currently enrolled.

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.

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 started mailing 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.

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 September 8, 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 the filing method that does not require filing an income tax return and the free 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

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

As per the September 11, 2023, Senate Floor analysis of AB 1002, the following are in support of this bill.

- All Home
- California Alliance of Child and Family Services
- California Family Resource Center
- Child Abuse Prevention Center
- Children’s Bureau of Southern California
- Economic Security Project Action

No opposition noted.

VOTES

Location	Date	Yes Votes	No Votes
Concurrence	September 13, 2023	78	0
Senate Floor	September 12, 2023	36	0
Assembly Floor	May 30, 2023	79	0

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