

AMENDED IN SENATE JUNE 21, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 509

Introduced by Assembly Member Skinner

February 15, 2011

An act to amend Sections 19851, 19852, and 19853 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 509, as amended, Skinner. Federal earned income tax credit: notification: state departments and agencies.

The federal income tax law authorizes a refundable earned income tax credit for certain low-income individuals who have earned income and who meet certain other requirements. Existing California law requires an employer, as defined, to notify all employees that they may be eligible for the federal earned income tax credit (EITC), as specified.

This bill would ~~also~~ require state departments and agencies that serve those who may qualify for the EITC, as defined, to notify their program recipients that they may be eligible for the EITC, at least once a year during the months of January through April, or alternatively, to provide this annual notification during a regularly scheduled contact with a recipient by telephone, mail, or electronic communication, or by an in-person communication, as specified. This bill would ~~also~~ require state departments and agencies that do not directly communicate with persons who may qualify for the EITC to communicate indirectly through agencies or districts serving those persons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19851 of the Revenue and Taxation Code
2 is amended to read:
3 19851. The Legislature finds and declares as follows:
4 (a) Congress created the federal earned income tax credit (EITC)
5 in 1975 to offset the adverse effects of the Medicare and social
6 security payroll taxes on working poor families and to encourage
7 low-income workers to seek employment rather than welfare.
8 (b) Due to a relatively low percentage of federal earned income
9 tax credit eligible persons who participate in the federal Earned
10 Income Tax Credit program, hundreds of millions of federal dollars
11 go unclaimed by the working poor in California.
12 (c) In order to alleviate the tax burden on working poor persons
13 and families, to enhance the wages and income of working poor
14 persons and families, to ensure that California receives its share
15 of the federal money available in the federal Earned Income Tax
16 Credit program, and to inject additional federal money into the
17 California economy, the state shall facilitate the furnishing of
18 information to working poor persons and families regarding the
19 availability of the federal earned income tax credit so that they
20 may claim that credit on their federal income tax returns.
21 (d) It is the intent of this act to offer the most cost-effective
22 assistance to eligible taxpayers through the following:
23 (1) Notices provided by their employers.
24 (2) Notices provided by state departments and agencies that
25 serve those who may qualify for the EITC.
26 SEC. 2. Section 19852 of the Revenue and Taxation Code is
27 amended to read:
28 19852. For purposes of this part, the following terms have the
29 following meanings:
30 (a) "Employer" means any California employer who is subject
31 to, and is required to provide, unemployment insurance to his or
32 her employees, under the Unemployment Insurance Code.
33 (b) "Employee" means any person who is covered by
34 unemployment insurance by his or her employer, pursuant to the
35 Unemployment Insurance Code.

1 (c) “EITC” means the federal earned income tax credit, as
2 defined in Section 32 of the Internal Revenue Code.

3 (d) “State departments and agencies that serve those who may
4 qualify for the EITC” means those departments and agencies that
5 operate state or federally funded programs primarily engaged in
6 providing services to low-income individuals and families.
7 Departments, agencies, and programs under this subdivision may
8 include, but are not limited to, the following:

9 (1) The State Department of Education: free or reduced-price
10 meal program and National School Lunch Program.

11 (2) The State Department of Social Services: the CalWORKs
12 program, CalFresh, and foster families.

13 (3) The Public Utilities Commission: California Alternate Rates
14 for Energy, the Energy Savings Assistance Program, Payment
15 Plans, and Emergency Payment Assistance Programs, including
16 Family Electric Rate Assistance, the California Weatherization
17 Assistance Program, the Low Income Home Energy Assistance
18 Program, the California LifeLine Telephone Program, and Link-Up.

19 (4) Employment Development Department: California
20 Unemployment Insurance.

21 (5) State Department of Health Care Services: the Medi-Cal
22 program.

23 (6) Managed Risk Medical Insurance Board (MRMIB): the
24 Healthy Families Program.

25 SEC. 3. Section 19853 of the Revenue and Taxation Code is
26 amended to read:

27 19853. (a) An employer shall notify all employees that they
28 may be eligible for the EITC within one week before or after, or
29 at the same time, that the employer provides an annual wage
30 summary, including, but not limited to, a Form W-2 or a Form
31 1099, to any employee.

32 (b) The state departments and agencies that serve those who
33 may qualify for the EITC, as defined in subdivision (d) of Section
34 19852, shall notify their program recipients that they may be
35 eligible for the EITC, at least once a year during the months of
36 January through April, or alternatively, shall provide this annual
37 notification during a regularly scheduled contact with a recipient
38 by telephone, mail, or electronic communication, or by an in-person
39 communication. State departments or agencies that do not directly
40 communicate with persons or households with persons who may

1 qualify for the EITC may communicate indirectly through agencies
2 or districts that serve eligible persons or households with eligible
3 persons. Departments, agencies, and programs are encouraged to
4 develop the least costly, effective method to provide notice to
5 recipients of EITC eligibility, ~~which method shall meet the~~
6 ~~requirements of~~ *as long as the notice contains substantially the*
7 *same language as the notice described in Section 19854.*

8 (c) The employer shall provide the notification required by
9 subdivision (a) by handing directly to the employee or mailing to
10 the employee's last known address either of the following:

11 (1) Instructions on how to obtain any notices available from the
12 Internal Revenue Service for this purpose, including, but not
13 limited to, the IRS Notice 797 and Form W-5, or any successor
14 notice or form.

15 (2) Any notice created by the employer, as long as it contains
16 substantially the same language as the notice described in
17 paragraph (1) or in Section 19854.

18 (d) The employer shall not satisfy the notification required by
19 subdivision (a) by posting a notice on an employee bulletin board
20 or sending it through office mail. However, these methods of
21 notification are encouraged to help inform all employees of the
22 EITC.

23 (e) Every employer shall process, in accordance with federal
24 law, Form W-5 for advance payments of the EITC, upon the
25 request of the employee.