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Internal Revenue Service
Room 5503, P.O. Box 7604
Ben Franklin Station, Washington, D.C. 20044

Docket ID: IRS-2026-1057-0001
Re: REG-119882-25

To the Office of the Associate Chief Counsel (Income and Tax Accounting):

This comment is submitted on behalf of the Center for Law and Social Policy (CLASP) to oppose the United States Department of Treasury’s proposed rule change to reinterpret certain refundable tax credits as “federal public benefits” under the 1996 Personal Responsibility Work Opportunity Reconciliation Act (PRWORA). We strongly urge the Department of Treasury to withdraw these proposed changes.

CLASP is a national, nonpartisan, anti-poverty organization advancing policy solutions that improve the lives of people with low incomes. We work at the federal, state, and local levels to strengthen public systems, reduce barriers to economic security, and ensure that policies are informed by the experiences of directly impacted communities. CLASP advocates for policy solutions to invest in workers and families through expanding access to refundable tax credits, including the Child Tax Credit (CTC) and Earned Income Tax Credit (EITC). We also advocate for the inclusion of immigrant children and families in public benefit programs, tax credits, and public services.

The proposed rule change would restrict access to the refundable portions of the CTC, EITC, American Opportunity Tax Credit, and the Adoption Tax Credit for those who do not meet the qualified immigrant definition under the PRWORA law by re-interpreting the refundable portion of these credits to be a “federal public benefit.” To claim these refundable tax credits, all tax filers would need to attest, under penalty of perjury, that they are a United States citizen, U.S. national, or a qualified immigrant under the PRWORA definition.

The PRWORA law defines a “federal public benefit” in the following way:

- “a) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and
- b) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which

payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.”¹

Since the passage of the 1996 PRWORA law, refundable tax credits have not been treated as federal public benefits in this way. In fact, Congress has passed laws mandating tax filers to have Social Security numbers to claim the EITC, contradicting this interpretation. As recently as 2025 with the passage of the One Big Beautiful Bill Act (H.R.1) Congress legislated on immigrant eligibility for refundable tax credits by restricting which families can access the CTC by mandating that at least one parent have a Social Security number to claim the credit. If the qualified immigrant eligibility restrictions under the 1996 law applied to these tax credits, there would not be a need for Congress to define eligibility by Social Security number status under legislation.

Based on the estimates from the Department of Treasury, between 200,000 to 700,000 tax returns would be ineligible to receive these tax credits in tax year 2026 due to the proposed rule change.² This is likely an underestimate of how many people would be impacted by the policy change because it does not count eligible filers who would no longer claim the tax credits due to confusion and/or fear, or account for the family members of the tax filers who would become ineligible under this rule change. Tax policy experts estimate this change will impact up to 1 million people.³

Since most of the included tax credits under this proposal require having a Social Security number to be eligible, this policy would cut off workers who have been issued Social Security numbers valid for employment that are lawfully present in the U.S. and their families, including: Deferred Action for Childhood Arrivals (DACA) recipients; immigrants with special “U” visas; people with Temporary Protected Status (TPS) who have fled war, natural disaster, or other emergencies; and other lawfully present immigrants who do not meet the narrow definition of a “qualified immigrant.”

This proposed rule will threaten immigrant families’ financial well-being by revoking critical tax credits that lift millions of families out of poverty each year, it will create administrative complexity for all tax filers by mandating tax filers to attest they are a “qualified” immigrant under PRWORA under penalty of perjury, and the change would cause administrative confusion for states that provide state tax credits tied to federal credit eligibility rules.

Refundable Tax Credits are Vital Programs that Effectively Reduce Poverty, Help Families Afford Essentials, and Invest Money Back into Local Economies

The CTC and EITC effectively lift children and workers out of poverty each year. In 2025, the EITC and the refundable portion of the CTC lifted 6.1 million people out of poverty.⁴ The EITC is available to workers who are paid low to moderate incomes, helping to supplement lower wages, especially for workers with children. Research has found the EITC is correlated with lower eviction rates,⁵ boosting work outcomes,⁶ and improving long-term outcomes for

recipients' children.⁷ The EITC often represents the largest lump-sum payment that households receive in a year, providing families with an important opportunity to pay for essentials and to invest funds back into their local economy.⁸

The CTC is available to parents and guardians with children under age 17, with the Additional Child Tax Credit (ACTC) being the refundable portion of the credit that is available to parents with lower incomes. The CTC invests in parents and helps them with affording the many costs for raising a child: groceries, baby supplies, extracurricular activities for children, and more.

