

AMENDED IN ASSEMBLY MARCH 8, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1847

Introduced by Assembly Member Mark Stone
(Coauthors: Assembly Members Dodd, McCarty, and Mullin)

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 amended, 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 (d) In order to alleviate the tax burden on working poor persons
- 16 and families, to enhance the wages and income of working poor
- 17 persons and families, to ensure that California receives its share
- 18 of the federal money available in the federal Earned Income Tax
- 19 Credit program, to ensure that the poorest working Californians
- 20 access the additional state EITC, and to inject additional federal
- 21 money into the California economy, the state shall facilitate the
- 22 furnishing of information to working poor persons and families
- 23 regarding the availability of the federal and state earned income
- 24 tax credit so that they may claim those credits on their federal and
- 25 state income tax returns.
- 26 (e) It is the intent of this act to offer the most cost-effective
- 27 assistance to eligible taxpayers through the following:
- 28 (1) Notices provided by their employers.
- 29 (2) Notices provided by state departments and agencies that
- 30 serve those who may qualify for the EITC.
- 31 (3) By taking steps to ensure that eligible Californians claim
- 32 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" "Federal EITC"~~ means the federal earned income
12 tax credit, as defined in Section 32 of the Internal Revenue Code,
13 ~~and the California Earned Income Tax Credit, as defined in Section~~
14 ~~17052. Code.~~

15 (d) "California EITC" means the California earned income tax
16 credit, as defined in Section 17052 of the Revenue and Taxation
17 Code.

18 ~~(e)~~

19 (e) "State departments and agencies that serve those who may
20 qualify for the *federal EITC and the California EITC*" means the
21 following programs in the specified departments and agencies:

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

24 (2) Employment Development Department: California
25 Unemployment Insurance.

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

28 ~~(4) Managed Risk Medical Insurance Board (MRMIB): the~~
29 ~~Healthy Families Program.~~

30 (f) *The amendments made to this section by the act adding this*
31 *subdivision shall apply to notices required pursuant to Section*
32 *19853 furnished on or after the effective date of that act.*

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

35 19853. (a) An employer shall notify all employees that they
36 may be eligible for the *federal and the California EITC* within
37 one week before or after, or at the same time, that the employer
38 provides an annual wage summary, including, but not limited to,
39 a Form W-2 or a Form 1099, to any employee.

1 (b) The state departments and agencies that serve those who
2 may qualify for the *federal and the California* EITC, as defined
3 in subdivision ~~(d)~~ (e) of Section 19852, shall notify their program
4 recipients that they may be eligible for the *federal and the*
5 *California* EITC, at least once a year during the months of January
6 through April, or alternatively, shall provide this annual notification
7 during a regularly scheduled contact with a recipient by telephone,
8 mail, or electronic communication, or by an in-person
9 communication. State departments or agencies that do not directly
10 communicate with persons or households with persons who may
11 qualify for the *federal and the California* EITC may communicate
12 indirectly through agencies, districts, or regulated entities that
13 serve eligible persons or households with eligible persons.
14 Departments, agencies, and programs are encouraged to develop
15 the most effective method to provide notice to recipients of *federal*
16 *and California* EITC eligibility, as long as the notice contains
17 substantially the same language as the notice described in Section
18 19854.

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

22 (1) Instructions on how to obtain any notices available from the
23 Internal Revenue Service ~~or~~ and the Franchise Tax Board for this
24 purpose, including, but not limited to, the IRS Notice 797 ~~and~~
25 Form W-5, California Form 3514, or any successor notice or form.
26 and information on the *California EITC at the Web site*
27 *www.ftb.ca.gov*.

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

31 (d) The employer shall not satisfy the notification required by
32 subdivision (a) by posting a notice on an employee bulletin board
33 or sending it through office mail. However, these methods of
34 notification are encouraged to help inform all employees of the
35 *federal and the California* EITC.

36 ~~(e) Every employer shall process, in accordance with federal~~
37 ~~law, Form W-5 for advance payments of the EITC, and California~~
38 ~~Form 3514, upon the request of the employee.~~

1 (e) The amendments made to this section by the act adding this
2 subdivision shall apply to notices furnished on or after the effective
3 date of that act.

