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AB-192 Better for Families Tax Refund. (2021-2022)

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Assembly Bill No. 192

CHAPTER 51

An act to add and repeal Section 12419.3.2 of the Government Code, to amend Section 19554.1 of, and to add and repeal Sections 17131.12, 19265.5, and 19554.2 of, the Revenue and Taxation Code, and to add and repeal Chapter 4.9 (commencing with Section 8160) of Division 8 of the Welfare and Institutions Code, relating to economic relief, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 30, 2022. Filed with Secretary of State June 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 192, Committee on Budget. Better for Families Tax Refund.

(1) Existing law authorizes various forms of relief for low-income Californians, including certain tax benefits and public assistance programs.

This bill would authorize the Controller to make a one-time Better for Families Tax Refund payment to each qualified recipient, as defined, of an applicable amount, as specified, in a form and manner determined by the Franchise Tax Board, in order to provide relief to Californians.

This bill would create the Better for Families Tax Refund Fund, a new fund in the State Treasury, for the purposes of making the above-described payment, and would continuously appropriate that fund.

This bill would, except as provided, make Better for Families Tax Refund payments, as specified, automatically exempt from a garnishment order, as defined, and would require a financial institution to employ a certain procedure to identify a deposit exempt pursuant to that provision. The bill would prohibit a financial institution that attempts to comply with those provisions in good faith from being subject to liability, as specified.

(2) Existing law requires the Controller to state an account with persons that receive funds or property belonging to the state and fail to properly render account thereof to the state, and persons that fail to pay to the State Treasury any money belonging to the state. Existing law requires the Controller to offset delinquent accounts against personal income tax refunds.

This bill would, before January 1, 2027, prohibit the Controller from offsetting delinquent accounts with the one-time payments authorized by this bill.

(3) Existing law authorizes the Franchise Tax Board to issue an order to specified financial institutions, persons, and entities, including an officer or department of the state, to withhold and remit liquid assets of a delinquent taxpayer in order to satisfy the tax obligations of that taxpayer.

This bill would, before January 1, 2027, prohibit the board from issuing an order to withhold and remit any amounts from the one-time payments authorized by this bill for liabilities owed by the eligible recipient pursuant to specified provisions.

(4) The Personal Income Tax Law imposes a tax on individual taxpayers measured by the taxpayer's taxable income for the taxable year, but, in modified conformity with federal income tax laws, allows various exclusions from gross income.

This bill would exclude Better for Families Tax Refund payments authorized by this bill from the gross income of recipients for personal income tax purposes.

(5) Existing law requires any bill authorizing a new tax expenditure, as defined to include exclusions from income, to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements.

The bill would provide findings to comply with the additional information requirement for any bill authorizing a new tax expenditure.

(6) Existing law limits the collection and use of taxpayer information and provides that any unauthorized use of this information is punishable as a misdemeanor. Existing law authorizes, until January 1, 2025, the Franchise Tax Board to provide tax returns or return information necessary for the Controller to make specified payments, and makes the information received by the Controller subject to limitation on the collection and use of that information.

This bill would extend the above authorization to January 1, 2027, and provide, until January 1, 2027, the board the same authorization to disclose return or return information to the Controller to make payments to qualified recipients pursuant to the bill and to any third-party vendor with an existing contract for services relating to the distribution of payments to qualified recipients to provide services relating to the distribution of those payments. The bill would make the information provided to the Controller and a third-party vendor subject to the limitation on the collection and use of that information.

By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) The California Constitution generally prohibits the total annual appropriations subject to limitation of the state and each local government from exceeding the appropriations limit of the entity of government for the prior fiscal year, adjusted for the change in the cost of living and the change in population, and prescribes procedures for making adjustments to the appropriations limit. The California Constitution excludes certain specified appropriations as exempt from this total annual limit, including tax refunds.

This bill would provide that the appropriations made by the bill are appropriations for purposes of refunding state tax liability incurred by Californians during the 2021–22 fiscal year, are not subject to the annual appropriations limit set by the California Constitution. The bill would make related findings and declarations.

