

LEGISLATIVE PROPOSAL EXECUTIVE SUMMARY

Title

Federal Direct File Notification

Problem

Due to recent federal changes, the IRS's Direct File program is now a permanent filing option beginning with the 2025 tax filing season. Because the Direct File program is new, the state's current requirement that employers notify employees about certain tax credits and programs they may be eligible for does not address the availability of the federal program. Absent updating the notice requirement to include Direct File, taxpayers may not learn about the availability of the new free filing program, which may also result in less referrals to the state's free filing option, CalFile.

Proposed Solution

To require employers to notify their employees about the IRS's Direct File program.

Major Concerns/Issues

No considerations identified.

Fiscal Impact

No Impact.

Economic Impact

No impact.

Title

Federal Direct File Notification

Introduction

This proposal would require employers to notify their employees about the Internal Revenue Service's (IRS), Direct File program.

Problem

Due to recent federal changes, the IRS's Direct File program is now a permanent filing option beginning with the 2025 tax filing season. Because the Direct File program is new, the state's current requirement that employers notify employees about certain tax credits and programs they may be eligible for does not address the availability of the federal program. Absent updating the notice requirement to include Direct File, taxpayers may not learn about the availability of the new free filing program, which may also result in less referrals to the state's free filing option, CalFile.

Proposed Solution

To require employers to notify their employees about the IRS's Direct File program.

Program History/Background

CalFile is the state's free, online program for taxpayers to complete and e-file their personal income tax returns directly with California. Currently, about 100,000 returns are filed using this free filing option. In 2024, the IRS rolled out a federal pilot program called Direct File, which allowed taxpayers to file their 2023 federal tax return online, for free, and directly with the IRS. California partnered with the IRS during the pilot year, which allowed the Direct File tool to refer California taxpayers to the state's stand-alone electronic tax return filing system, CalFile, to file their California tax return. During the pilot program, Direct File had 44,000 California residents leverage the tool and file a federal return directly with the IRS. The IRS will make the Direct File program permanent starting with the 2025 tax filing season.

California law, pursuant to Revenue and Taxation Code (RTC) section 19853, initially required employers to notify their employees about the federal Earned Income Tax Credit (EITC) program. In 2016, the notice requirement was expanded to include the California Earned Income Tax Credit (CalEITC). In 2023, the notice requirement again expanded to include notification about the following items: Voluntary Income Tax Assistance (VITA); specified state and federal antipoverty tax credits; and CalFile.

Current Federal Law

Federal law requires employers to notify their employees that they may be eligible for the EITC. The IRS publishes Notice 797 which contains information about the EITC. Employers may provide Notice 797 to their employees about a possible EITC refund.

Current State Law

The Earned Income Tax Credit Information Act requires California employers to notify their employees, and certain state departments and agencies to notify their public assistance program recipients, of possible eligibility for VITA, CalFile, and state and federal antipoverty tax credits, including the federal EITC and CalEITC (RTC section 19853).

Employers are required to mail or hand the notification directly to the employee within one week before or after, or at the same time as, the employer provides an annual wage summary (Form W-2 or Form 1099) to the employee. The employer is required to send a second notification to all employees during the month of March. This notice may be sent electronically.

State departments and agencies that serve individuals who may qualify for VITA or state and federal antipoverty tax credits are required to notify their program recipients that they may be eligible for VITA, CalFile, and state and federal antipoverty tax credits at least once per year during the months of January through March, or, alternatively during a regularly scheduled contact with a recipient by telephone, mail, or electronic communication, or by an in-person communication.

Effective/Operative Date of Solution

If enacted in the 2025 legislative session, this proposal would apply to notices furnished on or after January 1, 2026.

Justification

Currently, CalFile is a free, direct online program that allows taxpayers to e-file their California personal income tax returns with the Franchise Tax Board (FTB). Taxpayers rely on information from their federal tax return to prepare their California tax return. Informing taxpayers about Direct File, a free federal tax filing option that would refer the taxpayer to California's CalFile program, is a comprehensive approach that would likely result in increased program participation.

This proposal would notify taxpayers about Direct File and could reduce the need to for taxpayers to pay for tax preparation assistance.

Implementation

There are no department implementation concerns.

Fiscal Impact

The proposed legislation would not impact the department's costs.

Economic Impact

The proposed legislation would not impact state income or franchise tax revenue.

Policy Considerations

This proposal would inform taxpayers of a free federal tax filing option.

Other Agency/Industry Impacted

Implementing this proposal would require changes to employer forms and instructions. As a result, all employers in California, including the State Controller's Office, would be impacted.

Other States

None noted.

Potential Compromises

None identified.

Additional Comments

None identified.

Legislative Contact

FTBLegislativeServices@ftb.ca.gov

Proposed Amendments
LP: Federal Direct File Notification

Amendment 1

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 their employees, under the Unemployment Insurance Code.

(b) “Employee” means any person who is covered by unemployment insurance by their 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.