Research has found that receiving financial investments, like the CTC, has positive benefits for children, parents, and their communities. When families have access to financial assistance, children are likelier to have better health outcomes⁹ and improved test scores in school.¹⁰ In comparison, when children grow up in poverty, they are likelier to have worse cognitive and emotional development outcomes,¹¹ worse health outcomes,¹² reduced educational attainment,¹³ and lower earnings into adulthood.¹⁴ Investing in parents during children's development through policies like the CTC are critical for promoting the best health and learning outcomes for the next generation.

But the CTC is not fully available to parents with little to no earnings because of how the credit is currently structured. The credit is only partially refundable and phases in at 15 cents per dollar earned over \$2,500. If a family has no reportable earnings, they would not be eligible for the CTC. If a married couple with two children was making less than \$41,500 per year in tax year 2025, they would only be eligible for a partial credit.¹⁵ As a result of this policy design, an estimated 19 million children are in families who do not get the full credit because their parents do not earn enough.¹⁶

Since these families are very low income, these are the families who arguably could benefit the most from the CTC. Families of color are likelier to be left out of receiving the full CTC due to not meeting the earnings threshold. An estimated 52 percent of Native American children, 47 percent of Black children, and 42 percent of Hispanic don't get the full credit because their parents didn't earn enough to be eligible.¹⁷

Research evaluating the impacts of the temporarily expanded CTC in 2021 found that an increased credit available to families with little to no earnings helped families afford essentials. According to CLASP survey research, parents who received the expanded CTC payments reported spending their payments on bills, food and groceries, and rent/mortgage payments.¹⁸ Parents who received the expanded CTC payments also reported that it helped to reduce their financial stress.¹⁹

Since this proposed rule targets the refundable portion of the CTC, it will disproportionately harm families with the lowest earnings who are facing the most extreme financial precarity. Restricting access in this way contradicts the research on how beneficial it is for child health and education outcomes when families with lower earnings have access to the CTC.

Under current law, up to 4 million immigrant and United States citizen children are left out of the CTC due to the Social Security number requirements.²⁰ The 2017 Tax Cuts and Jobs Act restricted access to the credit to only children who have Social Security numbers, cutting off an estimated 1.3 million kids without Social Security numbers.²¹ And the One Big Beautiful Bill Act (H.R.1) restricted families where at least one parent does not have a Social Security number from claiming the CTC, removing an estimated 2.6 million children who are U.S. citizens from benefitting from the credit.²²

Under This Proposal, Hundreds of Thousands of Kids Would Be Cut Off from Vital Tax Credits that Boost Household Income

About one in four children in the United States has an immigrant parent.²³ Due to a variety of systemic factors, including that immigrants are likelier to be employed in job sectors that pay low wages, immigrant children and citizen children with immigrant parents are likelier to live in households with low incomes compared to children with parents who are U.S. citizens.²⁴ Children in immigrant families are also likelier to face worse health outcomes when compared to their peers, due in part to the stress of immigration-enforcement related worries for the safety of their family members who are immigrants.²⁵ Immigrant children and mixed status families are already left out of many public benefit programs due to eligibility restrictions or face wait times for accessing such programs, hurting their financial outcomes. This proposed rule change would worsen outcomes for families by restricting access to vital tax credits.

The Center on Budget and Policy Priorities (CBPP) estimates that the proposed rule change would restrict access to the EITC and ACTC for an estimated 1 million people, including for U.S. citizens who live with family members who do not meet the new eligibility rules.²⁶ Specifically, CBPP projects that hundreds of thousands of U.S. citizen children would lose these refundable tax credits.²⁷

Another projection from the Research to Action Hub for Children in Immigrant Families concluded that about 671,000 people, including 309,000 children, are living in families that could lose eligibility for the EITC under this proposed rule change.²⁸ The researchers project that approximately 1,125,000 people, including 574,000 children, live in families that could lose their eligibility for the ACTC.²⁹ And about 556,000 people, including 285,000 children, live in families that could lose their eligibility for both the EITC and ACTC.³⁰ Nearly 9 in 10 of the children who are projected to lose eligibility for one or both of these credits are U.S. citizens.³¹

