

**ASSEMBLY BILL**

**No. 1929**

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**Introduced by Assembly Member Brough**

February 12, 2016

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An act to amend Section 17052 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1929, as introduced, Brough. Personal income taxes: earned income credit: report.

The Personal Income Tax Law allows various credits against the taxes imposed by that law, including, in modified conformity with federal income tax laws, an earned income credit against personal income tax, as provided. Existing law requires the Franchise Tax Board to annually prepare a written report regarding the credit and to provide that report to specified legislative committees.

This bill would require the Franchise Tax Board to include in that annual report the number of false or fraudulent claims for the credit.

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 17052 of the Revenue and Taxation Code
- 2     is amended to read:
- 3     17052. (a) (1) For each taxable year beginning on or after
- 4     January 1, 2015, there shall be allowed against the “net tax,” as
- 5     defined by Section 17039, an earned income tax credit in an amount
- 6     equal to an amount determined in accordance with Section 32 of

the Internal Revenue Code, relating to earned income, as applicable for federal income tax purposes for the taxable year, except as otherwise provided in this section.

(2) (A) The amount of the credit determined under Section 32 of the Internal Revenue Code, relating to earned income, as modified by this section, shall be multiplied by the earned income tax credit adjustment factor for the taxable year.

(B) Unless otherwise specified in the annual Budget Act, the earned income tax credit adjustment factor for a taxable year beginning on or after January 1, 2015, shall be 0 percent.

(C) The earned income tax credit authorized by this section shall only be operative for taxable years for which resources are authorized in the annual Budget Act for the Franchise Tax Board to oversee and audit returns associated with the credit.

(b) (1) In lieu of the table prescribed in Section 32(b)(1) of the Internal Revenue Code, relating to percentages, the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	7.65%	7.65%
1 qualifying child	34%	34%
2 or more qualifying children	40%	40%

(2) (A) In lieu of the table prescribed in Section 32(b)(2)(A) of the Internal Revenue Code, the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	\$3,290	\$3,290
1 qualifying child	\$4,940	\$4,940
2 or more qualifying children	\$6,935	\$6,935

(B) Section 32(b)(2)(B) of the Internal Revenue Code, relating to joint returns, shall not apply.

(3) Section 32(b)(3)(A) of the Internal Revenue Code, relating to increased percentage for three or more qualifying children, is

1 modified by substituting “the credit percentage and phaseout  
2 percentage is 45 percent” for “the credit percentage is 45 percent.”

3 (c) (1) Section 32(c)(1)(A)(ii)(I) of the Internal Revenue Code  
4 is modified by substituting “this state” for “the United States.”

5 (2) Section 32(c)(2)(A) of the Internal Revenue Code is modified  
6 as follows:

7 (A) Section 32(c)(2)(A)(i) of the Internal Revenue Code is  
8 modified by deleting “plus” and inserting in lieu thereof the  
9 following: “and only if such amounts are subject to withholding  
10 pursuant to Division 6 (commencing with Section 13000) of the  
11 Unemployment Insurance Code.”

12 (B) Section 32(c)(2)(A)(ii) of the Internal Revenue Code shall  
13 not apply.

14 (3) Section 32(c)(3)(C) of the Internal Revenue Code, relating  
15 to place of abode, is modified by substituting “this state” for “the  
16 United States.”

17 (d) Section 32(i)(1) of the Internal Revenue Code is modified  
18 by substituting “\$3,400” for “\$2,200.”

19 (e) In lieu of Section 32(j) of the Internal Revenue Code, relating  
20 to inflation adjustments, for taxable years beginning on or after  
21 January 1, 2016, the amounts specified in paragraph (2) of  
22 subdivision (b) and in subdivision (d) shall be recomputed annually  
23 in the same manner as the recomputation of income tax brackets  
24 under subdivision (h) of Section 17041.

25 (f) If the amount allowable as a credit under this section exceeds  
26 the tax liability computed under this part for the taxable year, the  
27 excess shall be credited against other amounts due, if any, and the  
28 balance, if any, shall be paid from the Tax Relief and Refund  
29 Account and refunded to the taxpayer.

30 (g) The Franchise Tax Board may prescribe rules, guidelines,  
31 or procedures necessary or appropriate to carry out the purposes  
32 of this section. Chapter 3.5 (commencing with Section 11340) of  
33 Part 1 of Division 3 of Title 2 of the Government Code shall not  
34 apply to any rule, guideline, or procedure prescribed by the  
35 Franchise Tax Board pursuant to this section.

36 (h) Notwithstanding any other law, amounts refunded pursuant  
37 to this section shall be treated in the same manner as the federal  
38 earned income refund for the purpose of determining eligibility to  
39 receive benefits under Division 9 (commencing with Section

1 10000) of the Welfare and Institutions Code or amounts of those  
2 benefits.

3 (i) (1) For the purpose of implementing the credit allowed by  
4 this section for the 2015 taxable year, the Franchise Tax Board  
5 shall be exempt from the following:

6 (A) Special Project Report requirements under State  
7 Administrative Manual Sections 4819.36, 4945, and 4945.2.

8 (B) Special Project Report requirements under Statewide  
9 Information Management Manual Section 30.

10 (C) Section 11.00 of the 2015 Budget Act.

11 (D) Sections 12101, 12101.5, 12102, and 12102.1 of the Public  
12 Contract Code.

13 (2) The Franchise Tax Board shall formally incorporate the  
14 scope, costs, and schedule changes associated with the  
15 implementation of the credit allowed by this section in its next  
16 anticipated Special Project Report for its Enterprise Data to  
17 Revenue Project.

18 (j) (1) In accordance with Section 41 of the Revenue and  
19 Taxation Code, the purpose of the California Earned Income Tax  
20 Credit is to reduce poverty among California's poorest working  
21 families and individuals. To measure whether the credit achieves  
22 its intended purpose, the Franchise Tax Board shall annually  
23 prepare a written report on the following:

24 (A) The number of tax returns claiming the ~~credit~~ *credit*,  
25 *including the number of false or fraudulent claims*.

26 (B) The number of individuals represented on tax returns  
27 claiming the credit.

28 (C) The average credit amount on tax returns claiming the credit.

29 (D) The distribution of credits by number of dependents and  
30 income ranges. The income ranges shall encompass the phase-in  
31 and phaseout ranges of the credit.

32 (E) Using data from tax returns claiming the credit, including  
33 an estimate of the federal tax credit determined under Section 32  
34 of the Internal Revenue Code, an estimate of the number of families  
35 who are lifted out of deep poverty by the credit and an estimate of  
36 the number of families who are lifted out of deep poverty by the  
37 combination of the credit and the federal tax credit. For the  
38 purposes of this subdivision, a family is in "deep poverty" if the  
39 income of the family is less than 50 percent of the federal poverty  
40 threshold.

- 1     (2) The Franchise Tax Board shall provide the written report to
- 2     the Senate Committee on Budget and Fiscal Review, the Assembly
- 3     Committee on Budget, the Senate and Assembly Committees on
- 4     Appropriations, the Senate Committee on Governance and Finance,
- 5     the Assembly Committees on Revenue and Taxation, and the
- 6     Senate and Assembly Committees on Human Services.
- 7     (k) The tax credit allowed by this section shall be known as the
- 8     California Earned Income Tax Credit.