(e) “State departments and agencies that serve those who may qualify for Voluntary Income Tax Assistance or state and federal antipoverty tax credits, including the federal and the California EITC” means the following departments and agencies:

(1) The State Department of Education with respect to information from the free or reduced-price meal program and National School Lunch Program.

(2) The Employment Development Department with respect to information from the California Unemployment Insurance program.

(3) The State Department of Health Care Services with respect to information from the Medi-Cal program.

(4) The State Department of Social Services with respect to information from the CalFresh and CalWORKS programs.

(f) “State and federal antipoverty tax credits” means state and federal tax credits that are designed to alleviate poverty and tax burdens for low-income households.

(g) “Voluntary Income Tax Assistance” or “(VITA)” means the free basic income tax return preparation program, for federal and state personal income tax returns, managed by the Internal Revenue Service and operated by Internal Revenue Service partners and trained volunteers.

(h) “CalFile” means the Franchise Tax Board’s free, direct, online program for taxpayers to complete and *electronically file* ~~e-file~~ their state personal income tax returns.

(i) “Direct File” means the Internal Revenue Service’s free online tax tool, for taxpayers to complete and electronically file their federal taxes directly with the Internal Revenue Service.

~~(j)~~ The amendments made to this section by Section 2 of Chapter 294 of the Statutes of 2016 shall apply to notices required pursuant to Section 19853 furnished on or after January 1, 2017.

~~(k)~~ The amendments made to this section by *Section 9 of Chapter 55 of the Statutes of 2023* ~~the act adding this subdivision~~ shall apply to notices required pursuant to Section 19853 furnished on or after January 1, 2024.

(l) 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 January 1, 2026.

Amendment 2 (RTC section 19853, as amended by Stats. 2023, Ch. 277, Sec. 1, is operative until January 1, 2029)

19853. (a) (1) An employer shall notify all employees that they may be eligible for VITA, CalFile, *Direct File*, and state and federal antipoverty tax credits, including 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.

(2) An employer shall send a second notification to all employees during the month of March of the same year in which the employer notified employees pursuant to paragraph (1).

(b) (1) The state departments and agencies that serve those who may qualify for VITA or state and federal antipoverty tax credits, including 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 VITA, CalFile, and state and federal antipoverty tax credits, including the federal and the California EITC, at least once per year during the months of January through March, or, alternatively, shall provide ~~both notifications~~ *this annual notification* during a regularly scheduled contact with a recipient by telephone, mail, or electronic communication, or by an in-person communication.

(2) State departments or agencies that serve those who may qualify for VITA or state and federal antipoverty tax credits, including the federal and the California EITC, as defined in subdivision (e) of Section 19852, and that do not directly communicate with persons or households with persons who may qualify for VITA, CalFile, and state and federal antipoverty tax credits, including the federal and the California EITC, may communicate indirectly through agencies, districts, or regulated entities that serve eligible persons or households with eligible persons.

(3) State departments or agencies that serve those who may qualify for VITA or state and federal antipoverty tax credits, including the federal EITC and the California EITC, as defined in subdivision (e) of Section 19852, are encouraged to develop the most effective method to provide notice to recipients of eligibility for VITA, CalFile, and state and federal antipoverty tax credits, including the federal and the California EITC, as long as the notice contains substantially the same language as the notice described in Section 19854.

(c) (1) The employer shall provide the notifications required by subdivision (a) by handing them directly to the employee or mailing them to the employee's last known address.

(2) Any notice created by the employer shall include substantially the same language as the notice described in Section 19854.

(3) The notification required by paragraph (2) of subdivision (a) may be sent electronically.

(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 VITA, CalFile, *Direct File*, and state and federal antipoverty tax credit eligibility, including the federal and the California EITC.

(e) (1) Notwithstanding subdivisions (c) and (d), the employer may provide the notification required by paragraph (1) of subdivision (a) via email to an email account of the employee's choosing in PDF, JPEG, or other digital image file type format, if an employee affirmatively, and in writing or by electronic acknowledgment, opts into receipt of electronic statements or materials.

(2) An employer may not discharge an employee or in any manner discriminate, retaliate, or take any adverse action against an employee who does not affirmatively, in writing or by electronic acknowledgment, opt into receipt of electronic statements or materials.

(f) The amendments made to this section by Section 3 of Chapter 294 of the Statutes of 2016 shall apply to notices furnished on or after January 1, 2017.

(g) The amendments made to this section by Section 10 of Chapter 55 of the Statutes of 2023 shall apply to notices furnished on or after January 1, 2024.

(h) The amendments made to this section by [Section 1 of Chapter 277 of the Statutes of 2023](#) ~~the act adding this subdivision~~ shall apply to notices furnished on or after January 1, 2024.

[\(i\) The amendments made to this section by the act adding this subdivision shall apply to notices furnished on or after January 1, 2026.](#)

~~(j)(+)~~ This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

Amendment 3 (RTC section 19853, as added by Stats. 2023, Ch. 277, Sec. 2, is operative beginning January 1, 2029)

19853. (a) (1) An employer shall notify all employees that they may be eligible for VITA, CalFile, [Direct File](#), and state and federal antipoverty tax credits, including 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.

