AMENDED IN ASSEMBLY APRIL 24, 2019

AMENDED IN ASSEMBLY APRIL 1, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 1593

Introduced by Assembly Member Reyes

February 22, 2019

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1593, as amended, Reyes. Personal income taxes: earned income credit.

The Personal Income Tax Law, beginning on or after January 1, 2015, in modified conformity with federal income tax laws, allows an earned income tax credit against personal income tax and a payment from the Tax Relief and Refund Account for an allowable credit in excess of tax liability 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 specified. The law provides that the amount of the credit is calculated as a percentage of the eligible individual's earned income and is phased out above a specified amount as income increases and provides alternative calculation factors under specified circumstances. Existing law, in conformity with federal income tax laws, requires the eligible individual and the qualifying child to have a social security number to be eligible for the credit.

This bill would require the taxpayer and the qualifying child to have a social security number or a federal individual taxpayer identification number in order to be eligible for the earned income tax ~~credit.~~ *credit, subject to specified requirements if a federal individual taxpayer number is used.*

Existing law establishes the continuously appropriated Tax Relief and Refund Account and provides that payments required to be made to taxpayers or other persons from the Personal Income Tax Fund are to be paid from that account, including any amount to be paid as an earned income tax credit in excess of any tax liabilities.

By authorizing new payments from that account for additional amounts in excess of personal income tax liabilities, this bill would make an appropriation.

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) One in five Californians live in poverty, and millions of working families in California are unable to meet basic needs. According to the United States Census Bureau Supplemental Poverty Measure, which factors in cost of living, California has the highest poverty rate in the nation.

(b) The federal Earned Income Tax Credit (EITC) is the nation's largest and most successful antipoverty program. The EITC compensates low-income workers and reduces economic hardship by allowing low-income working families to keep more of their earnings.

(c) Research shows that the EITC improves child and maternal health, spurs local economic growth, and builds long-term economic security by increasing future earnings. Children in families that receive the EITC perform better academically in both the short and long term and achieve higher test scores, higher high school graduation rates, and higher college attendance rates.

(d) The California Earned Income Tax Credit (CalEITC) was enacted in 2015 to build on the success of the EITC and designed the credit to target working households living in poverty.

(e) A working parent with two children can receive a CalEITC of up to $2,467.

(f) California has the opportunity to ensure that the CalEITC reaches all low-income working Californians who file taxes by removing the exclusion to the CalEITC based on immigration status.

(g) Currently, the CalEITC follows EITC eligibility rules and excludes certain populations of working Californians who pay taxes and file their tax returns, including households that have children who are citizens of the United States.

(h) Working Californians who are currently excluded from the CalEITC face particular risk of poverty and economic hardship.

(i) Immigrants contribute about one-third of the state's gross domestic product, yet per capita income for immigrant-headed households is a quarter less than overall per capita income in the state.

(j) Half of all children in California, about 4.5 million, live in immigrant families and nearly three in four workers with individual taxpayer identification numbers who would become eligible for CalEITC live in households with children. Children in immigrant families are the future growth of the population, labor force, and economy.

SEC. 2. Section 17052 of the Revenue and Taxation Code is amended to read:

17052. (a) (1) For each taxable year beginning on or after January 1, 2015, there shall be allowed against the "net tax," as defined by Section 17039, an earned income tax credit in an amount 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 qualifying children	40%	40%
3 or more qualifying children	45%	45%

(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.

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

(2) For each taxable year beginning on or after January 1, 2018, Section 32(c)(1)(A)(ii)(II) of the Internal Revenue Code is modified by deleting “25 but not attained age 65” and inserting in lieu thereof the following: “18.”

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

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

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

(4) For taxable years beginning on or after January 1, 2017, paragraph (3) shall not apply and in lieu thereof Section 32(c)(2)(A) of the Internal Revenue Code is modified as follows:

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

(B) Section 32(c)(2)(A)(ii) of the Internal Revenue Code shall apply.

(5) Section 32(c)(3)(C) of the Internal Revenue Code, relating to place of abode, is modified by substituting "this state" for "the United States."

