

SENATE BILL REPORT

ESHB 1297

As of March 26, 2021

Title: An act relating to the working families tax exemption.

Brief Description: Concerning working families tax exemption.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Thai, Stokesbary, Ramel, Ryu, Robertson, Leavitt, Bateman, Fitzgibbon, Shewmake, Chapman, Johnson, J., Senn, Frame, Riccelli, Chopp, Wylie, Wicks, Simmons, Boehnke, Berry, Davis, Tharinger, Walsh, Eslick, Goodman, Peterson, Santos, Valdez, Cody, Chambers, Kloba, Ramos, Kirby, Bronoske, Gregerson, Macri, Callan, Paul, Sells, Bergquist, Ormsby, Pollet, Slatter, Stonier, Taylor and Harris-Talley).

Brief History: Passed House: 3/9/21, 94-2.

Committee Activity: Human Services, Reentry & Rehabilitation: 3/16/21, 3/18/21 [DP-WM].

Ways & Means: 3/30/21.

Brief Summary of Bill

- Expands the Working Families' Tax Exemption (WFTE) to include those with individual taxpayer identification numbers who would otherwise be eligible for the federal earned income tax credit.
- Restructures the WFTE program, including remittance calculations.
- Eliminates the requirement that the Legislature provide an appropriation in the state omnibus appropriations act before a person may claim the WFTE.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Gildon, Ranking Member;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Dozier, McCune, Saldaña and Wilson, C.

Staff: Alison Mendiola (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

Background: Earned Income Tax Credit. The earned income tax credit (EITC) is a federal refundable tax credit for individuals with low to moderate income. Qualified individuals receive a credit on their federal tax return. The size of an individual's benefit from the EITC depends on the recipient's income, marital status, and number of children. The credit amount is a fixed percentage of earnings that increases with each dollar earned until it reaches a maximum level and then begins to phase out at higher income levels. The EITC is refundable, meaning it can exceed an individual's income tax liability.

To be eligible for the EITC, an individual must have at least one qualifying child or be between the ages of 25 to 64 with no qualifying children. Claimants must be either a United States citizen or a resident alien and have a valid social security number. For the EITC, earned income includes wages, salaries, tips, and other employee compensation, plus net earnings from self-employment for the taxable year. A person is not eligible for the EITC if their aggregate amount of disqualified income such as interest, dividends, or capital gain income exceeds \$3,650 in the taxable year.

Earned Income Tax Credit—Maximum Income and Maximum EITC for Tax Year 2021

| Children or Relatives Claimed | Maximum AGI (filing as a single, head of household, or widowed) | Maximum AGI (filing as married filing jointly) | Maximum EITC Amounts (based on the number of qualifying children claimed) |
|-------------------------------|---|--|---|
| 0 | \$15,980 | \$21,920 | \$543 |
| 1 | \$42,158 | \$48,108 | \$3,618 |
| 2 | \$47,915 | \$53,865 | \$5,980 |
| 3+ | \$51,464 | \$57,414 | \$6,728 |

Working Families' Tax Exemption. In 2008, the Legislature enacted a state-level benefit program called the Working Families Tax Exemption (WFTE), based in part on the federal EITC program. The state exemption is modeled as a sales and use tax remittance program. To be eligible, a person must have paid Washington State and local sales and use taxes, received a federal EITC benefit, been a resident of Washington for more than 180 days for the year in which the exemption is claimed, and apply to the Department of Revenue (DOR) for the remittance. The program has never been fully funded or authorized in an enacted state operating budget. If it was implemented or funded, the remittance would be equal to the greater of 10 percent of the person's federal EITC credit, or \$50.

The WFTE is under the administrative purview of DOR, and must be approved in the state operating budget before any exemption benefits may be paid.

Individual Taxpayer Identification Number. An individual taxpayer identification number (ITIN) is a tax processing number issued by the Internal Revenue Service (IRS). The IRS issues ITINs to individuals who are required to have a United States taxpayer identification number but who do not have, and are not eligible to obtain, a social security number from the Social Security Administration. ITINs are issued regardless of immigration status, because both resident and nonresident aliens may have a United States filing or reporting requirement under the Internal Revenue Code. ITINs do not serve any purpose other than for federal tax reporting. People in one of the following categories are required to obtain an ITIN:

- nonresident aliens who are required to file a United States tax return;
- United States resident aliens who are, based on days present in the United States, filing a United States tax return;
- dependents or spouses of United States citizens/resident aliens or nonresident alien visa holders;
- nonresident aliens claiming a tax treaty benefit; and
- nonresident alien students, professors or researchers filing a United States tax return or claiming an exception.

