

Date of Hearing: April 25, 2022

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Jacqui Irwin, Chair

AB 1863 (Irwin) – As Amended April 19, 2022

Majority vote. Fiscal committee.

SUBJECT: Income tax: ReadyReturns

SUMMARY: Requires the Franchise Tax Board (FTB) to develop a temporary program for the 2024 through 2026 taxable years, to assist taxpayers who are potentially eligible for the California Earned Income Tax Credit (CalEITC) file California income tax returns. Specifically, **this bill:**

- 1) Establishes the "ReadyReturn Program," an optional filing method that provides eligible taxpayers a tax return using tax data of the taxpayer already collected by the FTB and calculations based on that data.
- 2) Requires the FTB to make available to taxpayers tax forms, including those provided as part of the ReadyReturn Program that are as simple as possible for taxpayers to prepare.
- 3) Requires the FTB, for taxable years beginning on or after January 1, 2024, to provide an eligible taxpayer with a ReadyReturn in electronic format in the manner specified in this bill. The ReadyReturn shall include a record of the taxpayer's wages that employers have reported. The ReadyReturn shall also provide the tax liability attributable to that income.
- 4) Requires the FTB to notify an eligible taxpayer that the ReadyReturn Program is an available filing option. The notification shall contain all of the following information:
 - a) That an eligible taxpayer may choose to view or file a ReadyReturn under the program;
 - b) Subject to provisions relating to taxpayers without access to the internet, that an eligible taxpayer may request a paper version of the ReadyReturn;
 - c) A description of the ReadyReturn Program that includes, but is not limited to, the following statement:

ReadyReturn gives a taxpayer access to the wage data received from their employer. ReadyReturn gives a taxpayer the option of viewing or filing a "ReadyReturn." A ReadyReturn is a completed tax return that is based on the following: wage data received from an employer, the taxpayer's filing status from the prior year, amounts withheld by the employer, and additional taxes owed to the state or refund owed to the taxpayer.

- d) The following statement in boldface type and large type size, and requires the statement to be prominently displayed on the ReadyReturn internet website and provided to every

eligible taxpayer that uses the online ReadyReturn before logging in and before electronically signing an electronically submitted ReadyReturn:

The ReadyReturn Program is an optional service for the convenience of taxpayers with simple returns. You are under absolutely no requirement to use this program. You may choose not to look at the online program or to look at the online program and not file the ReadyReturn. You may also request a paper version of the ReadyReturn. If you choose not to view or file a ReadyReturn, this will not affect your tax liability in any way.

- 5) Provides that a negative inference shall not be drawn from a taxpayer's decision not to file a ReadyReturn or file a return under a different method.
- 6) Provides that if an eligible taxpayer files a ReadyReturn, a late payment penalty shall not apply concerning any tax required to be shown on that return;
- 7) Requires, notwithstanding existing law, FTB to do all of the following:
 - a) Provide all taxpayers with access to wage data provided by employers and other tax return information reported by third parties and maintained on the records of the FTB;
 - b) Provide available tax return information to taxpayers beginning on January 1, 2024; and,
 - c) Develop an alternative method for an eligible taxpayer without access to the internet to request the taxpayer's completed ReadyReturn in paper form. The FTB may eliminate the paper ReadyReturn delivery option if the volume of paper ReadyReturn requests decreases below 10% of the total ReadyReturns filed in the immediately previous taxable year.
- 8) Provides that, contingent upon the successful implementation of an authentication solution to ensure taxpayer privacy and security of taxpayer data, an eligible taxpayer shall be able to authorize the eligible taxpayer's preparer or agent to access any information provided as part of the ReadyReturn Program and any third-party reporting information described in this bill. FTB shall work with proprietary software providers to make the information described in this bill available to taxpayers using that software.
- 9) Provides that on or before January 1, 2026, the FTB shall submit a report to the Legislature that contains all of the following information organized by taxable year:
 - a) The number of ReadyReturns that were distributed;
 - b) The number of ReadyReturns that were filed by an eligible taxpayer;
 - c) The number of tax returns that were filed by an eligible taxpayer that did not claim the CalEITC;
 - d) The number of eligible taxpayers who successfully claimed the CalEITC, and the number who claimed the CalEITC for the first time;
 - e) The number of ReadyReturns that were edited before filing;

- f) The number of ReadyReturns filed by a tax professional on behalf of an eligible taxpayer;
 - g) The number of ReadyReturns filed electronically and the number filed in paper form;
 - h) A description of the outreach conducted by the FTB concerning the ReadyReturn Program; and,
 - i) The number of eligible taxpayers who filed a return before receiving a ReadyReturn.
- 10) Defines "eligible taxpayer" as a taxpayer eligible for the CalEITC in any of the three previous taxable years.
- 11) Provides that "CalEITC" is the Earned Income Tax Credit allowed by Revenue and Taxation Code (R&TC) Section 17052.
- 12) Repeals the provisions of this bill on January 1, 2027.