(8) This bill would make findings and declarations related to a gift of public funds.

(9) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 12419.3.2 is added to the Government Code, to read:

12419.3.2. (a) Notwithstanding any other provision of this article, the payments authorized pursuant to Section 8161 of the Welfare and Institutions Code shall not be used to offset any delinquent accounts.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 2. Section 17131.12 is added to the Revenue and Taxation Code, to read:

17131.12. (a) Gross income does not include any payments received by an individual pursuant to Section 8161 of the Welfare and Institutions Code.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 3. Section 19265.5 is added to the Revenue and Taxation Code, to read:

19265.5. (a) Notwithstanding Section 18670 or 18671, payments authorized pursuant to Section 8161 of the Welfare and Institutions Code shall not be subject to withholding or levy for liabilities due under Section 10878, Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 4. Section 19554.1 of the Revenue and Taxation Code is amended to read:

19554.1. (a) Notwithstanding Section 19542, subject to the limitations of this section and federal law, the Franchise Tax Board may provide to the Controller return or return information, including identifying information and other information necessary for the Controller to make payments to "qualified recipients" pursuant to Section 8150, 8150.2, or 8161 of the Welfare and Institutions Code.

(b) (1) The information provided to the Controller under this section is subject to Section 19542.

(2) The Controller and any officer, employee, or agent, or former officer, employee, or agent, of the Controller shall not disclose or use any information obtained from the Franchise Tax Board pursuant to this section except for the purpose of making payments pursuant to Section 8150, 8150.2, or 8161 of the Welfare and Institutions Code.

(c) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 5. Section 19554.2 is added to the Revenue and Taxation Code, to read:

19554.2. (a) (1) Notwithstanding Section 19542, subject to the limitations of this section and federal law, the Franchise Tax Board may disclose to any third-party vendor with an existing contract for services relating to the distribution of payments to "qualified recipients," as defined in Section 8161 of the Welfare and Institutions Code, return or return information, including identifying information, that the Franchise Tax Board determines is necessary for the third-party vendor to provide services relating to the distribution of payments to "qualified recipients" pursuant to Chapter 4.9 (commencing with Section 8160) of Division 8 of Welfare and Institutions Code.

(2) For purposes of this section, "existing contract for services relating to the distribution of payments" means the contract for services entered into pursuant to Section 8163 of the Welfare and Institutions Code.

(b) (1) The information provided to a third-party vendor under this section is subject to Section 19542.

(2) Any third-party vendor and any officer, employee, or agent, or former officer, employee, or agent, of a third-party vendor shall not disclose or use any information obtained from the Franchise Tax Board pursuant to this section except for the purpose of providing services relating to the distribution of payments pursuant to Section 8161 of the Welfare and Institutions Code.

(c) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 6. Chapter 4.9 (commencing with Section 8160) is added to Division 8 of the Welfare and Institutions Code, to read:

CHAPTER 4.9. Better for Families Tax Refund

8160. This chapter is known and may be cited as the "Better for Families Act."

8161. (a) The Controller shall, as soon as possible, make a one-time payment in the applicable amount to each qualified recipient. A qualified recipient shall not receive more than one payment of the applicable amount. The payments may be made in the form and manner determined by the Franchise Tax Board.

(b) For purposes of this section, the following definitions shall apply:

(1) "Applicable amount" means any of the following:

(A) In the case of spouses filing a joint return pursuant to Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, that reported a California adjusted gross income, on the return described in clause (i) of subparagraph (A) of paragraph (4), of:

(i) One hundred fifty thousand dollars (\$150,000) or less, the applicable amount shall be seven hundred dollars (\$700) plus an additional three hundred fifty dollars (\$350) if the qualified recipient claimed a credit for one or more dependents under paragraph (1) of subdivision (d) of Section 17054 of the Revenue and Taxation Code on the return described in clause (i) of subparagraph (A) of paragraph (4).

