

## Illegal Immigrants Receive Billions of Dollars More from the IRS than They Pay in

By Peter A. Schulkin

*Summary: The July 7, 2011, report of the Treasury Inspector General for Tax Administration provides summary data from IRS tax returns that show illegal immigrants collected far more in dollars from the IRS than they paid in federal income taxes for each year in the period of 2005-2010, the total six-year net benefit amounting to about \$7.3 billion.*

This *Memorandum* is a follow-up to the November, 2010, *Memorandum* “Child Tax Credits for Illegal Immigrants.”<sup>1</sup> It highlights new information contained in a report of the Treasury Inspector General for Tax Administration (TIGTA) dated July 7, 2011, entitled “Individuals Who Are Not Authorized to Work in the United States Were Paid \$4.2 Billion in Refundable Credits.”<sup>2</sup> The \$4.2 billion is entirely the product of the Additional Child Tax Credit (ACTC) for the 2010 tax processing year.

The ACTC is a bit of a misnomer since it does not have to do with multiple children but rather represents the refundable portion of the Child Tax Credit (CTC) when the CTC (worth up to \$1,000 per qualifying child) results in a negative total tax due. In short, filers for the ACTC have no federal income tax liability and the ACTC amount represents Treasury money that is distributed to them.

An illegal immigrant cannot qualify for a legitimate Social Security number to use to file income tax returns or for any other purpose. However, the IRS allows illegal immigrants to apply for a nine-digit Individual Taxpayer Identification Number (ITIN) to be used to file federal income tax returns, and all but a small minority of returns filed with ITINs are filed by illegal immigrants.<sup>3</sup>

Using Table 1, it can be seen that for the 2010 processing year more than three million returns were filed with ITINs. Of these, 2.3 million paid no federal income taxes and collected an aggregate of \$4 billion<sup>4</sup> from the Treasury in refundable tax credit money from the ACTC. Of those who did not file for the ACTC, most used the CTC to reduce or eliminate their tax liability and thereby recover all or part of any federal income tax money withheld by employers. Of all of the 2010 ITIN filers, fewer than one-quarter paid any federal income taxes, which amounted to about \$0.87 billion in total. Thus, on a net basis, ITIN filers gained \$3.13 billion (\$4.0 billion minus \$0.87 billion) from the IRS in the 2010 processing year. The sum of row 6 in Table 1 equals \$7.37 billion, which represents an approximation of the total net outflow of IRS funds to ITIN filers for the 2005-2010 processing years.

The July 7, 2011, TIGTA report echoes the message contained in the earlier March 31, 2009, TIGTA report in the statement: “Although the law prohibits aliens residing without authorization in the United States from receiving most Federal public benefits, an increasing number of these individuals are filing tax returns claiming the Additional Child Tax Credit (ACTC), a refundable tax credit intended for working families. The payment of

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Federal funds through this tax benefit appears to provide an additional incentive for aliens to enter, reside, and work in the United States without authorization, which contradicts Federal law and policy to remove such incentives.”<sup>5</sup>

Once again, the TIGTA observed that IRS management’s view is that existing law does not provide enough legal authority for the IRS to disallow the ACTC to ITIN filers. Consequently, the TIGTA again recommended that Congress enact ACTC legislation similar to that which limits the Earned Income Tax Credit to those individuals who have Social Security numbers valid for employment. The report notes such a bill was recently introduced in the U.S. Senate (S.577 — Child Tax Credit Integrity Preservation Act of 2011).

The TIGTA notes that ACTC claims have been steadily increasing, as can be seen in Table 1, which shows total ACTC claims rising from \$924 million in 2005 to \$4 billion in 2010. The growth in claims was augmented by The American Recovery and Reinvestment Act of 2009, which altered the ACTC tax calculations for the tax years 2009 through 2012, enabling more tax filers to qualify for the ACTC and some qualifiers to claim a greater amount. Additionally, there has been an increase in the number of filers who are filing for back years as well as the current year in order to maximize their refunds due to the ACTC. For example, in the 2010 processing year about 238,000 ITIN filers submitted multi-year returns claiming more than \$1 billion of ACTC money.<sup>6</sup>

In addition to having concerns about whether it is appropriate for illegal immigrants to be collecting any ACTC funds, the TIGTA also was concerned about the fraud potential in the ACTC claims by ITIN filers, since it was the experience of the IRS that the risk of fraud involving refundable tax credits is “significant.”<sup>7</sup> The report details a number of fraud findings related to ITIN filers and makes recommendations for IRS changes to minimize fraud.<sup>8</sup>