EXISTING LAW:

- 1) Requires FTB to design and make available to taxpayers forms that are as simple as possible for taxpayers to prepare to ease taxpayers' compliance burden. (R&TC Section 19582.)
- 2) Required the FTB to report to the Legislature on or before January 1, 2022, on its analysis and plan to increase the number of claims of the CalEITC and the federal Earned Income Tax Credit. The analysis was to include an overview of the changes needed to the income tax system to reduce any barriers to tax filing for non-filers of tax returns who are eligible for the CalEITC and an outline of the necessary changes needed to increase collaboration and coordination among state agencies to reach the greatest number of individuals eligible for the CalEITC. (SB 1409 (Caballero), Chapter 114 of Statutes of 2020.)

FISCAL EFFECT: Pending

COMMENTS:

- 1) The author has provided the following statement in support of this bill:

Our state has a long history of supporting working Californians. One example is enacting and expanding access to claim CalEITC. As of 2021, over 4 million Californians claimed CalEITC, but despite this success, thousands of eligible individuals are still not claiming the credit.

As a result, AB 1863 will create the ReadyReturn program that will provide an eligible taxpayer with a simplified pre-populated tax return to encourage more eligible Californians to claim the CalEITC.

- 2) The California Society of Enrolled Agents supports this bill, and it notes, in part:

CSEA has a long-standing policy of supporting legislation that is intended to ease taxpayer burden in complying with state tax law. AB 1863 intends to provide an alternative for those who qualify for the EITC that would reduce time and potentially the

cost of filing returns for those taxpayers. While AB 1863 has several favorable features for taxpayers and tax practitioners, any new tax legislation will have to be reviewed critically before implementation to ensure that regulations provide sufficient guidance to avoid administrative errors which can be costly for taxpayers and the state.

3) Committee Staff Comments:

- a) *What does this bill do?* This bill creates a ReadyReturn program to streamline access to the CalEITC and reduce the taxpayer's burden of receiving critical state assistance. First, this bill would require, for taxable years beginning on or after January 1, 2024, the FTB to develop a ReadyReturn Program under which the FTB would prepare an electronic tax return for eligible taxpayers that contains income and tax liability information. Second, this bill would require the FTB to notify taxpayers of their eligibility for the program and send a ReadyReturn to eligible taxpayers. Third, this bill would require the FTB to develop an alternative method for taxpayers without internet access to request a completed ReadyReturn in paper form. Lastly, this bill would also require the FTB to work with computer software providers to enable taxpayers to access and authorize their tax preparers and agents to access information under the program, as specified.
- b) *Who benefits from this bill?* This bill benefits taxpayers who qualified for the CalEITC in any of the three previous taxable years. (R&TC Section 17052.) Therefore, eligible taxpayers would include taxpayers who have earned \$30,000 or less in any of the three previous taxable years.

According to the author, this bill is intended to streamline the claiming of CalEITC for eligible taxpayers. In addition, this bill benefits lower income taxpayers by allowing eligible taxpayers to file their tax returns free of charge and with minimal effort. This bill arguably reduces the "deadweight loss of taxation" associated with time and money spent filing tax returns for lower income taxpayers. Under this bill, eligible taxpayers would be able to save time and money filing state tax returns and would have more time and money for contributions to the economy or their family. This bill is modeled after the successful and widely acclaimed ReadyReturn Program, which California previously piloted and started in 2005.

- c) *What is the problem this bill is seeking to solve?* According to the FTB, taxpayers have a number of issues or barriers that may impact or prevent taxpayers from claiming the federal EITC or CalEITC. This bill is intended to help resolve the following issues identified by the FTB:
- i) Filing a tax return is a complex task and not always understood. Some taxpayers may be concerned with making an error and getting into trouble;
 - ii) Some taxpayers are not aware of filing requirements or available tax credits;
 - iii) Free tax return preparation sites are not readily accessible to many taxpayers in the neighborhoods they live in;
 - iv) Tax return preparation is costly and some taxpayers do not want to incur this cost burden for a credit amount that can be less than the return preparation or preparer fee;

- v) Some taxpayers do not have all documents or records needed to file a return;
- vi) Some taxpayers do not have internet access; and,
- vii) Some taxpayers eligible for the EITC credits do not have high enough incomes to trigger a tax return filing requirement. For these individuals, filing a return to claim the EITC credits can be an unnecessary and costly burden or the taxpayer does not think they qualify because they do not have a filing requirement.

