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# SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2021 - 2022 Regular

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**Bill No:** AB 1515

**Author:** Santiago

**Version:** 5/26/22 Amended

**Consultant:** Deitchman

**Hearing Date:** 6/29/22

**Tax Levy:** No

**Fiscal:** Yes

## ***OUTREACH, EDUCATION, AND FREE TAX ASSISTANCE GRANT PROGRAM***

*Specifies how the Earned Income Tax Credit and Volunteer Income Tax Assistance education and outreach grants should be allocated.*

### **Background**

**Tax expenditures.** California law allows various income tax credits, deductions, exemptions, and exclusions. The Legislature enacts such tax incentives either to compensate taxpayers for incurring certain expenses, such as child adoption, or to influence certain behavior, such as charitable giving. The Legislature uses tax incentives to encourage taxpayers to do something that but for the tax credit, they would otherwise not do. The Department of Finance is required annually to publish a list of state tax expenditures, currently totaling around \$81.1 billion per year.

**Federal ITIN.** The Internal Revenue Service generally issues Federal Individual Tax Identification Numbers (ITINs) 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.

**Filing requirements.** State law allows individuals with income below a certain threshold to not file a tax return for state purposes, when the value of the standard deduction and personal exemption credit exceed the taxpayer's liability. For 2021, these thresholds are \$19,310 in California gross income for single taxpayers (under 65 years of age with no dependents) and \$38,624 in California gross income for married individuals filing jointly (under 65 years of age with no dependents). These thresholds are increased based on the number of dependents claimed, or if the taxpayer(s) are over the age of 65, and increased annually for inflation.

California law generally conforms to the federal due dates and requires that individuals file their tax returns with the Franchise Tax Board (FTB) no later than April 15<sup>th</sup> of the following taxable year. California grants taxpayers an automatic extension until October 15<sup>th</sup> to file their return, but to avoid interest and penalties, all taxes must be paid by April 15<sup>th</sup>. The extension is only to file your return and not pay your taxes due.

**CalFile.** FTB offers a simplified tax filing portal known as CalFile for certain individuals. To qualify individuals must:

- Be filing an original return;
- Be a California resident for the entire year;
- Claim 10 or fewer dependents;
- If claiming educator expenses on your federal return, that amount must not exceed \$250 (\$500 if filing jointly);
- Have adjusted gross income (AGI) of more than \$0;
- Have AGI of no more than:
  - \$212,288 for single or married/registered domestic partner (RDP) filing separately;
  - \$318,437 for head of household;
  - \$424,581 for married/RDP filing jointly or qualifying widow.

**VITA.** In addition to the simplified tax filing portal, , FTB and the Internal Revenue Service (IRS) offer a free program known as Volunteer Income Tax Assistance (VITA) to help individuals with their tax filing obligations. This program is run by volunteers who complete training with the FTB and IRS to learn to prepare basic returns for their community members. To qualify for VITA services, individuals must meet any of these qualifications:

- Make less than \$58,000 (generally)<sup>1</sup>;
- Have disabilities;
- Speak limited English; or
- Are active duty or retired military personnel, or a dependent.

**Federal law - EITC.** Existing federal law allows eligible individuals a refundable Earned Income Tax Credit (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. . The federal credit rate varies from 7.65 percent to 45 percent, and increases depending on the number of qualifying children.

To be eligible for the EITC, the taxpayer must be an individual who has a qualifying child for the taxable year. Federal law defines a qualifying child as a child who is under the age of 19, unless they are a full-time student under the age of 24 or permanently and totally disabled. If the individual does not have a qualifying child for the taxable year then he or she must be between the ages of 25 and 65, have a principal place of residence in the U.S for more than half of the taxable year, and not be a dependent of another taxpayer.

Additionally, federal law requires the taxpayer to have a Social Security Number (SSN) to qualify. If they have a qualifying child, the child must also have a SSN.

**State law - CalEITC.** California law does not automatically conform to changes to federal tax law, except for specific retirement provisions. Instead, the Legislature must affirmatively conform to federal changes. Conformity legislation is introduced either as individual tax bills to conform to specific federal changes, like the Mortgage Debt Forgiveness Relief Act (AB 1393, Perea, 2014), or as one omnibus bill that provides that state law conforms to federal law as of a specified date, currently January 1, 2015 (AB 154, Ting, 2015).

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<sup>1</sup> Each VITA program can set specific income limitations

Beginning with the 2015 taxable year, the state began allowing a refundable California EITC (CalEITC) in an amount equal to a modified percentage, called an adjustment factor, of the federal EITC.

The CalEITC is only operative for taxable years for which the Legislature authorizes resources in the annual Budget Act for the Franchise Tax Board (FTB) to oversee and audit returns associated with the credit. The Legislature also must establish the CalEITC adjustment factor for each taxable year; otherwise the CalEITC adjustment factor defaults to zero.