(ii) Two hundred fifty thousand dollars (\$250,000) or less, and more than one hundred fifty thousand dollars (\$150,000), the applicable amount shall be five hundred dollars (\$500) plus an additional two hundred fifty dollars (\$250) if the qualified recipient claimed a credit for one or more dependents under paragraph (1) of subdivision (d) of Section 17054 of the Revenue and Taxation Code on the return described in clause (i) of subparagraph (A) of paragraph (4).

(iii) Five hundred thousand dollars (\$500,000) or less, and more than two hundred fifty thousand dollars (\$250,000), the applicable amount shall be four hundred dollars (\$400) plus an additional two hundred dollars (\$200) if the qualified recipient claimed a credit for one or more dependents under paragraph (1) of subdivision (d) of Section 17054 of the Revenue and Taxation Code on the return described in clause (i) of subparagraph (A) of paragraph (4).

(B) In the case of an individual filing a head of household return pursuant to Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, or an individual filing a surviving spouse return pursuant to Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code that reported a California adjusted gross income, on the return described in clause (i) of subparagraph (A) of paragraph (4), of:

(i) One hundred fifty thousand dollars (\$150,000) or less, the applicable amount shall be three hundred fifty dollars (\$350) plus an additional three hundred fifty dollars (\$350) if the qualified recipient claimed a credit for one or more dependents under paragraph (1) of subdivision (d) of Section 17054 of the Revenue and Taxation Code on the return described in clause (i) of subparagraph (A) of paragraph (4).

(ii) Two hundred fifty thousand dollars (\$250,000) or less, and more than one hundred fifty thousand dollars (\$150,000), the applicable amount shall be two hundred fifty dollars (\$250) plus an additional two hundred fifty dollars (\$250) if the qualified recipient claimed a credit for one or more dependents under paragraph (1) of subdivision (d) of Section 17054 of the Revenue and Taxation Code on the return described in clause (i) of subparagraph (A) of paragraph (4).

(iii) Five hundred thousand dollars (\$500,000) or less, and more than two hundred fifty thousand dollars (\$250,000), the applicable amount shall be two hundred dollars (\$200) plus an additional two hundred dollars (\$200) if the qualified recipient claimed a credit for one or more dependents under paragraph (1) of subdivision (d) of Section 17054 of the Revenue and Taxation Code on the return described in clause (i) of subparagraph (A) of paragraph (4).

(C) In the case of any other individual that reported a California adjusted gross income, on the return described in clause (i) of subparagraph (A) of paragraph (4), of:

(i) Seventy-five thousand dollars (\$75,000) or less, the applicable amount shall be three hundred fifty dollars (\$350) plus an additional three hundred fifty dollars (\$350) if the qualified recipient claimed a credit for one or more dependents under paragraph (1) of subdivision (d) of Section 17054 of the Revenue and Taxation Code on the return described in clause (i) of subparagraph (A) of paragraph (4).

(ii) One hundred twenty-five thousand dollars (\$125,000) or less and more than seventy-five thousand dollars (\$75,000), the applicable amount shall be two hundred fifty dollars (\$250) plus an additional two hundred fifty dollars (\$250) if the qualified recipient claimed a credit for one or more dependents under paragraph (1) of subdivision (d) of Section 17054 of the Revenue and Taxation Code on the return described in clause (i) of subparagraph (A) of paragraph (4).

(iii) Two hundred fifty thousand dollars (\$250,000) or less and more than one hundred twenty-five thousand dollars (\$125,000), the applicable amount shall be two hundred dollars (\$200) plus an additional two hundred dollars (\$200) if the qualified recipient claimed a credit for one or more dependents under paragraph (1) of subdivision (d) of Section 17054 of the Revenue and Taxation Code on the return described in clause (i) of subparagraph (A) of paragraph (4).

(2) "Individual" shall have the same meaning as that term is defined in Section 17005 of the Revenue and Taxation Code.

(3) "Resident" shall have the same meaning as that term is defined in Section 17014 of the Revenue and Taxation Code.