The Institute on Taxation and Economic Policy conducted an analysis measuring how DACA recipients and their households would be impacted by this proposal, specifically from the restrictions to the EITC and ACTC. They estimate that 158,000 people who are either DACA recipients or living and filing taxes with a DACA recipient would be impacted by this proposed change.³² More than half of the people living in the same household as DACA recipients who would be hurt by this new policy are U.S. citizens.³³

On average, DACA recipients have lived in the United States for over 28 years.³⁴ The financial loss to these families from losing access to the EITC and ACTC would average \$4,560 per year.³⁵ During a time when families are already facing an affordability crisis, such a loss would be devastating for household finances.

Even More Households Would Likely Be Harmed by The Proposed Rule Due to Chilling Effects

In addition to hundreds of thousands of immigrant families being cut off due to the rule change, eligible families may also opt to not claim the credits out of fear. Under this rule, all tax filers will be required to attest under penalty of perjury that they are eligible for the tax credits by either being a U.S. citizen or meeting the qualified immigrant definition under the PRWORA law. Such confusing and threatening language could deter filers who are eligible from claiming the credits. Tax filers may not understand who is classified as a qualified immigrant under the PRWORA law and assume they are ineligible even if they are eligible, or they may decide that making a mistake is not worth the risk of criminal penalty.

Filing taxes is a confusing and time-consuming process. People who can afford it often outsource the task to paid preparer websites like TurboTax and H&R Block. For those who cannot afford such services, free community tax filing support can be available from Volunteer Income Tax Assistance (VITA) clinics, or through Free File via the Internal Revenue Service. But VITA cannot meet the large demand it faces being volunteer-run and often spending significant time assisting people with complex tax filing circumstances.³⁶ And Free File webpages and services have been deliberately hidden from eligible tax filers in the past by TurboTax and other companies, resulting in tax filers paying to file when they could have been eligible for free services.³⁷

Without easy access to free tools to file their taxes and to receive help in understanding confusing immigrant eligibility language and rules, tax filers who would greatly benefit from these tax credits due to their lower incomes risk being left filing on their own, being forced to interpret the complex immigration eligibility rules.

Families may opt out of claiming these tax credits despite being eligible out of fear, a phenomenon referred to as the chilling effect. Unfortunately, there has already been a chilling effect within other public programs because of similar immigration eligibility policy changes. For example, following the change by the Trump administration to the policy of who would be considered a public charge, chilling effects were observed across various public benefit programs, including the Supplemental Nutrition Assistance Program.³⁸

The Current Anti-Immigrant Environment Will Likely Produce Greater Chilling Effects

Since taking office, the Trump administration has advanced a sweeping set of policies that attack immigrant families and harm long-standing protections for immigrant communities and access to critical services. These actions have created instability and fear in communities across the country, with profound consequences for children's safety, health, and development. These different policies and fears reinforce each other. Examples of some of the actions and threats to immigrant families in the first two years of this administration include:

- In January 2025, the White House amplified racist and xenophobic messages across speeches, press briefings, and federal agency communications, including in an Executive Order titled, "Protecting the American People Against Invasion."³⁹ This rhetoric frames immigrant families as threats and was used to justify rapid-fire policy actions undertaken throughout 2025. Children internalize these messages, which harm their emotional well-being, their sense of belonging, and their safety in schools, day care centers, and communities.
- In January 2025, the Department of Homeland Security issued a press statement regarding a directive rescinding the protected areas policy.⁴⁰ This policy has been in place in various forms since 2011. The policy had limited Immigration and Customs Enforcement (ICE) and Customs and Border Patrol activities in and near hospitals, schools, child care centers, houses of worship, food pantries, homeless and domestic violence shelters, disaster relief efforts, and other places that provide essential services. The directive ends the limitation and allows immigration enforcement agents to carry out actions in such locations constrained only by their interpretation of "common sense." This policy change has devastating consequences for immigrant families and their children, including U.S. citizen children, deterring them from receiving medical attention, seeking out disaster relief, attending school, and carrying out everyday activities out of fear. These policies risk threatening the safety and public health implications for the broader community.⁴¹
- In February 2025, the White House issued an Executive Order seeking to bar undocumented immigrants from federal public benefits, even though they are already ineligible for most programs.⁴² As a result, federal agencies will initiate efforts to require states to re-verify immigration status for certain people enrolled in Medicaid and other programs, creating administrative burdens and new security risks for immigrant families.
- Throughout the year of 2025, the chilling effect was accentuated by the Department of Homeland Security's efforts to access data about taxpayers from the Internal Revenue Service (IRS)⁴³ and about benefit recipients from the Social Security Administration⁴⁴ and the state agencies that operate the Supplemental Nutrition Assistance Program (SNAP)⁴⁵ and Medicaid.⁴⁶ These efforts are in violation of privacy laws.⁴⁷
- In July 2025, Congress passed and President Trump signed into law the Reconciliation Act of 2025. The law drastically cuts Medicaid and SNAP funding to channel billions of dollars into tax breaks for the wealthiest and into immigration enforcement. It denies SNAP and Medicaid eligibility to refugees, asylees, and other humanitarian immigrants and requires at least one parent to have a Social Security Number to claim the CTC.