In California, to qualify for the CalEITC a taxpayer must have Earned Income in the 2021 taxable year of at least \$1 and below \$30,000 regardless, of your filing status or number of qualifying children.

The 2021 maximum CalEITC for taxpayers is as follows:

- \$3,160 with three or more qualifying children.
- \$2,809 with two qualifying children.
- \$1,698 with one qualifying child.
- \$255 with no qualifying children.

**Young Child Tax Credit.** In addition to the CalEITC outlined above, starting in taxable year 2019, some individuals may qualify for the “young child tax credit” (YCTC). To qualify for the credit a taxpayer must have a child under the age of 6 at the end of the taxable year and the taxpayer must have been allowed a CalEITC. Taxpayers can claim a credit up to \$1,000, which is reduced by \$20 for each \$100 (or fraction thereof) that the taxpayer’s income exceeds \$25,000.

Unlike all other state tax credits, CalEITC or YCTC are refundable, meaning that the state refunds the taxpayer any amount of credit even if their tax liability is reduced to zero.

**Education and Outreach.** Since California began authorizing a state EITC, the Legislature has allocated between \$2 million and \$5 million, annually, to maximize participation in the CalEITC by increasing awareness. This year, the proposed Budget Act earmarked \$20 million to raise awareness of CalEITC and VITA, and specified that the funds shall be allocated via contracts to nonprofit and community-based organizations and that those organizations shall particularly focus their outreach efforts on persons who file tax returns using an ITIN. Currently tFTB works with the Department of Community Services and Development (DCSD) to award the grants to non-profits that apply. Reporting and metrics measurements are required to be reported by the grantees under state contracting law.

**State Contracting Law.** The State Contract Act<sup>2</sup>, provides that in order to receive a state contract and state funds for goods or services, certain requirement must be met. The requirements of all state contracts are summarized in the Department of General Services Manual<sup>3</sup> and the general requires a competitive process for awarding the contract, and reporting on the goods or services received must be provided to the state.

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<sup>2</sup> Part 2, Commencing with Section 10100 of Division 2 of the Public Contract Code

<sup>3</sup> [State Contracting \(ca.gov\)](https://www.sos.ca.gov/State-Contracting)

The author wants to codify how CalEITC education and outreach money appropriated in the budget should be allocated and remove specific reporting requirements from state contracting law from these grants.

### **Proposed Law**

Assembly Bill 1515, upon appropriation by the Legislature, requires FTB to issue grants that cover at least a 12-month period to qualified nonprofit community-based organizations (CBOs) or local government agencies with the goal of increasing awareness of the state and federal EITC, the YCTC, Foster Youth Tax Credit, and of ITIN tax status eligibility.

The bill specifies that FTB may contract or partner with DCSD as it deems necessary.

The measure requires the FTB to prioritize funding for the following purposes:

- To provide timely distribution of funds for the state and federal EITC, YCTC and the Foster Youth Tax Credit and for awareness of ITIN eligibility.
- To CBOs with demonstrated experience in outreach or free tax preparation.
- To organizations with prior experience with the VITA program to provide free tax preparation assistant and ITIN application assistance.
- To focus funding in regions of the state with low participation in the Cal EITC.
- To focus funding in regions of the state with high estimated percentages of ITIN filers.
- To emphasize collaboration of grantees with other CBOs and local government agencies.
- To encourage targeting of specific underserved communities, particularly those that experience barriers to taking advantage of the credit, with a focus on extremely low income households, likely ITIN eligible workers, populations with limited English proficiency, rural communities, current and former foster youth, and other hard-to-reach populations.

The bill specifies that the awards of grants under this part shall be exempt from the State Contract Act and grants awarded under this part shall be at the sole discretion of FTB's executive officer or their designee.

The measure requires FTB to submit a report to the Legislature on the effectiveness of the program on or after January 1, 2024 and annually thereafter. The bill requires FTB, in consultation with DCSD and grantees to develop metrics to analyze the effectiveness of the program.

AB 1515 establishes the EITC Outreach and Education and Free Tax Assistance Grant Fund in the State Treasury for the purposes of allocating grants pursuant to the above provisions, upon appropriation by the Legislature.

### **State Revenue Impact**

Pending.

### **Comments**

1. Purpose of the bill. According to the author, “The COVID-19 pandemic has had devastating health and economic impacts on our most vulnerable communities, including our low-income and undocumented Californians. However, systemic inequities have existed for many years prior to the pandemic. These vulnerable communities have continuously faced great barriers that have contributed to cycles of poverty, such as unequal access to education, employment, and housing.

One of these systemic inequalities is the inequitable access to free tax assistance. Only 1 in 100 Californians who received the California Earned Income Tax Credit in the tax year 2020 used a free service to file their taxes. That means 99 out of those 100 used a paid service when they were *all* eligible for free services, such as in-person or online Volunteer Income Tax Assistance, My Free Tax, Cal-File, and others. The majority of those low-income Californians went to a paid-preparer, costing them several hundred dollars each.

