

THE CONGRESSIONAL TAX PACKAGE AND LATINOS: WHAT YOU NEED TO KNOW

Before leaving for the year, Congress passed a \$680 billion tax deal making a number of credits permanent, including the refundable Child Tax Credit (CTC) and Earned Income Tax Credit (EITC), while extending others for five years.¹ The permanent extension of the CTC and EITC is important to help keep low-income working Latino* families out of poverty. However, there are a number of restrictions placed on immigrants that will keep some from receiving benefits and increase the difficulty for others to access the tax credits for which they are eligible.[†]

EITC AND CTC PROVISIONS IN THE TAX DEAL

The new tax legislation, Protecting Americans from Tax Hikes Act of 2015, makes permanent important improvements to the EITC and CTC, totaling approximately \$200 billion in tax credits to working families over 10 years.²

- **Critical 2009 improvements to EITC, CTC, and the American Opportunity Tax Credit (AOTC) are permanent.[‡]** As a result, 13 million families with 25 million children are no longer at risk of losing all or part of their CTC and EITC tax credits.³ This includes five million Hispanic working families who will continue to receive an average of \$1,000 each from the newly permanent provisions in the EITC and CTC.⁴

NEW PROVISIONS AFFECTING IMMIGRANTS

Despite fending off some attacks, the legislation includes anti-immigrant provisions that will make it difficult for many taxpaying immigrants to take full advantage of EITC and CTC and contribute to their communities.

- **Anyone who receives a new Social Security number, regardless of immigration status, cannot claim the EITC retroactively (i.e. look-back) for income earned beginning in 2016.** As drafted, the prohibition applies to immigrants on work visas, lawful permanent residents, some U.S. citizens, DACA recipients, and future DAPA recipients. Most other filers are eligible to retroactively claim EITC for up to three years.
- **Anyone who receives a new Individual Taxpayer Identification Number (ITIN) cannot claim the CTC or AOTC retroactively for income earned beginning in 2016.**
- **Immigrants applying for an ITIN will face new requirements that may prove burdensome.** In addition, immigrants who received ITINs before 2012 will have to revalidate their numbers based on a schedule mandated in the law.

* The terms “Hispanic” and “Latino” are used interchangeably by the U.S. Census Bureau and throughout this document to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race.

† This fact sheet was authored by the National Council of La Raza on December 18, 2015.

‡ The EITC, CTC, and AOTC were expanded in 2009 with bipartisan support to reach low-income working families in order to mitigate the negative effects of the economic recession.

CHANGES TO ITIN REQUIREMENTS

In lieu of in-person ITIN application, the legislation includes new language based on Internal Revenue Service (IRS) guidance from 2012. After 2012, there has been a drop in ITIN applications generally, leaving some to wonder whether the guidance is making it overly burdensome to get an ITIN.

- **Immigrants may apply for an ITIN in person, at a Certified Acceptance Agent (CAA), or via mail.** If living outside the United States, applicants may apply by mail, in-person, or at a consulate/diplomatic mission. The treasury secretary or a designee is given discretion to regulate this process.
- **The treasury secretary or a designee determines what documents may be required to apply for an ITIN that proves identify, foreign status, and residency.** Original documents or documents meeting requirements determined by the secretary are required.
- **Once an ITIN number has been issued, there is a revalidation process depending on when the number was issued:**
 - Numbers issued after December 31, 2012 will remain in effect unless the taxpayer does not file taxes for three consecutive years.
 - ITINs issued before January 1, 2013 will remain in effect until whichever comes earlier:
 - A taxpayer does not file for three consecutive years.
 - A date specified in the legislative text based on when the taxpayer first received the ITIN. Essentially, this means that numbers predating the IRS guidance will have to start to be revalidated (e.g. the taxpayer will need

to reapply) on a schedule that phases in over four years.

- **Treasury must conduct a study on the effectiveness of the ITIN application process.** Among other things, this study must examine in-person application versus other methods of reducing fraud. It is important to remember this is only a study.
- **Legislation includes expansion of Certified Acceptance Agents (CAAs) to include other groups with footprints in local communities, but does not change the application process for CAAs.** The goal of this language is to make CAAs more accessible to immigrants so that they can receive in-person assistance from a trusted advisor. However, becoming a CAA remains challenging and the language does not grant CAAs the authority to review documents for dependents or children, and will limit the intended effect.

Endnotes

- 1 Committee on Ways and Means, *Section-by-Section Summary of the Proposed 'Protecting Americans from Tax Hikes Act of 2015'*. Washington, DC, 2015, <http://waysandmeans.house.gov/wp-content/uploads/2015/12/SECTION-BY-SECTION-SUMMARY-OF-THE-PROPOSED-PATH-ACT.pdf> (accessed December 18, 2015).
- 2 The Joint Committee on Taxation, *Estimated Revenue Budget Effects Of Division Q Of Amendment #2 To The Senate Amendment To H.R. 2029 (Rules Committee Print 114-40), The 'Protecting Americans From Tax Hikes Act of 2015'*, Washington, DC, 2015, <https://www.jct.gov/publications.html?func=startdown&id=4860> (accessed December 18, 2015).
- 3 Center on Budget and Policy Priorities, *United States Fact Sheet: Tax Credits Promote Work and Fight Poverty*, Washington, DC, 2015, <http://apps.cbpp.org/3-5-14tax/?state=US> (accessed December 18, 2015).
- 4 Center for Budget and Policy Priorities, *The Earned Income Tax Credit, the Child Tax Credit, and Latinos*, Washington, DC, 2015, <http://www.cbpp.org/sites/default/files/atoms/files/7-21-15tax-factsheet2.pdf> (accessed December 18, 2015).