Ultimately, this law will cause unprecedented harm across the country, particularly to communities with low incomes, people of color, immigrants, workers, women, and children.

- In July 2026, the Department of Homeland Security published a final rule to repeal the 2022 public charge policy, which is applicable to immigrants applying for a green card.⁴⁸ The agency has plans to release more restrictive guidance at a later date. The repeal will likely open the public charge determination process to widespread confusion, discrimination, fear, and chaos for immigrants and their families.

Other policy changes and anti-immigrant rhetoric from the administration—including but not limited to the attacks on birthright citizenship, replacement of the 2022 parental interest directive with an overall weaker policy, arrests at green card interviews, the premature termination of Temporary Protected Status (TPS) for most designated groups, and the plan to review all refugee statuses granted under the previous administration—combine to undermine immigrants' trust in government and their faith that promises from the government will be kept.

Earlier this year, a CLASP study involving focus groups and interviews with parents of young children and with early care and education providers found that the fear generated by government immigration enforcement agencies have led immigrant families to self-isolate to mitigate the risk posed by heightened immigration operations. Parents are scared to go to work, get groceries, and take their children to school.⁴⁹ Focus group participants expressed a worry that applying for or participating in government programs would supply the Department of Homeland Security with sensitive personal information, putting them at risk of detention or deportation, or have a negative impact on their prospects for securing legal or permanent immigration status. Accordingly, providers in multiple states have noticed declines in SNAP and Medicaid applications, even among individuals with lawful permanent residency.⁵⁰ CLASP also conducted interviews with early care and education providers that receive Head Start funding and found that a growing number of children are missing early education, school, and after-school programming.⁵¹

By including self-attestation of qualifying immigration status within the tax filing form, we anticipate this will trigger a chilling effect of filers opting out of claiming the EITC and other tax credits, even if they are eligible, out of fear of this putting them in trouble with immigration enforcement authorities.

The Proposed Rule Would Create Administrative Complexity and Confusion for States with State Tax Credits

This proposed policy change would not only impact access to federal refundable tax credits but also could impact access to state tax credits. The large majority of states that administer a state EITC tie their state eligibility rules to the federal EITC.⁵² If this policy change goes into effect,

immigrants could lose access to the EITC at both the state and federal level in these states, magnifying the income loss they would face.

In order to prevent this sudden loss of eligibility, states would need to decouple their tax rules from the federal credit. This would take time and put administrative burden on state lawmakers and agencies and create confusion. This also contradicts the growing trend of more states making their state EITC available to working tax filers who have Individual Taxpayer Identification Numbers (ITINs.)⁵³

We urge the Department of Treasury to withdraw this proposed rule. This interpretation of PRWORA goes against precedence, will create confusion and burden for all tax filers, will withhold vital tax credits from working families and U.S. citizen children, and would risk creating administrative complexity for states.

Thank you for the opportunity to comment on this proposal. Please contact Ashley Burnside (aburnside@clasp.org) with any questions.

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⁵² Urban Institute Tax Policy Center, “How do state earned income tax credits work?” updated July 2026, <https://taxpolicycenter.org/briefing-book/how-do-state-earned-income-tax-credits-work>.

⁵³ Neva Butkus, “State Earned Income Tax Credits Will Support Families and Workers in 2027,” September 2026, <https://itep.org/state-earned-income-tax-credits-2027/>.