



Bill Analysis

Author: Valencia

Sponsor:

Bill Number: AB 1355

Related Bills: See Legislative
History

Introduced: February 17, 2023,
Amended: April 4, 2023, and
May 1, 2023

SUBJECT

Refundable Earned Income Tax Credit (EITC) and Unemployment Insurance (UI) Benefits: Notification Requirements

SUMMARY

Under the Administration of Franchise and Income Tax Laws (AFITL), this bill would amend *The Earned Income Tax Credit Information Act* to allow for providing notifications by email.

Under the Unemployment Insurance Code (UIC), this bill would allow specified documents to be provided by email.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The April 4, 2023, amendments removed the language allowing an employer the option to provide notification by mail or by handing it directly to the employee when the employee opts into receipt of electronic notification and made other technical changes.

The May 1, 2023, amendments added coauthors, specified the form and method by which an employer can deliver electronic notifications to employees for employees that opt into electronic notification, that an employer may not take action against an employee who does not opt into electronic notification, added a repeal date, and made other technical changes.

This is the department's first analysis of the bill and only addresses the provisions of the bill that would impact the department.

Introduced: February 17, 2023. Amended: April 4, 2023, and May 1, 2023.

REASON FOR THE BILL

The reason for the bill is to provide eligible employees with the option of electronic notification of both the federal and California Earned Income Tax Credit (CalEITC) and information on unemployment and other benefits.

ANALYSIS

EITC Notification Requirements

This bill would, under the AFITL, amend *The EITC Information Act* to authorize California employers, state departments, and certain agencies to use email to provide their employees the notification of possible eligibility for the federal and California EITC, if the employee opts to receive the notification electronically.

The bill would specify that an employer may provide the notification via email to an email account of the employee's choosing in PDF, JPEG, or other digital image file type format, if an employee affirmatively, and in writing or by electronic acknowledgment, opts into receipt of electronic statements or materials.

Furthermore, the bill would provide that an employer may not discharge an employee or in any manner discriminate, retaliate, or take any adverse action against an employee who does not affirmatively, in writing or by electronic acknowledgment, opt into receipt of electronic statements or materials.

Notification Requirements Under the UIC

This bill would, under the UIC, authorize employers to provide individuals with electronic statements or materials relating to benefit rights, other matters, and claims for benefits if the individual opts into receipt of electronic statements or materials.

The bill would specify that an employer may provide the notification via email to an email account of the employee's choosing in PDF, JPEG, or other digital image file type format, if an employee affirmatively, and in writing or by electronic acknowledgment, opts into receipt of electronic statements or materials.

Furthermore, the bill would provide that an employer may not discharge an employee or in any manner discriminate, retaliate, or take any adverse action against an employee who does not affirmatively, in writing or by electronic acknowledgment, opt into receipt of electronic statements or materials.

The above amendments to existing law under the AFITL and the UIC would remain in effect only until January 1, 2029, and as of that date would be repealed.

Introduced: February 17, 2023. Amended: April 4, 2023, and May 1, 2023.

Effective/Operative Date

This bill would be effective and operative on January 1, 2024.

Federal/State Law

Federal Law

Existing federal law (Internal Revenue Code (IRC) section 32) allows eligible individuals a refundable 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 2022, the EITC is available to individuals and families earning up to \$59,187. The federal credit rate varies from 7.65 percent to 45 percent, depending on the number of qualifying children.

State Law

CalEITC

State law provides a refundable CalEITC that is generally determined in accordance with IRC section 32, as applicable for federal income tax purposes for the taxable year, except as modified (Revenue and Tax Code (RTC) section 17052). The CalEITC is only operative for taxable years the annual Budget Act specifies an adjustment factor and authorizes resources for the Franchise Tax Board (FTB) to oversee and audit returns associated with the CalEITC.

For 2022, the CalEITC is generally available to taxpayers with earned income of \$30,000 or less.

The EITC Information Act

State law, known as The EITC Information Act, requires California employers, state departments, and certain agencies to provide formal notification to their employees and program participants of possible eligibility for the federal EITC and the California EITC via mail or handing the notification directly to the employee or program participants. (RTC sections 19850 through 19854).

Notification Requirements Under the UIC

State law requires employers to supply individuals when they become unemployed with copies of information related to claims for benefits. In addition, state law requires employers to post and maintain printed statements regarding benefit rights and other matters, such as unemployment, disability insurance, and paid family leave.

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Implementation Considerations

None noted.

Technical Considerations

None noted.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 1847 (Stone, et al., Chapter 294, Statutes of 2016) amended *The EITC Information Act* to require that California employers, state departments, and certain agencies also provide formal notification to their employees of possible eligibility for the new CalEITC.

SB 80 (Committee on Budget and Fiscal Review, Chapter 21, Statutes of 2015) created the refundable California EITC for taxable years beginning on or after January 1, 2015.

AB 509 (Skinner, Chapter 452, Statutes of 2011) amended *The EITC Information Act* by requiring specified state departments and agencies to notify benefit recipients that they may be eligible for the federal EITC.

AB 650 (Lieu and Jones, Chapter 606, Statutes of 2007) enacted *The EITC Information Act* that requires employers to notify their employees that they may be eligible for the federal EITC.

PROGRAM BACKGROUND

The EITC Information Act

California employers, state departments and agencies that serve those who may qualify for the federal EITC and the CalEITC are required to provide annual notification to their employees and program participants of possible eligibility for the federal EITC and the CalEITC.

State departments and agencies may provide the annual notification to program participants during a regularly scheduled contact with a recipient by telephone, mail, or electronic communication, or by an in-person communication.

Employers are required to either hand the formal notification directly to each employee or mail it to the employee's last known address. Furthermore, employers are encouraged to post a statement about the EITC in the workplace or send it through office mail.

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FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill as amended on May 1, 2023, would not impact state income or franchise tax revenue.

Revenue Discussion

This bill would not change the way income or franchise tax is calculated under the Revenue and Taxation Code.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

As per the June 29, 2023, Senate Floor analysis of AB 1355, the following organizations support this bill:

Support

- Fidelity Investments (source)
- Acclamation Insurance Management Services
- Allied Managed Care
- Anaheim Chamber of Commerce
- California Apartment Association
- California Association for Health Services at Home
- California Attractions and Parks Association
- California Beer and Beverage Distributors
- California Chamber of Commerce
- California Hispanic Chamber of Commerce
- California League of Food Producers
- California New Car Dealers Association

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- California Restaurant Association
- California Trucking Association
- Coalition of Small and Disabled Veteran Businesses
- Family Business Association of California
- Flasher Barricade Association
- Los Angeles Area Chamber of Commerce
- National Federation of Independent Business
- National Payroll Reporting Consortium
- Orange County Business Council
- Orange County Hispanic Chamber of Commerce

Opposition

None on file.

ARGUMENTS

As per the June 29, 2023, Senate Floor analysis of AB 1355, the following argument in support of this bill was provided:

Arguments in support

According to the sponsor of this bill, Fidelity Investments, “employers are required to provide their employees with numerous notices at different times of the year when specific events occur in the employment relationship. Employers are currently able to provide many notices electronically, including information on an employee’s rights regarding pregnancy disability and family medical leave. However, there are still two documents that California law requires employers to provide in paper form. AB 1355 will provide California employees the choice to receive these forms electronically. This bill does not create a mandate on either the employee or the employer, the bill simply provides a more sustainable option if the employer chooses to offer it, and the employee opts-in to the electronic delivery of these materials.”

Arguments in opposition

None on file.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov