



June 04, 2021

FTB Notice – 2021 – 01

SUBJECT: PROCEDURES TO PROVIDE ALTERNATIVE IDENTIFYING INFORMATION FOR CERTAIN DEPENDENTS UNDER CALIFORNIA REVENUE AND TAXATION CODE SECTION 17054(d), RELATED TO CLAIMING DEPENDENT EXEMPTION CREDITS

PURPOSE:

This Notice prescribes the procedures for taxpayers to provide alternative identifying information for dependents, who are ineligible to receive a social security number ("SSN") and a federal individual taxpayer identification number ("ITIN"), to claim Dependent Exemption Credits under California Revenue and Taxation Code ("RTC") section 17054(d).¹

BACKGROUND:

The ITIN is a tax processing number issued by the Internal Revenue Service ("IRS") to individuals who are required to have a U.S. taxpayer identification but who do not have, and are not eligible to obtain, an SSN. The ITIN is issued regardless of immigration status because both resident and nonresident aliens may have a federal filing or reporting requirement under the IRC. The IRS requires ITIN applicants to show a federal tax purpose for seeking the ITIN. (IRC section 6109(i).)²

The ITIN is also used to serve a state tax purpose because taxpayers who have a California tax return filing requirement are required to provide either their SSN or ITIN to file their state tax return. (RTC section 18624.) Taxpayers were also required to provide a dependent's SSN or ITIN to claim certain credits in California like the Dependent Exemption Credit prior to the passage of Assembly Bill 2247. (RTC section 17054(d)(2)(A).)

Effective for taxable years 2018 through 2025, the Tax Cuts and Jobs Act ("TCJA") changed the federal dependent exemption deduction amounts to \$0, effectively eliminating the deduction at the federal level. (Pub.L. No. 115-97 (Dec. 22, 2017); IRC section 151(d)(5).) This federal law change has impacted taxpayers claiming dependents who reside in Canada and Mexico because without the federal dependent exemption deduction, the IRS has

¹ "Dependents" in this Notice refers to those who are a "dependent" as defined under Internal Revenue Code ("IRC") section 152. (RTC section 17056.)

² See <https://www.irs.gov/individuals/international-taxpayers/individual-taxpayer-identification-number-itin-reminders-for-tax-professionals>

determined that there is no longer a federal tax purpose to issue an ITIN for these dependents.³ However, ITINs are still issued for dependents who may be claimed for other credits and benefits.

As of the date of this Notice, California has not conformed to the section of the TCJA that reduced the dependent exemption deduction, and California continues to allow Dependent Exemption Credits to personal income taxpayers with dependents, including dependents residing in Mexico or Canada. (RTC sections 17024.5(a)(1)(P), 17054(d)(1); IRC section 152(b)(3).) Without an ITIN, dependents residing in Mexico and Canada were barred from being claimed as dependents for the Dependent Exemption Credits in California because California law required a dependent's SSN or ITIN be reported on the return in order to be eligible for the exemption credit. (Former RTC section 17054(d)(2)(A), as amended (Stats 2014 ch. 478, section 2 (AB 2754); IRC section 6109.)⁴

For taxable years beginning on or after January 1, 2018, Assembly Bill 2247 (2019-2020 Reg. Sess.) amended RTC section 17054(d)(2)(A) to allow taxpayers to provide alternative identification information for dependents in order to claim Dependent Exemption Credits if the dependent is not eligible for an SSN and is also not eligible for an ITIN. The bill authorized the Franchise Tax Board to determine the form and manner of the alternative identifying information. (RTC section 17054(d)(2)(A)(ii)(II).)

PROCEDURES:

The procedures prescribed in this Notice are applicable to dependents who are not eligible to receive an SSN and are also not eligible for an ITIN. (RTC section 17054(d)(2)(A)(ii)(II).) As of the date of this Notice, foreign dependents residing in Mexico or Canada are not eligible to receive an SSN and will not be issued an ITIN by the IRS.⁵ Therefore, for taxable years beginning on or after January 1, 2018, taxpayers claiming the Dependent Exemption Credit on their California tax return for foreign dependents who reside in Mexico or Canada may use the alternative identifying information procedures provided in this Notice. The alternative identifying information procedures in this Notice are to be used only for the Dependent Exemption Credit and cannot be used for any other credits, such as the

³ ITINs were no longer being issued for these dependents because the only federal tax purpose for needing the ITIN was to claim the federal dependent exemption deduction and that deduction was reduced to \$0. Dependents residing in Canada and Mexico are eligible to receive the federal dependent exemption deduction and California Dependent Exemption Credit because they pass the Citizenship Test, which is one of the tests to be claimed as a dependent under IRC section 152. The Citizenship Test requires a dependent to be (1) a citizen or national of the United States, (2) a resident of the United States, or (3) resident of a country contiguous to the United States (Mexico or Canada). (IRC section 152(b)(3)(A).)

⁴ Before being amended by AB 2247 (2019-2020 Regular Session), RTC section 17054(d)(2)(A) provided that a Dependent Exemption Credit will not be allowed unless an identification number, as defined by IRC section 6109, of the individual is included on the return claiming the credit.