To provide critical assistance to these Californians, AB 1515 will ensure the state provides adequate tax assistance and education so that those eligible for tax credits are able to file and receive lifesaving financial assistance. By creating a grant program for local government agencies or qualified community based organizations to provide free tax filing assistance and education on available tax credits, California can increase the number of those filing for tax credits and Individual Tax Identification Numbers, thus increasing the number of Californians eligible for the California Earned Income Tax Credit and the Young Child Tax Credit.”

2. Should one person decide? AB 1515 removes the requirements that grants awarded under this program be awarded according to the guidelines provided in the State Contract Act, and instead allows the FTB Executive Officer (or their designee) to determine how much and to whom the grants are awarded. The state contracting guidelines are in place to standardize how the state awards funds and reporting requirements are utilized to ensure that the state is making a sound investment in goods or services. The bill lacks the details necessary to delineate why this particular grant program should be separated from standard state contract procedures. The committee may wish to consider whether removing the state contracting requirements would give enough assurance that the funds spend for this program were spent in a way that accomplishes the states goals of increasing participation in the CalEITC, YCTC and VITA programs. Additionally, the committee may wish to consider whether or not it might be better policy to have a group of people make the decision as to who received the grants and not place that decision solely on the FTB Executive Officer.

3. Who measures what? The bill requires FTB to provide a report on the effectiveness of the education and outreach efforts on the CalEITC and VITA program to the legislature. The bill states that the FTB in consultation with DCSD and the CBOs receiving the grants should determine what metrics will be used to measure the success of the program. However, the bill does not provide any guidance or details for FTB to determine the specific information that will be helpful to the Legislature will be provided on the report. For example, it may be useful to know how many new CalEITC claimants or VITA users were a direct result of the grant outreach efforts or to require an outline of goals and objectives from the CBOs. The Committee may wish to consider whether providing some guidelines of items to be included in the report would help the report be more beneficial to the legislature.

4. What do you mean? The bill requires FTB to issue grants that cover at least a 12-month period to qualified CBOs. It is unclear if the intent is to require that FTB only allocate grants to CBOs that plan to use them over a 12 month period? Or if it is intended that FTB should

disburse the funding monthly over a 12 month period. The Committee may wish consider amending the bill to clarify the author’s intent.

5. Are we doing enough? California has poured millions of dollars into education and outreach effort for the Cal EITC since its enactment in 2015. However, according to a July 2021 report by the California Policy Lab<sup>4</sup>, “Among the 948,207 CalFresh households who were eligible for the CalEITC in 2017, a little over half (53%) claimed the credit. The remaining 441,575 CalFresh households who did not claim the CalEITC missed out on an average credit of \$172, totaling \$76 million in unclaimed state credits, which the researchers call the “Take-up Gap.” The study goes on to say that nearly 2/3 of those that missed out of the credit did not file a tax return. However, 150,000 of those that missed the credit did file a tax return and of those nearly 60 percent used a paid preparer. The Committee may wish to consider whether the state should continue to pay for the same types of outreach, or whether it should investigate more effective options to get people to claim the CalEITC and additional education opportunities for tax preparers that fail to include the CalEITC.

6. Related Legislation. As part of the proposed legislative budget, the legislature introduced a supplemental payment as part of the CalEITC to current or former foster youth between the ages of 18-25 that were in the foster care system after the age of 13. These individuals can claim a credit of up to \$1,000, which is reduced by \$20 for each \$100 (or fraction thereof) that the taxpayer’s income exceeds \$25,000. This language is currently in trailer bill form on the Department of Finance’s website.

7. Technicals. Committee staff recommend the following technical amendments:

- To allow for a more complete evaluation of the prior filing season, modify the report due date from January 1, 2024 to March 1, 2024.
- To correct three cross referencing errors:
  - In Section 19859.1(c), strike out “for” and insert “necessary and appropriate to carry out the”
  - In Section 19859.2 (b), strike out “prioritize” and insert “allocate”
  - In Section 19859.2 (b)(1) after “funds” insert “for education and outreach”

### Assembly Actions

Assembly Revenue and Taxation Committee:	9-0
Assembly Appropriations Committee:	13-0
Assembly Floor:	69-0

### Support and Opposition (6/27/22)

Support:

California Asset Building Coalition  
Children's Defense Fund - CA

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<sup>4</sup> [Measuring the CalEITC Take-up Gap among CalFresh enrollees - California Policy Lab \(capolicylab.org\)](https://capolicylab.org)

Earnin  
Economic Security Project Action  
Glide  
Head Start California  
National Association of Social Workers, California Chapter  
Redf  
United Ways of California (UWCA)

Opposition: None submitted.

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