Additionally, FTB reported that three million people were enrolled in a California Department of Social Services program, and were not associated with a filed tax return.¹

d) *This bill's operating model for the CalEITC ReadyReturn Program:*

- i) **Step 1:** FTB creates a CalEITC ReadyReturn Program for taxable years beginning on or after January 1, 2024. Therefore, FTB would launch the program for the public on or after January 1, 2025, for the 2024 taxable year.
 - ii) **Step 2:** FTB would notify potentially eligible individuals by last known address. This outreach would apply to taxpayers who qualified for the CalEITC in any of the three previous taxable years. The notice would contain disclaimers to inform the taxpayers that participation is optional and that a paper version of the ReadyReturn is available. Committee staff prepared a sample notice as an illustration. (See Exhibit A, CalEITC ReadyReturn Program Eligibility Notice.)
 - iii) **Step 3:** Eligible taxpayers who receive the notice may go to the FTB's website and view pre-completed returns, make adjustments, and file returns.
 - iv) **Step 4:** FTB would collect critical performance and efficacy data for its report to the Legislature.
 - v) **Step 5:** After successfully implementing an authentication solution to ensure taxpayer privacy and security of taxpayer data, the FTB would work with computer software providers to enable taxpayers to access and authorize their tax preparers and agents to access information under the program.
- e) *The nudging strategy:* Generally, policymakers have three options to change taxpayers' behaviors: the first option is to mandate and penalize, which tends to be unpopular and difficult to enforce; the second option is to reward and subsidize, which is popular but cost-prohibitive; and the last option, often unknown and underutilized, is nudging, which is a small behavior intervention designed to produce significant responses at lower costs. (Thomas, *Taxing Nudges* (2021) 107 Va. L. Rev. 571.) Professors Richard Thaler and Cass Sunstein coined "nudging" to describe an intervention that "alters people's behavior in a predictable way without forbidding any options or significantly changing their economic incentives."

¹ Economic and Statistical Research Bureau. (2022). *Report on the study to increase the number of claims for the California and federal EITC*. Franchise Tax Board.
<https://data.ftb.ca.gov/stories/s/sgxz-494k#-reports-and-studies>

This bill "nudges" eligible taxpayers to file tax returns to claim the CalEITC and FTB to provide more help to lower income taxpayers to file income tax returns. This Legislature has considered more costly but popular strategies, such as stimulus checks, but has not considered many "nudging" tax policies that are less costly. This nudging strategy may be a resourceful way for the Legislature to provide public aid and target those who have been out of reach.

- f) *The success and history of the ReadyReturn program:* California's previous ReadyReturn program is inspiring leaders at the federal and state level to simplify the costly processes of filing tax returns. Survey results of the previous ReadyReturn program reported: 98% of those taxpayers who filed ReadyReturns online said they would file it again next year if given a chance, and 96% of those who filed paper ReadyReturns also said they would use ReadyReturn again. On average, the surveyed taxpayers said they saved time and money on preparation fees.² The Los Angeles Times highlighted one of the thousands of positive comments about the program, which said, "Finally, the government is doing something to make my life better for a change."³

In 2005, ReadyReturn was introduced as a pilot program by the FTB. At the time, the idea was new and innovative and intended to focus on reducing the tax filing burden. FTB used the information it already had, such as W-2 information, to provide taxpayers with their completed returns for final approval and filing with the FTB. ReadyReturn leveraged the existing CalFile system, which is FTB's tax return filing portal. To ensure a high level of accuracy of pre-populated tax returns and avoid disclosure issues, the ReadyReturn program used the following parameters of requirements for eligible taxpayers:

- i) Filed a prior year return;
- ii) Full-year residency in California;
- iii) Met the criteria to use single or head of household filing status;
- iv) Income only from wages;
- v) Only one employer;
- vi) No more than five dependents;
- vii) No credits other than the renter's credit; and,
- viii) Claimed the standard deduction.

FTB initial estimates identified about two million individuals annually who fit within the eligibility parameters. FTB received wage data from the Employment Development Department throughout the first quarter of the year. FTB would pre-populate the

² Landreth, S. (2006). *Assembly floor analysis of AB 2905, As Amended May 26, 2006*. Assembly Committee on Revenue and Taxation.

³ Harper, E. (2021, October 21).

"readied" return and make it available for taxpayers to review, approve, and file. Generally, each year, FTB saw over 50% of eligible taxpayers had already filed on their own in January or February before FTB could finalize a proposed pre-populated return. Of the remaining one million returns that were readied for taxpayers, about 100,000 taxpayers chose the ReadyReturn filing method.

