
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Mike McGuire, Chair
2019 - 2020 Regular

Bill No: AB 2247
Author: Burke
Version: 2/13/20
Consultant: Deitchman

Hearing Date: 7/29/2020
Tax Levy: No
Fiscal: Yes

PERSONAL INCOME TAXES: DEPENDENT EXEMPTION CREDIT: IDENTIFYING INFORMATION

Allows certain nonresident alien dependents to be claimed on a California tax return by providing alternative information.

Background

Dependents. Current law provides various exemption credits, including a personal exemption credit and exemption credits for dependents. In 2014, the Legislature provided that a dependent exemption credit will be allowed only when the dependent's identification number, either social security number (SSN) or federal individual tax identification number (ITIN), is included on the return, effective in the 2015 taxable year (AB 2754, Revenue and Taxation Committee, 2014). This requirement ensures that a taxpayer can only claim one dependent exemption credit for each identification number.

Federal ITIN. Federal ITINs are generally issued for tax administration purposes for certain nonresident and resident aliens (a term in federal law that refers someone that is not a US citizen but resides in the US), their spouses, and dependents who are not eligible to receive an SSN. To obtain a federal ITIN, an individual must file IRS Form W-7, *Application for ITIN* and provide specified documentation including a copy of an original tax return, original documents that show that the information included on the form is the same and demonstrates and connection to a country, and a valid form of identification.

In December 2017, Congress enacted HR 1, enacting fundamental changes to the federal income tax, including eliminating reducing to zero the amount of dependent exemption credits for federal tax purposes. As a result, the Internal Revenue Services (IRS) has recently stopped granting or renewing ITINs for nonresident alien dependents because there is no longer a federal purpose for doing so.

The author wants to establish an option for nonresident aliens to be able to claim a dependent exemption credit, even if they don't have a SSN or ITIN.

Proposed Law

Assembly Bill 2247 allows a taxpayer to provide alternative identifying information for a dependent who is included and claimed as an exemption on a tax return who is ineligible for or have not received a federal tax identification number. The bill states that the alternative identifying information must be in the form and manner prescribed by the Franchise Tax Board (FTB), and applies beginning in the 2018 taxable year,).

State Revenue Impact

FTB states that AB 2247 does not impact state revenues.

Comments

1. Purpose of the bill. According to the author, “the FTB recently learned that the Internal Revenue Service (IRS) has stopped issuing or renewing federal Individual Taxpayer Identification Numbers (ITINs) 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 (SSN) 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.”
2. What is the alternative? This measure provides those taxpayers who wish to claim as a dependent an individual who is unable to receive an SSN or ITIN can do so by providing alternative information to the FTB. However, it unclear at this time what information would constitute acceptable documentation. FTB will likely provide guidance; however, taxpayer confusion is possible, which could result in fewer individuals applying to the FTB. The Committee may wish to consider whether the measure should identify a specific example of acceptable proof, such as a passport, in the measure.
3. Everyone can claim their dependent. This bill would allow a dependent exemption credit to qualified dependents regardless of the person’s ability to obtain a SSN or ITIN. Allowing this would create equal treatment among similarly situated taxpayers regardless of their immigration status.
4. Why retroactive? The measure provides language that would allow dependents without ITINs and with alternative documentation to be claimed retroactively. Because the IRS ended the issuance of ITINs in 2018, this retroactivity would allow all taxpayers the opportunity to claim their dependent for California purposes using the alternative method the measure provides.

Assembly Actions

Assembly Revenue & Taxation	10-1
Assembly Appropriations	13-4
Assembly Floor	62-10

Support and Opposition (7/22/2020)

Support: Franchise Tax Board (sponsor), California Immigrant Policy Center.

Opposition: Unknown.

-- END --