COMMITTEE MEMBERS
JIM NIELSEN, VICE CHAIR
JIM BEALL
MARIA ELENA DURAZO
MELISSA HURTADO
BRIAN W. JONES
CONNIE M. LEYVA
MIKE MCGUIRE
WILLIAM W. MONNING
JOHN M.W. MOORLACH
MIKE MORRELL
DR. RICHARD PAN
RICHARD D. ROTH
NANCY SKINNER
HENRY STERN
JEFF STONE
THOMAS J. UMBERG
BOB WIECKOWSKI

CALIFORNIA STATE SENATE

COMMITTEE ON BUDGET AND FISCAL REVIEW

STATE CAPITOL – ROOM 5019
SACRAMENTO, CA 95814

Holly J. Mitchell, Chair

STAFF DIRECTOR
JOE STEPHENSHAW

DEPUTY STAFF DIRECTOR
ELISA WYNNE

CONSULTANTS
CHRISTOPHER FRANCIS
JAMES HACKER
ANITA LEE
SCOTT OGUS
RENITA POLK
JOANNE ROY
YONG SALAS

COMMITTEE SECRETARY
SANDY PEREZ

COMMITTEE ASSISTANT
SAMUEL LANCHESTER

(916) 651-4103
FAX (916) 668-7004

Agenda

June 17, 2019

1:30 p.m. – State Capitol Room 4203

BILL	**AUTHOR**	**SUBJECT**
A.B. 91	Burke	Income taxation: Loophole Closure and Small Business and Working Families Tax Relief Act of 2019

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Senator Holly Mitchell, Chair
2019 - 2020 Regular

Bill No:	AB 91	**Hearing Date:**	June 17, 2019
Author:	Burke		
Version:	June 14, 2019 As Amended		
Urgency:	Yes	**Fiscal:**	Yes
Consultant:	Joe Stephenshaw		

Subject: The Loophole Closure and Small Business and Working Families Tax Relief Act of 2019

Summary: This bill is the Loophole Closure and Small Business and Working Families Tax Relief Act of 2019.

Background: In SB 80 (Committee on Budget and Fiscal Review), Chapter 21, Statutes of 2015, the Legislature created the California Earned Income Tax Credit (EITC), a state refundable tax credit for wage income that is intended to benefit very low-income households. Specifically, the program builds off the federal EITC and established a refundable credit for tax years beginning on or after January 1, 2015. The credit is applied to personal income tax liabilities associated with earned wage income. The program provides for a credit amount during a phase-in range of earned wage income according to specified percentages based on the number of qualifying children.

SB 106 (Committee on Budget and Fiscal Review), Chapter 96, Statutes of 2017, expanded the EITC to allow previously ineligible self-employed workers to qualify for the state EITC, and raised the credit's income eligibility limits so that workers higher up the income scale would qualify.

SB 855 (Committee on Budget and Fiscal Review), Chapter 52, Statute of 2018, expanded the EITC to working individuals who are aged 18 to 24 or over age 65. Additionally, SB 855, expanded the qualifying income range for the EITC so that employees who have one or more dependents, and who are working up to full-time at the 2019 minimum wage of $12 per hour, would qualify for the credit.

California law does not automatically conform to changes to federal tax law, except for specific retirement provisions. Instead, the Legislature must affirmatively conform to federal changes. Conformity legislation is introduced either as individual bills to conform to specific federal tax changes, like the Regulated Investment Company Modernization Act (AB 1423, Perea, 2011), or as one omnibus bill that provides that state law conforms to federal law as of a specified date, currently January 1, 2015 (AB 154, Ting, 2015). On December 22, 2017, President Trump signed HR 1, also known as the Tax Cuts and Jobs Act (TCJA), which made significant changes to federal tax law. California has not conformed to any changes enacted by HR 1. The Governor's Budget proposed conforming to some of these provisions, as well as two other tax law changes that will reduce gaming in the tax system.