In 2013, FTB began reviewing the ongoing process of ReadyReturn, and FTB developed the potential to offer pre-populating information for California taxpayers if they established a MyFTB online profile account and qualified to use CalFile. MyFTB and CalFile greatly expanded the number of taxpayers eligible for this pre-populated return filing service and allowed taxpayers to file prior year returns. As a result, FTB decommissioned the ReadyReturn application at the end of the 2014 return process year and began utilizing CalFile, with expanded parameters, exclusively as a simplified filing portal for the California return. Currently, CalFile includes the ability to pre-populate data if taxpayers have registered and obtained a MyFTB account.⁴

- g) *Open to working with stakeholders:* The author has expressed her commitment and willingness to work with FTB and tax professionals to increase the program's effectiveness and reduce the program's costs. Accordingly, the author is engaged in discussions with the FTB about improving the efficacy of this bill.

In addition, Committee staff has discussed with FTB its current capabilities of sending out personalized letters requesting taxpayers to file tax returns. (See California Code of Regulations, Title 18, Section 19133.) Committee staff notes that FTB sends "Request for Tax Return" letters to taxpayers and has a Webapp < <https://webapp.ftb.ca.gov/inc/> > for taxpayers to respond.

- h) *Technical amendments:* The author may wish to clarify that this bill would apply for each taxable year beginning on or after January 1, 2024, and until January 1, 2027.

- i) *Prior Legislation:*

i) SB 1409 (Caballero), Chapter 114, Statutes of 2020, would require the FTB to analyze and develop a plan to increase the number of claims of the CalEITC and the federal Earned Income Tax Credit.

ii) AB 1046 (Frommer), of 2005-06 Legislative Session, would have required the FTB to develop a return for a ReadyReturn Program under which the board would prepare an electronic tax return for eligible taxpayers containing income and tax liability information and to notify taxpayers of their eligibility for the program, as specified. AB 1046 would have also required the FTB to work with computer software providers to enable taxpayers to access, and to authorize their tax preparers and agents to access, information under the program, as specified. AB 1046 was never heard by the Senate Committee on Revenue and Taxation.

iii) AB 2905 (Frommer), of 2005-06 Legislative Session, would have required the FTB to develop a return for a ReadyReturn Program under which the FTB would prepare an

⁴ Economic and Statistical Research Bureau. (2022).

electronic tax return for eligible taxpayers containing income and tax liability information and to notify taxpayers of their eligibility for the program, as specified. AB 2905 died on the Assembly's Inactive File.

- iv) SB 1355 (Hollingsworth), of 2005-06 Legislative Session, would have repealed the ReadyReturn program on July 1, 2006, and prohibit the implementation of similar programs thereafter. SB 1355 was never heard by the Senate Committee on Revenue and Taxation.
- v) AB 139 (Committee on Budget), Chapter 74, Statutes of 2005, authorized the FTB to continue to implement the ReadyReturn pilot program, available to specified taxpayers, for the 2005-06 fiscal year, unless subsequent legislation authorized its continuation, and would have required the pilot program to be operated in the same manner it was operated during the 2004-05 fiscal year.

REGISTERED SUPPORT / OPPOSITION:

Support

California Society of Enrolled Agents

Opposition

None on file

Analysis Prepared by: Gi Jung Nam / REV. & TAX. / (916) 319-2098

CalEITC ReadyReturn Program Eligibility Notice

Jane Doe
[Last Known Address]

Notice Number: [Insert Number]
Tax Year: 2024

Why You Received This Notice

You are eligible to view or file your California income tax return for the 2024 tax year directly with the California Franchise Tax Board. You have been selected because you may have qualified for the California Earned Income Tax Credit in the one of the prior three taxable years.

What Do You Need to Do?

- (1) Go to <https://www.ftb.ca.gov/calfile/> and click CalEITC ReadyReturn. Your unique identification number to log on to view or file is **SZERA6**. You will be prompted to answer additional security questions to authenticate your identification.
- (2) If you do not have access to the internet, call 800-852-5711 and press "5" for CalEITC ReadyReturn.

To claim the federal ETIC, you still may need to file a federal tax return with the IRS. Please remember to file before the tax return due date to avoid any potential penalties or interest charges.

About the Program

ReadyReturn gives a taxpayer access to the wage data received from their employer. ReadyReturn gives a taxpayer the option of viewing or filing a "ReadyReturn." A ReadyReturn is a completed tax return that is based on the following: wage data received from an employer, the taxpayer's filing status from the prior year, amounts withheld by the employer, and additional taxes owed to the state or refund owed to the taxpayer.

The ReadyReturn Program is an optional service for the convenience of taxpayers with simple returns. You are under absolutely no requirement to use this program. You may choose not to look at the online program or to look at the online program and not file the ReadyReturn. You may also request a paper version of the ReadyReturn. If you choose not to view or file a ReadyReturn, this will not affect your tax liability in any way.

Exhibit A

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