

ASSEMBLY THIRD READING
AB 2247 (Burke)
As Introduced February 13, 2020
Majority vote

SUMMARY:

Allows a taxpayer to provide alternative identifying information, in the form and manner prescribed by the Franchise Tax Board (FTB), for a dependent who is included on a tax return claiming the exemption credit if that dependent is ineligible for a federal tax identification number.

Major Provisions

- 1) Applies to taxable years beginning on and after January 1, 2018.
- 2) Provides that in the event a dependent who is included on a return claiming the dependent exemption credit is ineligible for a federal identification number, the claiming taxpayer shall be authorized to provide alternative information to identify the dependent, as prescribed.

COMMENTS:

- 1) *Overview of existing law:* California law provides various exemption credits, including a personal exemption credit and exemption credits for dependents. Starting in tax year 2015, a dependent's taxpayer identification number [i.e., Social Security number (SSN) or Individual Taxpayer Identification Numbers (ITIN)] must be provided on the state return or the dependent exemption credit will be disallowed. This requirement was put in place by FTB-sponsored legislation to ensure that a dependent exemption credit is claimed only once for each identification number.

The FTB, however, recently learned that the Internal Revenue Service (IRS) has stopped granting or renewing federal ITINs for certain nonresident alien dependents. Specifically, this applies to dependents who are residents of Canada or Mexico.

- 2) *Why the federal change?* Prior to taxable year 2018, federal law provided a personal exemption *deduction*. An exemption deduction worked to reduce AGI to arrive at taxable income. Taxpayers were generally allowed one personal exemption for themselves, and a personal exemption for each claimed dependent.

Federal law defines a "dependent" to include a qualifying child or qualifying relative, including an individual who is not a citizen or national of the United States if that individual resides in the United States, Mexico, or Canada.

For taxable years beginning on or after January 1, 2018, and before January 1, 2026, however, federal law has suspended the personal exemptions by setting the deduction amount at \$0.

- 3) *Federal ITINs:* The IRS issues federal ITINs for tax administration purposes to certain nonresident and resident aliens, their spouses, and dependents who are ineligible for a SSN. To obtain a federal ITIN, an individual must file IRS Form W-7, *Application for ITIN* and provide specified documentation. The IRS, however, recently stopped granting or renewing

ITINs for nonresident alien dependents who, as a result of the personal exemption deduction amount being set to zero, no longer have a federal purpose for the ITIN.

- 4) *Current state law:* California law allows a dependent exemption credit, rather than a deduction, for each dependent as defined under federal law. For taxable years beginning on or after January 1, 2015, a dependent exemption credit is only allowed if the dependent's identification number (i.e., SSN or ITIN) is included on the return.
- 5) *This bill:* This bill would allow the FTB to provide impacted taxpayers additional options to meet the identification number requirement for claiming the California dependent exemption credit. Absent a legislative change, the FTB would be required to deny the dependent exemption credit for otherwise qualified dependents who will be unable to obtain a federal ITIN as a result of the recent change by the IRS.

According to the Author:

"The FTB recently learned that the IRS has stopped issuing or renewing federal Individual Taxpayer Identification Numbers for certain nonresident dependents living in Canada or Mexico. This has prevented certain *California* taxpayers from claiming the dependent exemption credit for their otherwise qualifying nonresident dependents. This is because current state law strictly requires a tax return to include either a Social Security number or ITIN for each dependent for the credit to be allowed. AB 2247, which is sponsored by the FTB, would very simply give these taxpayers the option of providing alternative identifying information for purposes of claiming the dependent exemption credit."

Arguments in Support:

This bill is supported by the California Immigrant Policy Center, which notes the following:

Due to recent federal changes, taxpayers whose nonresident dependents do not have a Social Security Number (SSN) and are ineligible to receive a federal Individual Taxpayer Identification Numbers (ITIN) will be excluded from the California dependent exemption credit. By allowing a taxpayer with a nonresident dependent to provide alternative identifying information to claim the dependent exemption credit, AB 2247 would make the state's tax system more equitable for all taxpayers.

Arguments in Opposition:

None on file

FISCAL COMMENTS:

According to the Assembly Appropriations Committee, minor General Fund costs to the extent this bill allows a taxpayer who cannot claim the dependent exemption credit due to new federal administrative practices to do so. The number of potentially impacted taxpayers is small, and this bill does not change eligibility criteria or the amount of the credit.

VOTES:

ASM REVENUE AND TAXATION: 10-1-0

YES: Burke, Brough, Chu, Gray, Levine, Mayes, Mullin, Petrie-Norris, Gloria, Luz Rivas

NO: Voepel

ASM APPROPRIATIONS: 13-4-1

YES: Gonzalez, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas

NO: Bigelow, Megan Dahle, Fong, Voepel

ABS, ABST OR NV: Diep

UPDATED:

VERSION: February 13, 2020

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