**Table 1. Forms 1040 With ITINs (In millions of returns and billions of dollars)**

Processing Year	2005	2006	2007	2008	2009	2010
(1) Number of ITIN Returns	1.55	2.04	2.44	2.55	2.86	3.02
(2) Returns with Tax	0.54	0.74	0.87	0.79	0.80	0.71
(3) Total Tax Paid	\$0.64	\$0.88	\$1.12	\$1.02	\$1.04	\$0.87
(4) Returns with ACTC	0.80	1.06	1.30	1.53	1.85	2.18
(5) ACTC Refunds Paid	\$0.92	\$1.31	\$1.71	\$2.14	\$2.86	\$4.00
(6) Net IRS Outflow of Funds for ITIN Returns: (5) - (3)	\$0.28	\$0.43	\$0.59	\$1.12	\$1.82	\$3.13

**Source:** Treasury Inspector General for Tax Administration, “Individuals Who Are Not Authorized to Work in the United States Were Paid \$4.2 Billion in Refundable Credits”, July 7, 2011, Reference Number: 2011-41-06, p. 20.

As noted in footnote 11 on p. 4, the numbers in this table are likely understated as they come from the IRS Return Transaction File. The IRS Individual Master File is deemed more accurate because it includes subsequent adjustments. The Master File is the source of the 2010 information that shows for ITIN filers there were 2.33 million ACTC claims for a total of \$4.2 billion, compared with 2.18 million claims and \$4 billion for the Return Transaction File. The above table is from the Return Transaction File because some of the information was not available on the Master File.

## End Notes

<sup>1</sup> <http://cis.org/child-tax-credits>.

<sup>2</sup> Treasury Inspector General for Tax Administration, “Individuals Who Are Not Authorized to Work in the United States Were Paid \$4.2 Billion in Refundable Credits”, July 7, 2011, Reference Number: 2011-41-061, <http://www.treasury.gov/tigta/auditreports/2011reports/201141061fr.pdf>. It is important to note that the headline number of \$4.2 billion of refundable ACTCs for 2010 cited in the report title is from a different IRS source than the \$4.0 billion cited in Table 1 of this *Memorandum*. See source note for Table 1 for a detailed explanation of the differences and the conclusion that the \$4.2 billion number is the more accurate number.

<sup>3</sup> See Marti Dinerstein, “Giving Cover to Illegal Aliens: IRS Tax ID Numbers Subvert Immigration Law”, Center for Immigration Studies *Background*, November 2002, <http://cis.org/IRSTaxID-ImmigrationLaw>.

<sup>4</sup> See Table 1 source note for an explanation of the discrepancy between the \$4.2 billion and the \$4.0 billion numbers.

<sup>5</sup> Treasury Inspector General for Tax Administration, “Individuals Who Are Not Authorized to Work in the United States were Paid \$4.2 Billion in Refundable Credits”, July 7, 2011, Highlights page (the first page following the title page). Very similar wording can be found in the March 31, 2009, report of the TIGTA “Actions Are Needed to Ensure Proper Use of Individual Taxpayer Identification Numbers and to Verify or Limit Refundable Credit Claims”, Reference Number: 2009-40-057. The latter report can be found at <http://www.treas.gov/tigta/auditreports/2009reports/200940057fr.pdf>.

<sup>6</sup> *Ibid.*, p. 5.

<sup>7</sup> *Ibid.*, p. 3.

<sup>8</sup> One of the fraud findings in this report deals with ITIN filers who claim employer withholding on their returns and then supply a W-2 to prove the withholding. In a number of these cases it turns out that there is a Social Security number on the W-2 that belongs to a citizen who is thereby a victim of identity fraud (see p. 11 of the report). The TIGTA believes it is the duty of the IRS to promptly notify legitimate taxpayers that their identity has been compromised, which was not done in most of the ITIN cases examined by the TIGTA. For e-filed ITIN returns, the TIGTA discovered that many software programs automatically substituted the individual’s ITIN number on the e-filed W-2 for whatever taxpayer ID number was used on the actual W-2 (such as a stolen Social Security number), making it impossible for the IRS to easily discover identity fraud or reconcile the employee-claimed withholding amount with that the employer reported to the IRS (see p. 13). A large proportion of ITIN returns are now e-filed. For tax year 2008, tax returns, 56 percent of all ITIN returns were e-filed. See p. 4 in TIGTA report dated December 8, 2009, Reference Number: 2010-40-005, at <http://www.treasury.gov/tigta/auditreports/2010reports/201040005fr.pdf>.