(4) (A) "Qualified recipient" means an individual that satisfies all of the following:

(i) Filed a California individual income tax return on or before October 15, 2021, for the taxable year beginning on or after January 1, 2020, and before January 1, 2021.

(ii) Is a resident of the state on the date payment is issued pursuant to subdivision (a).

(iii) Was a resident of the state for six months or more of the taxable year beginning on or after January 1, 2020, and before January 1, 2021.

(iv) Cannot be claimed as a dependent, as defined in Section 17056 of the Revenue and Taxation Code, by another taxpayer.

(B) In the case of an individual who included either their federal individual taxpayer identification number or, if married, the federal individual taxpayer identification number of their spouse, on their California individual income tax return for the taxable year beginning on or after January 1, 2020, and before January 1, 2021, and who meets all of the other requirements of a qualified recipient, if the individual or their spouse applied for, but did not receive, a federal individual taxpayer identification number on or before October 15, 2021, the individual is a qualified recipient for purposes of this section if the tax return described in this subparagraph was filed on or before February 15, 2022.

(C) Notwithstanding subparagraphs (A) and (B), "qualified recipient" shall not include an individual that satisfies all of the following:

(i) Is an individual without a dependent, as defined in Section 17056 of the Revenue and Taxation Code.

(ii) Files or filed their California individual income tax return using the single filing status for the taxable year described in clause (i) of subparagraph (A).

(iii) Is either of the following:

(I) Is deceased on the date the payment would otherwise be issued as authorized under subdivision (a).

(II) Is incarcerated, other than incarceration pending the disposition of charges, in a jail, prison, or similar penal institution or correctional facility on the date the payment would otherwise be issued as authorized under subdivision (a).

(c) In the case of a qualified recipient who files a joint return with their spouse pursuant to Part 10.2 (commencing with Section 18401) of the Revenue and Taxation Code for the taxable year described in clause (i) of subparagraph (A) of paragraph (4) of subdivision (b), the qualified recipient and their spouse shall be considered one qualified recipient for purposes of this section, and shall receive only one payment of the applicable amount.

(d) The payment authorized by this section shall not be a refund of an overpayment of income taxes under Chapter 6 (commencing with Section 19301) of Part 10.2 of Division 2 of the Revenue and Taxation Code of any liability imposed under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code.

(e) Notwithstanding any other law, the payment authorized 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), excluding benefits under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or amounts of those benefits.

(f) Notwithstanding any other law, the payment authorized pursuant to this section shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual, or any other individual, for benefits or assistance or the amount or extent of benefits or assistance under any state or local program not covered in subdivision (e). With respect to a state or local program, this subdivision shall only be implemented to the extent that it does not conflict with federal law relating to that program, and that any required federal approval or waiver is first obtained for that program.

8162. (a) There is hereby created in the State Treasury the Better for Families Tax Refund Fund. Notwithstanding Section 13340 of the Government Code, an amount necessary for the Franchise Tax Board to make the payments required under this chapter is hereby continuously appropriated, without regard to fiscal year, from the Better for Families Tax Refund Fund to the Franchise Tax Board for the purpose of making the payments authorized by Section 8161.

(b) The Controller shall transfer from the General Fund to the Better for Families Tax Refund Fund an amount not in excess of the amount appropriated under subdivision (a).

(c) All payments returned shall be redeposited in the Better for Families Tax Refund Fund.

(d) Any unused moneys remaining in the Better for Families Tax Refund Fund for the purposes of this act shall be transferred to the General Fund by June 1, 2024.

8163. Notwithstanding any other law, the state may contract with a third-party vendor for services relating to the distribution of payments made pursuant to this chapter in the form and manner best determined to expedite payment and mitigate fraud. A contract for services entered into pursuant to this section may include terms and conditions that are in the state's best interest, but shall include an expiration date on each form of payment issued of no later than April 30, 2026, and a requirement that any unexpended or unclaimed balance of the payments issued shall, upon expiration, be returned to the state, and all unused balances returned, no later than May 31, 2026.

