

AMENDED IN ASSEMBLY APRIL 7, 2016

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.

1 (3) By taking steps to ensure that eligible Californians claim
2 both the federal and state EITC.

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

5 19852. For purposes of this part, the following terms have the
6 following meanings:

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

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

13 (c) “Federal EITC” means the federal earned income tax credit,
14 as defined in Section 32 of the Internal Revenue 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) “State departments and agencies that serve those who may
19 qualify for the federal EITC and the California EITC” means the
20 following programs in the specified departments and agencies:

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

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

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

27 (f) The amendments made to this section by the act adding this
28 subdivision shall apply to notices required pursuant to Section
29 19853 furnished on or after the effective date of that act.

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

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

37 (b) The state departments and agencies that serve those who
38 may qualify for the federal and the California EITC, as defined in
39 subdivision (e) of Section 19852, shall notify their program
40 recipients that they may be eligible for the federal and the

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

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

18 (1) Instructions on how to obtain any notices available from the
19 Internal Revenue Service and the Franchise Tax Board for this
20 purpose, including, but not limited to, the IRS Notice 797 and
21 information on the California EITC at the Web site
22 www.ftb.ca.gov.

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

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

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

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

36 19854. (a) The notice furnished to employees regarding the
37 availability of the federal and the California EITC shall state as
38 follows:

39

1 BASED ON YOUR ANNUAL EARNINGS, YOU MAY
2 BE ELIGIBLE TO RECEIVE THE EARNED INCOME TAX
3 CREDIT FROM THE FEDERAL GOVERNMENT
4 (FEDERAL EITC). THE FEDERAL EITC IS A
5 REFUNDABLE FEDERAL INCOME TAX CREDIT FOR
6 LOW-INCOME WORKING INDIVIDUALS AND
7 FAMILIES. THE FEDERAL EITC HAS NO EFFECT ON
8 CERTAIN WELFARE BENEFITS. IN MOST CASES,
9 FEDERAL EITC PAYMENTS WILL NOT BE USED TO
10 DETERMINE ELIGIBILITY FOR MEDICAID,
11 SUPPLEMENTAL SECURITY INCOME, FOOD STAMPS,
12 LOW-INCOME HOUSING, OR MOST TEMPORARY
13 ASSISTANCE FOR NEEDY FAMILIES PAYMENTS.
14 EVEN IF YOU DO NOT OWE FEDERAL TAXES, YOU
15 MUST FILE A FEDERAL TAX RETURN TO RECEIVE
16 THE FEDERAL EITC. BE SURE TO FILL OUT THE
17 FEDERAL EITC FORM IN THE FEDERAL INCOME TAX
18 RETURN BOOKLET. FOR INFORMATION REGARDING
19 YOUR ELIGIBILITY TO RECEIVE THE FEDERAL EITC,
20 INCLUDING INFORMATION ON HOW TO OBTAIN THE
21 IRS NOTICE 797 OR ANY OTHER NECESSARY FORMS
22 AND INSTRUCTIONS, CONTACT THE INTERNAL
23 REVENUE SERVICE BY CALLING 1-800-829-3676 OR
24 THROUGH ITS WEB SITE AT WWW.IRS.GOV.

25 YOU ALSO MAY BE ELIGIBLE TO RECEIVE THE
26 CALIFORNIA EARNED INCOME TAX CREDIT
27 (CALIFORNIA EITC) STARTING WITH THE CALENDAR
28 YEAR 2015 TAX YEAR. THE CALIFORNIA EITC IS A
29 REFUNDABLE STATE INCOME TAX CREDIT FOR
30 LOW-INCOME WORKING INDIVIDUALS AND FAMILIES.
31 THE CALIFORNIA EITC IS TREATED IN THE SAME
32 MANNER AS THE FEDERAL EITC AND GENERALLY WILL
33 NOT BE USED TO DETERMINE ELIGIBILITY FOR
34 WELFARE BENEFITS UNDER CALIFORNIA LAW. TO
35 CLAIM THE CALIFORNIA EITC, EVEN IF YOU DO NOT
36 OWE CALIFORNIA TAXES, YOU MUST FILE A
37 CALIFORNIA INCOME TAX RETURN AND COMPLETE
38 AND ATTACH THE CALIFORNIA EITC FORM (FTB 3514).
39 FOR INFORMATION ON THE ~~ELIGIBILITY~~ *AVAILABILITY*
40 OF THE CREDIT, ELIGIBILITY REQUIREMENTS, AND HOW

1 TO OBTAIN THE NECESSARY CALIFORNIA FORMS AND
2 GET HELP FILING, CONTACT THE FRANCHISE TAX
3 BOARD AT 1-800-852-5711 OR THROUGH ITS WEB SITE
4 AT WWW.FTB.CA.GOV.

5 (b) The amendments made to this section by the act adding this
6 subdivision shall apply to notices furnished on or after the effective
7 date of that act.
8

O