(2) An employer shall send a second notification to all employees during the month of March of the same year in which the employer notified employees pursuant to paragraph (1).

(b) (1) The state departments and agencies that serve those who may qualify for VITA or state and federal antipoverty tax credits, including 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 VITA, CalFile, and state and federal antipoverty tax credits, including the federal and the California EITC, at least once per year during the months of January through March, or, alternatively, shall provide ~~both notifications~~ [this annual notification](#) during a regularly scheduled contact with a recipient by telephone, mail, or electronic communication, or by an in-person communication.

(2) State departments or agencies that serve those who may qualify for VITA or state and federal antipoverty tax credits, including the federal and the California EITC, as defined in subdivision (e) of Section 19852, and that do not directly communicate with persons or households with persons who may qualify for VITA, CalFile, and state and federal antipoverty tax credits, including the federal and the California EITC, may communicate indirectly through agencies, districts, or regulated entities that serve eligible persons or households with eligible persons.

(3) State departments or agencies that serve those who may qualify for VITA or state and federal antipoverty tax credits, including the federal EITC and the California EITC, as defined in subdivision (e) of Section 19852, are encouraged to develop the most effective method to provide notice to recipients of eligibility for VITA, CalFile, and state and federal antipoverty tax credits, including the federal and the California EITC, as long as the notice contains substantially the same language as the notice described in Section 19854.

(c) (1) The employer shall provide the notifications required by subdivision (a) by handing them directly to the employee or mailing them to the employee's last known address.

(2) Any notice created by the employer shall include substantially the same language as the notice described in Section 19854.

(3) The notification required by paragraph (2) of subdivision (a) may be sent electronically.

(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 VITA, CalFile, *Direct File*, and state and federal antipoverty tax credit eligibility, including the federal and the California EITC.

~~(e) The amendments made to this section by Section 3 of Chapter 294 of the Statutes of 2016 shall apply to notices furnished on or after January 1, 2017.~~

~~(f) The amendments made to this section by Section 10 of Chapter 55 of the Statutes of 2023 shall apply to notices furnished on or after January 1, 2024.~~

(eg) This section shall become operative on January 1, 2029.

Amendment 4

19854. (a) The notice required under Section 19853 to be furnished to employees and public assistance program recipients regarding the availability of the federal and the California EITC shall state substantially as follows:

Based on your annual earning, you may be eligible for the following assistance:

Voluntary Income Tax Assistance (VITA) Program – VITA is a free basic income tax return preparation program, for federal and state personal income tax returns, managed by the Internal Revenue Service and operated by Internal Revenue Service partners and trained volunteers.

Federal Earned Income Tax Credit (federal EITC) – The federal EITC is a refundable credit for low-income working individuals and families. The federal EITC will not impact certain public assistance benefits. In addition, federal EITC payments are typically NOT used to determine eligibility for the following:

- (A) Medicaid.
- (B) Supplemental Security Income.
- (C) Supplemental Nutrition Assistance Program.
- (D) Low-income housing.
- (E) Temporary Assistance for Needy Families payments.

To receive the federal EITC, you must file a federal tax return and fill out the EITC form, which can be found in the Federal Income Tax Return Booklet. For additional information on your eligibility to receive the federal EITC and other federal antipoverty tax credits, visit www.irs.gov.

California Earned Income Tax Credit (California EITC) and Young Child Tax Credit (YCTC) – The California EITC and YCTC are refundable credits for low-income working individuals and families. The California EITC and YCTC are similar to the federal EITC and will not impact certain public assistance benefits.

Foster Youth Tax Credit (FYTC) – The FYTC is a refundable credit for former and current foster youth between 18 and 25 years of age who were in foster care while 13 years of age or older. The FYTC will not impact certain public assistance benefits.

To claim the California EITC, you must file a California Income Tax Return and fill out the California EITC form (Form FTB 3514) and attach it to your tax return. For additional information on the availability of the credit, including eligibility requirements, or form questions, visit www.ftb.ca.gov and enter “CalEITC” in the search box.

You may also be eligible to have both your federal and state tax returns prepared and filed for free using VITA services. For additional information on the free tax filing service, and location and hours of operation, visit www.ftb.ca.gov and enter “VITA” in the search box.

Additionally, you may be eligible to use Direct File, the Internal Revenue Service’s (IRS) free online tax tool, which would allow you to file your federal income tax return directly with the IRS. For additional information on Direct File, visit www.irs.gov and enter “Direct File” in the search box.

~~Additionally,~~ *You may also* be eligible to e-file your California return directly with the Franchise Tax Board for free using CalFile. For additional information on CalFile, visit www.ftb.ca.gov and enter “CalFile” in the search box.

(b) The amendments made to this section by Chapter 294 of the Statutes of 2016 apply to notices furnished on or after January 1, 2017.

(c) The amendments made to this section by *Section 11 of Chapter 55 of the Statutes of 2023* ~~the act adding this subdivision~~ shall apply to notices furnished on or after January 1, 2024.

(d) 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 January 1, 2026.