8164. (a) (1) A Better for Families Tax Refund payment made pursuant to Section 8161 shall be automatically exempt from a garnishment order.

(2) This subdivision does not apply to a garnishment order in connection with an action for, or a judgment awarding, child support, spousal support, family support, or a criminal restitution payable to victims.

(b) Notwithstanding any other law, a financial institution receiving directly from the state the payments described in subdivision (a) shall exempt those payments from any garnishment order if the payment is marked by the state as a "Better for Families Tax Refund payment" or includes some other industry-standard unique identifier that is reasonably sufficient to allow the financial institution to identify the funds as a Better for Families Tax Refund payment.

(c) (1) In exempting a Better for Families Tax Refund payment from a garnishment order, a financial institution shall identify an exempt deposit using a lookback period during an account review.

(2) The financial institution shall perform a one-time account review consistent with the requirements described in subsection (a) of Section 212.5 of Title 31 of the Code of Federal Regulations.

(d) A financial institution that attempts in good faith to comply with this section shall not be subject to liability or regulatory action under a federal or state law, regulation, court or other order, or regulatory interpretation for actions concerning applicable payments.

(e) As used in this section:

(1) "Account review" means the process of examining deposits in an account to determine if a benefit agency has deposited a benefit payment into the account during the lookback period.

(2) "Garnishment order" means a writ, order, notice, summons, judgment, levy, or similar written instruction issued by a court, a state or state agency, or a municipality or municipal corporation, including an order to freeze the assets in an account, to effect a garnishment against a debtor.

(3) "Lookback period" means the two-month period that begins on the date preceding the date of account review and ends on the corresponding date of the month two months earlier or on the last date of the month two months earlier if the corresponding date does not exist.

8165. This chapter shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 7. (a) For purposes of complying with Section 41 of the Revenue and Taxation Code, the Legislature finds and declares as follows:

(1) The goal, purpose, or objective of the tax expenditure created by Section 17131.12 of the Revenue and Taxation Code, as added by Section 2 of this act, is to maximize the benefit to California residents and families from the Better for Families Tax Refund program authorized by Section 6 of this act.

(2) The performance indicators for the Legislature to use in determining if the tax expenditure achieves its goal are whether the Better for Families Tax Refund payments helped families meet the demands of higher costs and inflation.

(b) (1) The Legislative Analyst's Office shall, no later than April 1, 2024, produce a report on the extent to which the Better for Families Tax Refund payments achieved the goal stated in subdivision (a).

(2) The report required by paragraph (1) shall be submitted to the Legislature in compliance with Section 9795 of the Government Code.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 9. The Legislature finds and declares that proceeds of taxes included in the calculation of the state appropriations limit under Article XIII B of the California Constitution includes, but is not limited to, certain motor vehicle fuel and diesel fuel taxes, personal income taxes, sales and use taxes, bank and corporation taxes, insurance taxes, alcohol taxes, and certain cigarette taxes. It is the intent of the Legislature that the refunds provided for in this act constitute a refund of these taxes, excluded from appropriations subject to limitation, as defined in subdivision (a) of Section 8 of Article XIII B of the California Constitution.

SEC. 10. Increased costs for goods, including gas, due to inflation, supply chain disruptions, the effects of the COVID-19 emergency, and other economic pressures have had a significant negative impact on the financial health of many Californians. The Legislature hereby finds and declares that the payments authorized by Chapter 4.9 (commencing with Section 8160) of Division 8 of the Welfare and Institutions Code, as added by this act, serve the public purpose of providing financial relief for Californians who may have been adversely impacted by these economic disruptions and do not constitute gifts of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 11. This act provides for appropriations from the General Fund for purposes of refunding state tax liability incurred by Californians during the 2021–22 fiscal year, and pursuant to subdivision (a) of Section 8 of Article XIII B of the California Constitution are not subject to the annual appropriations limit set by Section 1 of Article XIII B of the California Constitution.

SEC. 12. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.