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AB-1847 Earned Income Tax Credit Information Act: California Earned Income Tax Credit. (2015-2016)

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Assembly Bill No. 1847

CHAPTER 294

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

[Approved by Governor September 12, 2016. Filed with Secretary of State September 12, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1847, 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 Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 19851 of the Revenue and Taxation Code is amended to read:

19851. The Legislature finds and declares as follows:

(a) Congress created the federal earned income tax credit (EITC) in 1975 to offset the adverse effects of the Medicare and social security payroll taxes on working poor families and to encourage low-income workers to seek employment rather than welfare.

(b) Due to a relatively low percentage of federal earned income tax credit eligible persons who participate in the federal Earned Income Tax Credit program, hundreds of millions of federal dollars go unclaimed by the working poor in California.

(c) In 2015, the State of California authorized a state EITC to amplify the poverty-reducing effects of the federal EITC for the poorest working Californians.

(d) In order to alleviate the tax burden on working poor persons and families, to enhance the wages and income of working poor persons and families, to ensure that California receives its share of the federal money available in the federal Earned Income Tax Credit program, to ensure that the poorest working Californians access the additional state EITC, and to inject additional federal money into the California economy, the state shall facilitate the furnishing of information to working poor persons and families regarding the availability of the federal and state earned income tax credit so that they may claim those credits on their federal and state income tax returns.

(e) It is the intent of this act to offer the most cost-effective assistance to eligible taxpayers through the following:

(1) Notices provided by their employers.

(2) Notices provided by state departments and agencies that serve those who may qualify for the EITC.

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

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

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

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

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

(c) "Federal EITC" means the federal earned income tax credit, as defined in Section 32 of the Internal Revenue Code.

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

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

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

(2) Employment Development Department: California Unemployment Insurance.

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

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

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

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

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

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

(1) Instructions on how to obtain any notices available from the Internal Revenue Service and the Franchise Tax Board for this purpose, including, but not limited to, the IRS Notice 797 and information on the California EITC at the Web site

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

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

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

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

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

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

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

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