
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Mike McGuire, Chair
2021 - 2022 Regular

Bill No: SB 276
Author: Ochoa Bogh
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Consultant: Deitchman

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Tax Levy: No
Fiscal: Yes

EARNED INCOME TAX CREDIT: 2021 CREDIT CALCULATION

Allows EITC recipients to elect to use earned income from prior tax years when calculating EITC for the 2021 tax year.

Background

Federal Law. Existing federal law (Internal Revenue Code [IRC] Section 32) 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, which phases out as income increases. The federal credit rate varies from 7.65 percent to 45 percent, and increases depending on the number of the taxpayer's qualifying children.

State law. 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).

Beginning with the 2015 taxable year, state law has allowed a refundable California EITC based on the taxpayer's amount of federal credit multiplied by California's "adjustment factor." The adjustment factor is equal to zero unless otherwise specified in the Budget Act. Additionally, California's EITC is only operative for taxable years when the Budget Act authorizes resources for the Franchise Tax Board (FTB) to oversee and audit returns associated with the credit.

In California, to qualify for the EITC a taxpayer must have Adjusted Gross Income in the 2020 taxable year below \$30,000 regardless, of your filing status or number of qualifying children.

The 2020 maximum California credit for taxpayers is as follows:

- \$3,027 with three or more qualifying children.
- \$2,691 with two qualifying children.
- \$1,626 with one qualifying child.
- \$243 with no qualifying children.

In addition to the EITC outlined above, starting in the 2019 taxable year 2019, taxpayers may claim the "young child tax credit" if they have a child under the age of 6 at the end of the taxable

year and have been allowed a California EITC. The credit is equal to \$1,000, but is reduced by \$20 for each \$100 (or fraction thereof) that the taxpayer's annual income exceeds \$25,000.

COVID-19 pandemic. The COVID-19 pandemic, also known as the coronavirus pandemic, is an ongoing, widespread outbreak of the disease caused by a strain of the coronavirus. This severe, acute respiratory syndrome was first identified in Wuhan, China in late December 2019. The first cases in the United States occurred in early 2020 and the first California case was confirmed in late January. To control the spread of the disease, California, and other states, issued mandatory "stay-at-home" orders. This pandemic has left thousands out of work and struggling to pay for necessities. California's unemployment was 10.1 percent in 2020 and total nonfarm jobs decreased by 1,410,000 (an 8.0 percent decrease) from December 2019 to December 2020.

Taxpayer Certainty and Disaster Tax Relief Act of 2020. Generally, taxpayers calculate credits based on costs incurred, or in the case of the EITC, earned income received in the current taxable year. However, the federal Taxpayer Certainty and Disaster Tax Relief Act of 2020, signed into law on December 27, 2020, allows recipients of the federal EITC to choose to use their earned income from the 2019 taxable year to calculate their 2020 EITC. For individuals who had less earned income in 2020 because of job loss or reduced wages, this election may allow individuals who had more earned income in 2019 to claim a larger credit than what would have otherwise been allowed using their 2020 earned income.

The author wants to allow a similar option for California EITC recipients when calculating their EITC, for the 2021 taxable year.

Proposed Law

Senate Bill 276 allows EITC recipients to choose any of their 2019, 2020, or 2021 earned income when calculating their EITC for the 2021 taxable year.

State Revenue Impact

Pending.

Comments

1. Purpose of the bill. According to the author, "The California Earned Income Tax Credit program (CalEITC) reduces the tax burden of low-to-moderate income earners by providing a refundable tax credit to eligible individuals based on a calculation of earned income and number of dependents. Due to the COVID-19 pandemic and resulting shutdowns disproportionately impacting our lowest income earners, many recipients of CalEITC, who rely on the refund they receive from the tax credit, will be left with a much smaller refund or none at all because of lost wages.

It is critical that these workers who were impacted by furloughs and lay-offs continue to receive access to funds that can be allocated to essential expenses, including: housing, food, utilities, and PPE.

By authorizing taxpayers to elect either their 2019, 2020, or 2021 incomes, filers will be able to choose the income year that will provide them with the greatest tax credit and, therefore, greatest

tax refund. This allows individuals most affected economically by the COVID-19 pandemic to continue to receive the assistance provided by the tax credit, without being further disadvantaged by the effects of a closed state and economy.”

2. Revenue loss. Existing tax law provides various credits, deductions, exclusions, and exemptions for certain taxpayers. Since these items are enacted to accomplish some governmental purpose and determined to have a cost — in the form of foregone revenues — state law refers to them as "tax expenditures." SB 276 would result in a revenue loss to the state as taxpayers are able to receive more EITC than they would have otherwise been allowed. As a result, the state will have to reduce spending or increase taxes to match the foregone revenue. The Committee may wish to consider whether SB 276 is worth the tradeoff of spending cuts and/or raising taxes.

3. What is an EITC? The EITC is a federal tax credit for low-to-moderate income individuals and families. Congress originally approved the credit in 1975, in part to offset the burden of social security taxes, and by setting the base of the credit as income earned from employment, provide an incentive to work. When EITC exceeds the amount of taxes owed, the Internal Revenue Service and the State of California send a refund for the difference to those who claim and qualify for the credit.

For the tax year 2017, approximately \$354 million California EITC was allowed on 1.5 million individual returns.

4. Related legislation. SB 691 (Rubio) changes the California ETIC to increase the amount of credit received by certain individuals and would modify the Young Child Tax Credit to allow the credit to those individuals that did not claim a California EITC. The Committee will hear SB 691 at its April 22, 2021 hearing. SB 88 (Committee on the Budget, 2021) as enacted, allows “Golden State Stimulus Payments” for individuals who either received a California EITC or use an Individual Taxpayer Identification Number (ITIN) in an amount of either \$600 for most taxpayers or \$1200, when the taxpayer filed using an ITIN filers and claimed a California EITC.

Support and Opposition (4/12/21)

Support: California Alternative Payment Program Association

Opposition: None submitted

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