
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 276 (Ochoa Bogh) - Earned Income Tax Credit: 2021 credit calculation

Version: March 17, 2021

Urgency: No

Hearing Date: May 3, 2021

Policy Vote: GOV. & F. 5 - 0

Mandate: No

Consultant: Robert Ingenito

Bill Summary: SB 276 would allow earned income tax credit (EITC) recipients to elect to use earned income from prior tax years when calculating the EITC for the 2021 tax year.

Fiscal Impact: The Franchise Tax Board (FTB) indicates that this bill would result in a General Fund revenue loss of \$21 million in 2021-22. FTB's implementation costs have yet to be determined.

Background: Current federal law allows eligible individuals a refundable EITC. The amount of the tax credit is a percentage of the taxpayer's earned income, and 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.

Since taxable year 2015, state law has allowed a refundable California EITC based on the taxpayer's amount of federal credit multiplied by a state "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 FTB to oversee and audit returns associated with the credit. To qualify for the California EITC, a taxpayer must have Adjusted Gross Income in the 2020 taxable year below \$30,000 regardless, of filing status or number of qualifying children. The 2020 maximum California credit for taxpayers is as follows: (1) \$3,027 with three or more qualifying children, (2) 2,691 with two qualifying children, (3) \$1,626 with one qualifying child, and (4) \$243 with no qualifying children.

In addition, starting in taxable year 2019, taxpayers may claim the Young Child Tax Credit (YCTC) if they (1) have a child under the age of six at the end of the taxable year, and (2) have been allowed a California EITC. The credit is equal to \$1,000, but is phased out for incomes exceeding \$25,000.

Typically, taxpayers calculate credits based on costs incurred (or in the case of the EITC, earned income received) in the current taxable year. However, federal legislation enacted in 2020 allows recipients of the federal EITC to choose to use their earned income from the 2019 taxable year to calculate their 2020 EITC. 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.

Proposed Law: This bill would allow EITC recipients to choose any of their 2019, 2020, or 2021 earned income when calculating their EITC for taxable year 2021.

Related Legislation:

- AB 93 (Assembly Committee on Budgets, Chapter 19, Statutes of 2020) modified the California EITC by removing restrictions on the use of certain SSNs and allowing the limited use of federal ITINs by eligible individuals who have a qualifying child under six years old as of the last day of the taxable year and other specified individuals.
- AB 1876 (Committee on Budgets, Chapter 87, Statutes of 2020) modified the California EITC by allowing the use of federal ITINs for all eligible individuals, eligible individuals' spouses, and qualifying children.
- SB 1409 (Caballero, Chapter 114, Statutes of 2020) requires FTB to analyze and develop a plan to increase the number of California EITC claims and the federal EITC.
- AB 1593 (Reyes, 2020), would have expanded the California EITC by allowing eligible individuals, their spouses, and qualifying children to have either a federal ITIN or a SSN without regard to being valid for employment. AB 1593 did not pass out of the Senate.

Staff Comments: FTB return data indicate that approximately 90 percent of taxpayers who would qualify for the California EITC and approximately 10 percent for the YCTC in taxable year 2021 would be able to benefit from the provisions in this bill. According to the Joint Committee on Taxation estimate for the similar federal provision, the federal EITC and child tax credit would increase by approximately 2.2 percent. Applying this same percentage, FTB estimates California taxpayers would receive additional credit of approximately \$21 million in the 2021 taxable year.

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