Proposed Law: Specifically, this bill:

1. **Earned Income Tax Credit (EITC).** Makes changes to significantly expand the EITC by:

    a. Raising the annual income recomputation floor from 3.1 percent to 3.5 percent.
    b. Revising the calculation factors to increase the credit amount for certain taxpayers.
    c. Raising the maximum income to $30,000.
    d. Providing a refundable young child tax credit not to exceed $1,000 per each qualified taxpayer per taxable year.

2. **Achieving a Better Life Experience (ABLE) Accounts.** Eliminates differences in qualification criteria for ABLE accounts between federal and California tax law to increase contribution limits to up to the federal poverty level and allow taxpayers to roll-over Section 529 plans to ABLE accounts.

3. **Student Loan Debt.** Excludes from an individual's gross income the amount of student loan indebtedness discharged on or after December 31, 2017, due to death or disability of the student, as provided.

4. **Federal Deposit Insurance Corporation (FDIC) Premiums**. Limits the amount banks may deduct for FDIC premiums paid by disallowing deductions entirely for depository banks with assets above $50 billion, and limits them for banks with assets between $10 and $50 billion.

5. **Excess Employee Compensation.** With respect to compensation in excess of $1 million, revises the definition of covered employee and publicly held corporation to limit the amount that may be deducted for ordinary and necessary expenses. Additionally, disallows the performance-based compensation and commission exceptions with respect to the deduction limitation relating to covered employees.

6. **Net Operating Loss (NOL) Carrybacks**. Repeals the ability for taxpayers to carry back NOLs to previous taxable years.

7. **Small Business Accounting.** Increases the following thresholds 1) from $5 million to $25 million the amount of average annual gross receipts of a small business to be allowed to use the cash method of accounting; 2) from $5 million to $25 million the amount of average annual gross receipts of a farming corporation that is exempt from using the accrual method of accounting; 3) from $10 million to $25 million the amount of average annual gross receipts of a taxpayer exempt from provisions precluding the deductibility of certain property costs and determining whether those costs are inventory costs or are capitalized; 4) exempts a small business with average annual gross receipts not exceeding $25 million from provisions that require a taxpayer to take inventories to clearly determine their income; and 5) exempts construction contracts entered into by a taxpayer with average annual gross receipts not exceeding $25 million from the requirement that taxable income from a long-term contract be determined by the

percentage of completion method. Allows a taxpayer to elect to have these changes apply to taxable years beginning in 2018.

8. **Non-Corporate Business Loss Limits.** Disallows deductions under the Personal Income Tax Law for excess business losses over $250,000 for a single filer and $500,000 for joint filers. Establishes these limits in perpetuity (the federal change expires in 2026), and also provides that losses cannot be carried forward as a NOL at an amount greater than the limits listed above (which they can under federal law).

9. **Technical Termination of a Partnership.** Repeals provisions that allow for the termination of a partnership by sale or exchange of 50 percent or more of the interest in a partnership within a 12-month period and allows a partnership to elect to have this change apply to partnership taxable years beginning in 2018.

10. **Like-Kind Exchange Rules.** Eliminates Like-Kind exchanges of personal property, limiting these exchanges only to real property, except for personal income taxpayers with less than $250,000 for a single file and $500,000 for a joint filer.

11. **Section 338 Election.** Provides that if an election to treat a qualified stock purchase from a target corporation as an asset acquisition is made by a purchasing corporation for federal tax purposes, a separate state election shall not be allowed.

Fiscal Effect: The provisions included in this bill have an estimated net General Fund revenue impact in the 2019-20 fiscal year of $1 billion and $680 million in 2020-21. In addition, the revenue generated by this bill is estimated to provide an additional $1 billion total to schools through an increased Proposition 98 minimum funding level from the 2019-20 fiscal year through the 2022-23 fiscal year.

Support: None on file.

Opposed: None on file.

-- END --