⁵ For the purpose of this Notice, "foreign dependents" means dependents who are not citizens of the United States, lawful permanent residents of the United States, or residents of the United States and its territories.

California Earned Income Tax Credit or Young Child Tax Credit. These procedures are valid only to claim the Dependent Exemption Credit in California. Taxpayers will be denied Dependent Exemption Credits if the dependent does not meet the requirements set forth in IRC section 152. (RTC section 17056; IRC section 152.)

To provide alternative identifying information for an eligible dependent under RTC section 17054(d)(2)(A)(ii)(II) to claim the Dependent Exemption Credit, taxpayers must follow the below procedures for each taxable year and for each foreign dependent residing in Mexico or Canada:

- (1) Complete and attach form FTB 3568, *Alternative Identifying Information for the Dependent Exemption Credit*, for each foreign dependent with the taxpayer's completed California personal income tax return. The taxpayer will need to include supporting documentation for each foreign dependent, such as a copy of each dependent's passport or national identification card. The taxpayer is also required to sign the form under penalty of perjury;⁶
- (2) Write "no id", in black or blue ink, in the SSN field for each foreign dependent on the California income tax return.

To amend a return to claim a Dependent Exemption Credit for foreign dependents residing in Mexico or Canada using alternative identification information for a prior taxable year beginning after December 31, 2017 and within the statute of limitations, taxpayers must follow these procedures for each dependent:

- (1) Complete and attach form FTB 3568, *Alternative Identifying Information for the Dependent Exemption Credit*, for each foreign dependent with the taxpayer's completed amended California personal income tax return. The taxpayer will need to include supporting documentation for each foreign dependent, such as a copy of each dependent's passport or national identification card. The taxpayer is also required to sign the form under penalty of perjury;
- (2) Write "no id", in black or blue ink, in the SSN field for each foreign dependent on the amended California income tax return;
- (3) Attach a completed Schedule X, *California Explanation of Amended Return Changes*, to the amended California income tax return. In the Schedule X, check the box for "Other" and write "Claim Dependent Exemption Credit with no id and form FTB 3568 is attached" in the space provided for the explanation.

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⁶ A copy of this form in English and Spanish may be found at ftb.ca.gov/forms by searching "3568".

Taxpayers should file the forms listed above following the instructions on the applicable California personal income tax return or amended California personal income tax return.⁷ The following are examples of the application of the above procedures for illustrative purposes.

Example One: It is January 1, 2021. Taxpayer "Z" has been a full-year resident in California during the 2020 year and has two foreign dependents who have been residing in Mexico. Z wants to claim Dependent Exemption Credits for the two dependents on a California income tax return for the 2020 taxable year, but the dependents are ineligible to receive ITINs from the IRS and are also ineligible to receive SSNs.

Applying Procedures to Example One: Z will complete a form FTB 3568 and include supporting documentation, such as a copy of the passport issued by Mexico, for each foreign dependent. Z will write "no id" on the SSN field for each dependent on Z's Form 540, *California Resident Income Tax Return*, for the 2020 taxable year. Z will attach a completed form FTB 3568 for each dependent and supporting documentations to the tax return. Z will file the Form 540 with the attachments.⁸

Example Two: Same facts as Example One. In addition, Z could not claim Dependent Exemption Credits for the two foreign dependents on a California income tax return for the 2018 and 2019 taxable years because they were ineligible to receive ITINs and were also ineligible to receive SSNs, and Z previously filed a California return without claiming the two dependents. Z wants to amend the returns to claim Dependent Exemption Credits for the two dependents for the prior taxable years.

Applying Procedures to Example Two: Z will complete a form FTB 3568 and include supporting documentation, such as a copy of the dependents' passports issued by Mexico, for each dependent. Z will write "no id" on the SSN field for each dependent on an amended form FTB 540, *California Resident Income Tax Return*, for the 2018 taxable year and the 2019 taxable year. Z will complete Schedule X by following the procedures provided in this Notice. Z will attach a completed form FTB 3568 for each dependent, supporting documentation and a completed Schedule X to each amended tax return. Z will file the amended Form 540 returns with the attachments.

DRAFTING INFORMATION:

The principal author of this notice is Gi Jung Nam of the Franchise Tax Board, Legal Division. For further information regarding this ruling, contact Mr. Nam at the Franchise Tax Board, Legal Division, P.O. Box 1720, Rancho Cordova, California 95741-1720.

⁷ Information about the ways to file a California personal income tax return is available at <https://www.ftb.ca.gov/file/ways-to-file/index.html>. Information about filing an amended California personal income tax return is available at <https://www.ftb.ca.gov/file/after-you-file/amend-a-return/index.html>.

⁸ If Z is filing a tax return electronically, the tax software may have an option for Z to upload the forms and supporting documents as attachments. Z will upload the forms and supporting documents if the option is available. If the tax software does not have that option, Z must file the tax return by mailing with the attachments.