Tax Preferences. State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a tax preference performance statement that identifies the public policy objective of the preference, as well as specific metrics the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided.

Summary of Bill: Working Families' Tax Exemption. A WFTE, in the form of a remittance, is provided to eligible low-income persons for sales and use tax paid after January 1, 2022. Eligible low-income person is expanded to include an individual who would otherwise qualify for the EITC except for the fact the individual filed a federal tax return in the prior year using a valid ITIN in lieu of a social security number, or the individual has a spouse or dependent without a social security number.

For 2023 and thereafter, the working families' tax remittance amount for the prior year is:

- \$500 for eligible persons with no qualifying children;
- \$650 for eligible persons with one qualifying child;
- \$800 for eligible persons with two qualifying children; or
- \$950 for eligible persons with three or more qualifying children.

The remittance amounts are reduced as follows:

- for an eligible person with no qualifying children, beginning at \$2,500 of income tax below the federal phase-out income for the prior federal tax year, by 18 percent per additional dollar of income until the minimum credit amount of \$50;
- for an eligible person with one qualifying child, beginning at \$5,000 of income below the federal phase-out income for the prior federal tax year, by 12 percent per additional dollar of income until the minimum credit amount of \$50;
- for an eligible person with two qualifying children, beginning at \$5,000 of income below the federal phase out income for the prior federal tax year, by 15 percent per additional dollar of income until the minimum credit amount of \$50; and
- for an eligible person with three or more qualifying children, beginning at \$5,000 of income below the federal phase out income for the prior federal tax year, 18 percent per additional dollar of income until the minimum credit amount of \$50.

The remittance amounts are to be adjusted for inflation every year beginning January 1, 2024, based on the change in the Consumer Price Index (CPI) during the previous calendar year. CPI means, for any calendar year, that year's average CPI for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the United States Department of Labor, Bureau of Labor Statistics.

A person may claim the WFTE without the Legislature providing an appropriation in the state omnibus appropriations act.

Department of Revenue Responsibilities. DOR must design and implement a public information campaign to inform potentially eligible persons that the WFTE exists and the exemption qualifications. DOR must work with the IRS to administer the exemption on an automatic basis as soon as is practicable. The receipt of any WFTE remittance cannot be used in eligibility determinations for any state income support programs, or in making public charge determinations. If it appears an individual received a remittance they were not entitled to, or a larger remittance than they were entitled to, DOR may assess the overpaid amount against the individual. DOR may assess against the individual's spouse if the remittance in question was based on both spouses filing a joint federal income tax return for the year for which the remittance was claimed.

If DOR finds by clear, cogent, and convincing evidence an individual knowingly submitted, caused to be submitted, or consented to the submission of, a fraudulent claim, DOR must assess a penalty of 50 percent of the overpaid amount, in addition to any other penalties that may apply. Interest as provided state law applies to assessments starting six months after the date DOR issued the assessment until the amount due is paid in full to DOR. If the amount is not paid in full by the due date, or DOR issues a warrant for the collection of amounts due, DOR may access applicable penalties. These penalties may not be due until six months after their assessment.

A remittance may be not provided before January 1, 2022. DOR must use the eligible person's most recent federal tax filing to process the remittance.

Tax Preference. The WFTE does not automatically expire in ten years and a performance statement by JLARC is not required.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Human Services, Reentry & Rehabilitation):

PRO: This program was created in 2008 but has never been implemented or funded. Our state tax structure is so regressive that the lowest income people owe more in taxes, so we should have a tax credit program. The program makes our tax system more fair and equitable. By reducing the strains on working families with a tax credit/cash assistance, more money will be spent on essential items like food and investing in car maintenance which would put more money back into the local economy. Between the challenges of being low-income and COVID, the tax credit would go really far in helping people, including students. The credit could help those who are experiencing domestic violence and fleeing. This could help them leave the situation, help with mental health care, and paying rent and utilities.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Representative My-Linh Thai, Prime Sponsor; Cynthia Stewart, League of Women Voters of Washington; Angee Pogolian, The Washington Bus; Azaan Brown, The Washington Bus; Amber Barcel, Washington State Coalition Against Domestic Violence; Cathy Hamel, SEIU 775 Caregiver; Shaun Scott, Statewide Poverty Action Network.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.