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**SB-1073 Personal income taxes: earned income credit: credit percentage: phaseout percentage.** (2015-2016)

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**Senate Bill No. 1073**

**CHAPTER 722**

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

[ Approved by Governor September 27, 2016. Filed with Secretary of State September 27, 2016. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1073, Monning. Personal income taxes: earned income credit: credit percentage: phaseout percentage.

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 from specified sources and who meet certain other requirements.

The Personal Income Tax Law, for taxable years beginning on or after January 1, 2015, in modified conformity with federal income tax laws, allows an earned income 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 in an amount determined in accordance with federal law as applicable for federal income tax purposes for the taxable year, multiplied by the earned income tax credit adjustment factor, as specified. Existing law creates the Tax Relief and Refund Account, which is continuously appropriated, and provides that required payments to be made to taxpayers or other persons from the Personal Income Tax Fund are to be paid from that account, including amounts allowable as an earned income credit in excess of any tax liability. The Personal Income Tax 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. Under existing law, the credit percentage and the phaseout percentage is based on the number of qualifying children of the eligible individual. Existing law provides, in modified conformity with federal income tax law, in the case of an eligible individual with 3 or more qualifying children, for taxable years beginning before January 1, 2016, the credit percentage and phaseout percentage is 45%, and for taxable years beginning on or after January 1, 2016, the credit percentage and phaseout percentage is the same as for an eligible individual with 2 or more children, which is 40%.

This bill, for taxable years beginning on and after January 1, 2016, would instead provide that, in the case of an eligible individual with 3 or more qualifying children, the credit percentage and phaseout percentage is 45%, thereby increasing the credit percentage and the phaseout percentage for those eligible individuals for taxable years beginning on and after January 1, 2016.

By increasing the allowable credit amount, this bill would authorize new payments from the Tax Relief and Refund Account for additional amounts in excess of personal income tax liabilities, thereby making an appropriation.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

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

**SECTION 1.** 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) 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.

(3) 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) 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.

- (f) 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.
- (g) 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.
- (h) 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.
- (i) (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.
- (j) (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.
- (k) The tax credit allowed by this section shall be known as the California Earned Income Tax Credit.
- (l) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2016.