



Treasury, IRS proposes rules to protect refundable tax credits from abuse by illegal aliens

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WASHINGTON — The Department of the Treasury and the Internal Revenue Service issued proposed regulations to apply and clarify the federal law regarding the eligibility requirements for taxpayer-funded refundable individual income tax credits, delivering on President Trump’s commitment to enforce our nation’s laws and ensuring tax benefits are reserved for American taxpayers.

“Under President Trump, the days of illegal aliens collecting taxpayer-funded benefits are over. The federal law is clear, and Treasury is enforcing it,” said Treasury Secretary Scott Bessent. “American taxpayers should not be forced to foot the bill for benefits going to those who are barred by law from receiving them. These proposed regulations end the abuse, protect the integrity of the tax system, and put Americans first.”

“Refundable tax credits, like the Earned Income Tax Credit (EITC), were enacted to help low-to-middle income American families and workers receive critical financial support,” said IRS Chief Executive Officer Frank J. Bisignano. “Today’s proposed regulations ensure that federally funded benefits are reserved for eligible taxpayers and protect the integrity of every taxpayer dollar.”

Background

The Treasury and IRS proposed regulations to strengthen enforcement of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) by clarifying that the refunded portion of certain refundable individual income tax credits are federal public benefits and establishing clear rules governing who is legally eligible to receive them.

This action cracks down on the abuse of taxpayer-funded refundable individual income tax credits and ensures that illegal aliens and other non-qualified aliens barred by federal law do not receive public benefits, which they are ineligible to receive.

Under PRWORA, only U.S. citizens, U.S. nationals, and qualified aliens are eligible to receive federal public benefits. The proposal follows legal analysis by the Department of Justice’s Office of Legal Counsel concluding that the refunded portions of the affected credits are federal public benefits.

Proposed regulations

The [proposed regulations](#) apply PRWORA to four individual income tax credits: the adoption tax credit, the child tax credit, the American opportunity tax credit, and the earned income tax credit.

To receive the refunded portion of an affected credit:

- The taxpayer must be a U.S. citizen, U.S. national, or qualified alien on the date the taxpayer files the federal income tax return first claiming the affected credit. Qualified aliens include lawful permanent residents, asylees, refugees, and certain other groups defined or specified under PRWORA.
- The taxpayer must declare on the tax return, under penalty of perjury, that the taxpayer is eligible to receive the refunded portion of the credit.
- For a joint return, only one spouse must be a U.S. citizen, U.S. national, or qualified alien.

Only the refunded portion of the affected credits is treated as a federal public benefit. The refunded portion is the aggregate amount of the affected refundable credits that exceeds the income tax liability imposed for the tax year. A taxpayer who is not qualified to receive the refunded portion may still claim any portion of an affected credit for which the taxpayer otherwise qualifies that generally offsets income tax liability.



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The proposed regulations would apply to tax years ending on or after the date the regulations are published as final regulations.

Treasury and the IRS will seek public comments and requests for a public hearing on all aspects of the proposed regulations. Complete instructions for submitting comments are included in the proposed regulations.