

ISSUE BRIEF

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Illegal Immigrants Should Not Receive Child Tax Credit Payouts

Curtis S. Dubay and Robert Rector

Included in the House of Representatives—passed budget reconciliation bill earlier this year was a provision that would halt payments to illegal immigrants through the refundable portion of the child tax credit.¹ This is a sensible reform.

Refundable Child Tax Credit Provides Cash Payments to Those Who Pay No Income Tax. The refundable child tax credit (also called the additional child tax credit) provides cash payments to low-income parents who pay no federal income tax. The refundable child credit is a means-tested welfare program that is similar to the more widely known earned-income tax credit (EITC).

The refundable credit is provided to families with children. The amount of the credit is capped at 15 percent of each additional dollar of earned income above \$3,000. Thus,

a family with \$13,000 in earned income would receive \$1,500 in cash aid from the program. The maximum value of the cash aid is \$1,000 per child in the family.

The refundable credit provides added cash benefits to many families receiving the EITC. For example, a family earning \$16,000 per year with two children would receive more than \$7,000 in combined cash payments from the refundable child credit and the EITC. These refundable payments, even though the IRS administers them through the tax code, are rightfully considered (for budgetary purposes) means-tested welfare outlays rather than reduced tax revenue.

The income tax code also provides a non-refundable child credit worth \$1,000 per child for married couples with incomes below specified income levels (\$110,000 for married couples and \$75,000 for single parents). This credit is used to reduce the amount of income tax a family owes. In the middle-income range, the value of the refundable child credit is phased down and gradually replaced by the non-refundable child credit, which is used to reduce income tax liability.

The combined value of the refundable and non-refundable credits cannot exceed \$1,000 per child.² For example, a family with two children

would be eligible for two \$1,000 credits. If the family owed \$1,700 in income tax before credits, it would receive \$1,700 in non-refundable credits (reducing its tax liability to zero) plus \$300 in refundable cash payments.

Illegal Immigrants Currently Able to Claim Child Tax Credit Refundable Payments. The reformed child tax credit in the House reconciliation bill responds to mounting evidence that illegal immigrants are claiming refundable payments through the credit. They can claim these payments because the current law authorizing the child tax credit does not require tax filers to include their Social Security numbers on their tax returns to prove that they are legal U.S. citizens or are authorized to work in the U.S. to qualify for the credit or its refundable portion.

The Social Security Administration issues Social Security numbers only to U.S. citizens, permanent residents, and eligible foreign nationals. Individuals who are not citizens can get Social Security numbers only if the Department of Homeland Security authorizes them to work in the U.S.

People who are not eligible for Social Security numbers earn

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The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

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income in the United States and therefore need to file tax returns with the IRS. This group includes foreign investors and individuals working without authorization in the U.S.—i.e., illegal immigrants.³

To allow these individuals to file their returns, the IRS issues them an Individual Taxpayer Identification Number (ITIN). ITINs are only for individuals who are required to have a taxpayer identification number for tax purposes but are not eligible for a Social Security number because they are not authorized to work in the U.S. The IRS issues ITINs *regardless of immigration status*.⁴

ITINs are necessary because foreign investors with U.S. holdings must pay U.S. taxes. These foreign investors are not the focus of the problem with the child tax credit. Investors who legitimately use their ITINs to file their taxes are unlikely to claim the credit.

The extensive and rapidly growing problem is that illegal immigrants who reside in the U.S. are able to acquire ITINs from the IRS and then use those identifiers to file tax returns on which they claim the child tax credit and its refundable payment. A study from the Treasury Inspector General for Tax Administration reports that the number of ITIN filers claiming

refundable payments nearly doubled between 2005 and 2008 from 796,000 to 1,526,276.⁵ The growth in ITIN filers claiming the credit tracks closely with changes in the credit that increased both the number of tax filers that can claim the refundable payments and the size of those payments.

House Bill Adds Social Security Number Requirement for Refundable Portion of Credit.

The House reconciliation bill would stop illegal immigrants from claiming the *refundable* portion of the child tax credit by requiring tax filers to include their Social Security numbers on their tax returns. Their ITINs would no longer be sufficient identification to qualify. The EITC, a credit similar to the child tax credit, already has such a requirement.⁶

The House bill does not apply the Social Security number requirement to the children claimed under the credit. Illegal immigrants could continue to use the child tax credit to offset their income tax liability if they continue to file tax returns.

The Joint Committee on Taxation (JCT) estimates that if Congress added the Social Security number requirement and thereby stopped child tax credit payments to illegal immigrants, the federal government would spend \$7.6 billion less over 10 years.⁷

The JCT estimate vastly understates the savings because it assumes that in 2013, the child tax credit will return to its status prior to the Bush tax cuts, when the credit's value was half what it is currently and its refundability was much less generous. If JCT took the more sensible approach that Congress is likely to extend the child tax credit's current value and refundability parameters, the estimated savings would be far higher.

Sensible Reform. The House bill's requirement that tax filers have a Social Security number to receive a payment through the child tax credit is a sensible and long-overdue reform. Illegal immigrants are in the U.S. wrongfully and are not authorized to work here. The government should not reward illegal immigration by providing illegal immigrants with cash welfare aid through the refundable child credit. The purpose of the refundable child tax credit is to help low-income working families that are legal citizens or authorized to work in the U.S.

—**Curtis S. Dubay** is a Senior Analyst in Tax Policy in the Thomas A. Roe Institute for Economic Policy Studies and **Robert Rector** is Senior Research Fellow in the Domestic Policy Studies Department at The Heritage Foundation.

1. Douglas W. Elmendorf, Director, Congressional Budget Office, letter to the Honorable David Dreier, May 9, 2012, <http://www.cbo.gov/sites/default/files/cbofiles/attachments/HouseRulesReconSequester.pdf> (accessed May 24, 2012).
2. Next year, if Taxmageddon strikes, the credit will fall to \$500 per eligible child. See Curtis S. Dubay, "Taxmageddon: Massive Tax Increase Coming in 2013," Heritage Foundation *Issue Brief* No. 3558, April 4, 2012, <http://www.heritage.org/research/reports/2012/04/taxmageddon-massive-tax-increase-coming-in-2013>.
3. U.S. Department of the Treasury, Inspector General for Tax Administration, "Recovery Act: Individuals Who Are Not Authorized to Work in the United States Were Paid \$4.2 Billion in Refundable Credits," July 7, 2011, p. 1, <http://www.treasury.gov/tigta/auditreports/2011reports/201141061fr.pdf> (accessed May 29, 2012).
4. *Ibid.*
5. *Ibid.*, p. 4.
6. Cornell University Law School, Legal Information Institute, "26 USC § 32—Earned Income," <http://www.law.cornell.edu/uscode/text/26/32> (accessed August 3, 2012).
7. U.S. Congress, Joint Committee on Taxation, *Description of the Budget Reconciliation Legislative Recommendations Relating to Social Security Number Requirements for the Refundable Portion of the Child Tax Credit*, April 17, 2012, <https://www.jct.gov/publications.html?func=startdown&id=4421> (accessed May 17, 2012).