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

6 19854. (a) The notice furnished to employees regarding the
7 availability of the *federal and the California* EITC shall state as
8 follows:

9
10 BASED ON YOUR ANNUAL EARNINGS, YOU MAY
11 BE ELIGIBLE TO RECEIVE THE EARNED INCOME TAX
12 CREDIT FROM THE FEDERAL GOVERNMENT ~~OR THE~~
13 ~~STATE OF CALIFORNIA.~~ (*FEDERAL EITC*). THE
14 ~~EARNED INCOME TAX CREDIT~~ *FEDERAL EITC* IS A
15 REFUNDABLE *FEDERAL* INCOME TAX CREDIT FOR
16 LOW-INCOME WORKING INDIVIDUALS AND
17 FAMILIES. THE ~~EARNED INCOME TAX CREDIT~~
18 *FEDERAL EITC* HAS NO EFFECT ON CERTAIN
19 WELFARE BENEFITS. IN MOST CASES, ~~EARNED~~
20 ~~INCOME TAX CREDIT~~ *FEDERAL EITC* PAYMENTS WILL
21 NOT BE USED TO DETERMINE ELIGIBILITY FOR
22 MEDICAID, SUPPLEMENTAL SECURITY INCOME,
23 FOOD STAMPS, LOW-INCOME HOUSING, OR MOST
24 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES
25 PAYMENTS. EVEN IF YOU DO NOT OWE FEDERAL ~~OR~~
26 ~~STATE TAXES,~~ YOU MUST FILE A *FEDERAL* TAX
27 RETURN TO RECEIVE THE ~~EARNED INCOME TAX~~
28 ~~CREDIT.~~ *FEDERAL EITC*. BE SURE TO FILL OUT THE
29 ~~EARNED INCOME TAX CREDIT~~ *FEDERAL EITC* FORM
30 IN THE FEDERAL INCOME TAX RETURN ~~BOOKLET~~
31 ~~AND ANY RELATED STATE FORMS.~~ *BOOKLET*. FOR
32 INFORMATION REGARDING YOUR ELIGIBILITY TO
33 RECEIVE THE FEDERAL ~~EARNED INCOME TAX~~
34 ~~CREDIT,~~ *EITC*, INCLUDING INFORMATION ON HOW
35 TO OBTAIN THE IRS NOTICE 797 ~~OR FORM W-5,~~ OR
36 ANY OTHER NECESSARY ~~FEDERAL~~ FORMS AND
37 INSTRUCTIONS, CONTACT THE INTERNAL REVENUE
38 SERVICE BY CALLING 1-800-829-3676 OR THROUGH
39 ITS WEB SITE AT WWW.IRS.GOV. ~~FOR MORE~~
40 INFORMATION REGARDING YOUR ELIGIBILITY FOR

1 ~~THE CALIFORNIA EARNED INCOME TAX CREDIT,~~
 2 ~~INCLUDING INFORMATION ON HOW TO OBTAIN~~
 3 ~~CALIFORNIA FORM 3514 CONTACT THE FRANCHISE~~
 4 ~~TAX BOARD THROUGH ITS INTERNET WEB SITE AT~~
 5 ~~WWW.FTB.CA.GOV.~~

6 YOU ALSO MAY BE ELIGIBLE TO RECEIVE THE
 7 CALIFORNIA EARNED INCOME TAX CREDIT (CALIFORNIA
 8 EITC) STARTING WITH THE CALENDAR YEAR 2015 TAX YEAR.
 9 THE CALIFORNIA EITC IS A REFUNDABLE STATE INCOME
 10 TAX CREDIT FOR LOW-INCOME WORKING INDIVIDUALS
 11 AND FAMILIES. THE CALIFORNIA EITC IS TREATED IN THE
 12 SAME MANNER AS THE FEDERAL EITC AND GENERALLY
 13 WILL NOT BE USED TO DETERMINE ELIGIBILITY FOR
 14 WELFARE BENEFITS UNDER CALIFORNIA LAW. TO CLAIM
 15 THE CALIFORNIA EITC, EVEN IF YOU DO NOT OWE
 16 CALIFORNIA TAXES, YOU MUST FILE A CALIFORNIA
 17 INCOME TAX RETURN AND COMPLETE AND ATTACH THE
 18 CALIFORNIA EITC FORM (FTB 3514). FOR INFORMATION
 19 ON THE ELIGIBILITY OF THE CREDIT, ELIGIBILITY
 20 REQUIREMENTS, AND HOW TO OBTAIN THE NECESSARY
 21 CALIFORNIA FORMS AND GET HELP FILING, CONTACT
 22 THE FRANCHISE TAX BOARD AT 1-800-852-5711 OR
 23 THROUGH ITS WEB SITE AT WWW.FTB.CA.GOV.

24 (b) *The amendments made to this section by the act adding this*
 25 *subdivision shall apply to notices furnished on or after the effective*
 26 *date of that act.*

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