

ASSEMBLY BILL

No. 1847

Introduced by Assembly Member Mark Stone

February 9, 2016

An act to amend Sections 19851, 19852, 19853, and 19854 of the Revenue and Taxation Code, relating to tax administration.

LEGISLATIVE COUNSEL'S DIGEST

AB 1847, as introduced, Mark Stone. Earned Income Tax Credit Information Act: California Earned Income Tax Credit.

The Personal Income Tax Law allows various credits against the taxes imposed by that law, including certain credits that are allowed in modified conformity to credits allowed by federal income tax laws. Federal income tax laws allow a refundable earned income tax credit for certain low-income individuals who have earned income and who meet certain other requirements.

The Personal Income Tax Law, in modified conformity with federal income tax laws, allows an earned income credit against personal income tax, and a payment in excess of that credit amount, to an eligible individual that is equal to that portion of the earned income tax credit allowed by federal law as determined by the earned income tax credit adjustment factor as set forth in the annual Budget Act.

Existing law, the Earned Income Tax Credit Information Act, requires an employer, as defined, to notify all employees that they may be eligible for the federal earned income tax credit, as specified.

This bill would require those same employers currently required to notify employees who may be eligible for the federal earned income tax credit to also notify these employees that they may be eligible for the California Earned Income Tax Credit under the same conditions.

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 2015, the State of California authorized a state EITC to*
 13 *amplify the poverty-reducing effects of the federal EITC for the*
 14 *poorest working Californians.*
 15 (e)
 16 (d) In order to alleviate the tax burden on working poor persons
 17 and families, to enhance the wages and income of working poor
 18 persons and families, to ensure that California receives its share
 19 of the federal money available in the federal Earned Income Tax
 20 Credit program, *to ensure that the poorest working Californians*
 21 *access the additional state EITC,* and to inject additional federal
 22 money into the California economy, the state shall facilitate the
 23 furnishing of information to working poor persons and families
 24 regarding the availability of the federal *and state* earned income
 25 tax credit so that they may claim ~~that credit~~ *those credits* on their
 26 federal *and state* income tax returns.
 27 ~~(d)~~
 28 (e) It is the intent of this act to offer the most cost-effective
 29 assistance to eligible taxpayers through the following:
 30 (1) Notices provided by their employers.
 31 (2) Notices provided by state departments and agencies that
 32 serve those who may qualify for the EITC.
 33 (3) *By taking steps to ensure that eligible Californians claim*
 34 *both the federal and state EITC.*

1 SEC. 2. Section 19852 of the Revenue and Taxation Code is
2 amended to read:

3 19852. For purposes of this part, the following terms have the
4 following meanings:

5 (a) “Employer” means any California employer who is subject
6 to, and is required to provide, unemployment insurance to his or
7 her employees, under the Unemployment Insurance Code.

8 (b) “Employee” means any person who is covered by
9 unemployment insurance by his or her employer, pursuant to the
10 Unemployment Insurance Code.

11 (c) “EITC” means the federal earned income tax credit, as
12 defined in Section 32 of the Internal Revenue ~~Code~~. *Code, and*
13 *the California Earned Income Tax Credit, as defined in Section*
14 *17052.*

15 (d) “State departments and agencies that serve those who may
16 qualify for the EITC” means the following programs in the
17 specified departments and agencies:

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

20 (2) Employment Development Department: California
21 Unemployment Insurance.

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

24 (4) Managed Risk Medical Insurance Board (MRMIB): the
25 Healthy Families Program.

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

28 19853. (a) An employer shall notify all employees that they
29 may be eligible for the EITC within one week before or after, or
30 at the same time, that the employer provides an annual wage
31 summary, including, but not limited to, a Form W-2 or a Form
32 1099, to any employee.

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

1 communicate with persons or households with persons who may
2 qualify for the EITC may communicate indirectly through agencies,
3 districts, or regulated entities that serve eligible persons or
4 households with eligible persons. Departments, agencies, and
5 programs are encouraged to develop the most effective method to
6 provide notice to recipients of EITC eligibility, as long as the notice
7 contains substantially the same language as the notice described
8 in Section 19854.

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

12 (1) Instructions on how to obtain any notices available from the
13 Internal Revenue Service *or the Franchise Tax Board* for this
14 purpose, including, but not limited to, the IRS Notice 797 and
15 Form W-5, *California Form 3514*, or any successor notice or form.

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

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

24 (e) Every employer shall process, in accordance with federal
25 law, Form W-5 for advance payments of the EITC, *and California*
26 *Form 3514*, upon the request of the employee.

27 SEC. 4. Section 19854 of the Revenue and Taxation Code is
28 amended to read:

29 19854. The notice furnished to employees regarding the
30 availability of the EITC shall state as follows:

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32 BASED ON YOUR ANNUAL EARNINGS, YOU MAY
33 BE ELIGIBLE TO RECEIVE THE EARNED INCOME TAX
34 CREDIT FROM THE FEDERAL—GOVERNMENT.
35 ~~GOVERNMENT OR THE STATE OF CALIFORNIA.~~ THE
36 EARNED INCOME TAX CREDIT IS A REFUNDABLE
37 ~~FEDERAL~~ INCOME TAX CREDIT FOR LOW-INCOME
38 WORKING INDIVIDUALS AND FAMILIES. THE
39 EARNED INCOME TAX CREDIT HAS NO EFFECT ON
40 CERTAIN WELFARE BENEFITS. IN MOST CASES,

1 EARNED INCOME TAX CREDIT PAYMENTS WILL NOT
2 BE USED TO DETERMINE ELIGIBILITY FOR
3 MEDICAID, SUPPLEMENTAL SECURITY INCOME,
4 FOOD STAMPS, LOW-INCOME HOUSING OR MOST
5 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES
6 PAYMENTS. EVEN IF YOU DO NOT OWE FEDERAL
7 ~~TAXES~~, *OR STATE TAXES*, YOU MUST FILE A TAX
8 RETURN TO RECEIVE THE EARNED INCOME TAX
9 CREDIT. BE SURE TO FILL OUT THE EARNED INCOME
10 TAX CREDIT FORM IN THE FEDERAL INCOME TAX
11 RETURN ~~BOOKLET~~. *BOOKLET AND ANY RELATED*
12 *STATE FORMS*. FOR INFORMATION REGARDING YOUR
13 ELIGIBILITY TO RECEIVE THE *FEDERAL* EARNED
14 INCOME TAX CREDIT, INCLUDING INFORMATION
15 ON HOW TO OBTAIN THE IRS NOTICE 797 OR FORM
16 W-5, OR ANY OTHER NECESSARY *FEDERAL* FORMS
17 AND INSTRUCTIONS, CONTACT THE INTERNAL
18 REVENUE SERVICE BY CALLING 1-800-829-3676 OR
19 THROUGH ITS WEB SITE AT WWW.IRS.GOV. *FOR*
20 *MORE INFORMATION REGARDING YOUR ELIGIBILITY*
21 *FOR THE CALIFORNIA EARNED INCOME TAX CREDIT,*
22 *INCLUDING INFORMATION ON HOW TO OBTAIN*
23 *CALIFORNIA FORM 3514 CONTACT THE FRANCHISE*
24 *TAX BOARD THROUGH ITS INTERNET WEB SITE AT*
25 *WWW.FTB.CA.GOV.*
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