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

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

(2) For each taxable year beginning on or after January 1, 2018, and before January 1, 2019, when recomputing the amounts referenced in paragraph (1), the percentage change in the California Consumer Price Index shall be deemed to be the greater of 3.1 percent or the percentage change in the California Consumer Price Index as calculated under subdivision (h) of Section 17041 for that taxable year.

(f) *(1)* For each taxable year beginning on or after January 1, 2019, Section 32(m) of the Internal Revenue Code, relating to identification numbers, is modified by substituting "federal individual taxpayer identification number or a social security number" for "social security number" and deleting "(other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act)."

(2) An eligible individual, eligible individual's spouse, or qualifying child using a federal individual taxpayer identification number, as authorized pursuant to paragraph (1), shall:

(A) Upon the request of the Franchise Tax Board, provide:

(i) Identifying documents acceptable for purposes of proving identity as authorized by subdivision (c) of Section 12801.9 of the Vehicle Code, as added by Chapter 524 of the Statutes of 2013, and related regulations for purposes of establishing documents acceptable to prove identity.

(ii) Identifying documents used to report earned income for the taxable year.

(B) Upon receiving a valid social security number issued to that individual by the Social Security Administration, notify the Franchise Tax Board, in the time and manner prescribed by the Franchise Tax Board.

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

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

(2) (A) The Franchise Tax Board may prescribe any regulations necessary or appropriate to carry out the purposes of this section, including any regulations to prevent improper claims from being filed or improper payments from being made with respect to net earnings from self-employment.

(B) The adoption of any regulations pursuant to subparagraph (A) may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State, and shall remain in effect until revised or repealed by the Franchise Tax Board.

(i) Notwithstanding any other law, amounts refunded pursuant to this section shall be treated in the same manner as the federal earned income refund for the purpose of determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or amounts of those benefits.

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

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

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

(C) Section 11.00 of the 2015 Budget Act.

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

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

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

(A) The number of tax returns claiming the credit.

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

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

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

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

(2) The Franchise Tax Board shall provide the written report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate and Assembly Committees on Appropriations, the Senate Committee on Governance and Finance, the Assembly Committee on Revenue and Taxation, and the Senate and Assembly Committees on Human Services.

(*l*) The tax credit allowed by this section shall be known as the California Earned Income Tax Credit.

(m) The amendments made to this section by Chapter 722 of the Statutes of 2016 shall apply to taxable years beginning on or after January 1, 2016.

(n) (1) For each taxable year beginning on or after January 1, 2017, and before January 1, 2018, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred dollars ($100) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty dollars ($250) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, and the earned income amount is greater than or equal to the corresponding amount in the table set forth in paragraph (2) below, then in lieu of the table prescribed in paragraph (1) of subdivision (b), 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	2.20%	1.22%
1 qualifying child	3.10%	2.29%
2 qualifying children	2.13%	3.45%
3 or more qualifying children	2.12%	3.49%

(2) For each taxable year beginning on or after January 1, 2017, and before January 1, 2018, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred dollars ($100) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty dollars ($250) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, then in lieu of the table prescribed in subparagraph (A) of paragraph (2) of subdivision (b), 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	$5,354	$5,354
1 qualifying child	$9,484	$9,484
2 qualifying children	$13,794	$13,794
3 or more qualifying children	$13,875	$13,875

(o) (1) For each taxable year beginning on or after January 1, 2018, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred three dollars ($103) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty-eight dollars ($258) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, and the earned income amount is greater than or equal to the corresponding amount in the table set forth in paragraph (2) below, then in lieu of the table prescribed in paragraph (1) of subdivision (b), 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	2.20%	1.08%

1 qualifying child	3.10%	2.00%
2 qualifying children	2.13%	2.82%
3 or more qualifying children	2.12%	2.85%

(2) For each taxable year beginning on or after January 1, 2018, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred three dollars ($103) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty-eight dollars ($258) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, then in lieu of the table prescribed in subparagraph (A) of paragraph (2) of subdivision (b), 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	$5,520	$5,520
1 qualifying child	$9,778	$9,778
2 qualifying children	$14,222	$14,222
3 or more qualifying children	$14,305	$14,305

(3) For taxable years beginning on or after January 1, 2019, the amounts in paragraphs (1) and (2) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

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