

ASK FACTCHECK

Tax Credits for Illegal Immigrants

Posted on May 11, 2012

Q: Does the IRS pay billions in tax refunds to workers who are in the U.S. illegally?

A: Yes. The Treasury Department's Inspector General determined that \$4.2 billion was paid in 2010, up from less than \$1 billion in 2005. Leading Democrats are resisting a bill that would stop future payments.

FULL QUESTION

Is this true?

Subject: Indianapolis TV ... Channel 13, WTHR – Tax Loophole for Illegals

Contact your Congressperson and Senator and ASK THEM why this is being tolerated!

*You may not read my political email But you
Really should read this one. This tax loophole dips
Right into YOUR pocket defrauding you The
Honest taxpayer.*

YOU WILL NOT BELIEVE THIS, but it is true!!

Watch the newscast video and stay calm!

<http://www.wthr.com/video?clipId=7054149&autostart=true>

Please pass this on to other honest tax payers!!

FULL ANSWER

This is a rare case of an Internet rumor with some substance to it. In fact, it's shaping up as a major dogfight in Congress. At issue here are the federal [child tax credits](#) that can be claimed by persons with dependent children under age 17. Some Democrats are already defending these child tax credit payments that have gone to those without a valid Social Security number, accusing Republicans who want to end them of a heartless attack on children.

Several different versions of this viral email all cite a recent [investigative story](#) by an

Indianapolis television station, but WTHR-TV is far from the first to notice. The *Washington Post* and [others reported](#) on this last year when the Treasury Department's inspector general for tax administration issued a report on July 7, 2011.

The title of the report summed up the IG's finding: "[Individuals Who Are Not Authorized to Work in the United States Were Paid \\$4.2 Billion in Refundable Credits.](#)"

The credits currently amount to \$1,000 per child, and they are "refundable," meaning that parents may receive refunds even when they do not owe any tax.

The IG report stated that more than 2.3 million persons who did not have Social Security numbers valid for working in the U.S. got an average of roughly \$1,800 each in 2010 in child tax credit refunds. That included 9,000 illegal immigrants who each got a total of \$10,000 or more by retroactively claiming credits for tax years prior to 2010.

How This Happened

Here we should explain that the IRS routinely seeks to *collect* both federal income taxes and federal payroll taxes from illegal immigrants, who are required to pay regardless of their immigration status. Because such workers don't qualify for a valid Social Security number, the IRS issues a nine-digit [Individual Taxpayer Identification Number](#). An ITIN doesn't authorize the user to work legally in the U.S., and doesn't entitle him or her to Social Security benefits.

But in addition to collecting taxes, the IRS has increasingly been making payments to low-income workers who pay no federal income tax but qualify for "refundable" credits. Generally, illegal immigrants don't qualify for Social Security, Medicare or other federal benefits, except for emergency medical treatment in hospitals. And since passage of the 1996 welfare reform law, they have been ineligible for the refundable portion of the Earned Income Tax Credit as well.

At that time, Congress required that a valid Social Security number be filed for those claiming the EITC, and that requirement saved an [estimated \\$300 million a year](#). But Congress did not enact a similar requirement when it created the child tax credit, which [went into effect in tax year 1998](#) at \$400 per child, and was increased to \$500 the following year.

Initially the credit wasn't refundable in most cases (only for families who had three or more children and who also met certain income tests). So the issue of illegal workers claiming credits did not arise at first. But the 2001 Bush tax cuts made more parents eligible for refundable credits, and increased the amount in steps to \$1,000 per child.

So by 2005, the recent IG report said, 796,000 persons without valid Social Security numbers claimed refundable child credits totaling \$924 million, and in 2008, these claims had risen to 1,526,276 persons claiming \$2.1 billion in refunds.

Finally, President Obama's 2009 stimulus measure made temporary changes that had the effect of allowing more parents to claim the refundable credits, or claim greater amounts. And the total grew the following year to the \$4.2 billion cited by the IG. Those "temporary" changes now [have been extended at least through 2012](#) by the [bill Obama signed in December 2010](#), which also extended the Bush tax cuts and enacted additional economic stimulus measures including a reduction in federal payroll taxes.

What's to Be Done?

Release of the IG report last year sparked a Republican effort to stop the payments, and an emotional opposition to that effort from Democrats. They argue that the beneficiaries of the credits are in effect the U.S.-born children of the low-income parents who claim the credits.

The effort to stop the payments is also [opposed by the National Council of La Raza](#). In a statement issued in January, it said: “More than 4 million Latino children and their families would face greater hunger, poverty, and other severe hardships if this proposal is enacted.”

Nevertheless, a House bill by Texas Republican Sam Johnson ([H.R. 1956](#)) had collected [60 GOP cosponsors](#) as of May 10. It would require that [at least one parent file a valid Social Security number](#) to collect a refundable child tax credit. A similar provision reached the House Ways and Means Committee April 18. Committee members approved it by a [party-line vote of 22 to 12](#), with only Republicans voting for and only Democrats voting against it.



During the committee markup, Democratic [Rep. John Lewis of Georgia](#) spoke emotionally against the measure and said it “attacks our nation’s children. Our children! The little ones, the innocent ones.”

He argued that those who benefit are “American children,” even though the ones who claim the credit are their working parents.

***Rep. Lewis, April 18:** The benefits go to the United States citizen children. My God! Listen! . . . [T]he question must be raised, where is our concern? Where is our compassion? Where is our heart? Where is our soul?*

Lewis isn’t entirely correct: Non-citizen children can qualify if they are legally residents and have at least an ITIN. And the requirements aren’t vigorously enforced. The IG report said the

IRS management doesn't demand that parents submit documentation to prove that the children they are claiming actually reside in the U.S., something the IG recommended and IRS management said it lacked legal authority to do. So it is at least possible that some refunds are being paid based on children who aren't citizens, or who aren't even living in the U.S.

Also during the Ways and Means markup, Democratic Rep. Bill Pascrell of New Jersey said the measure would save only "[a very small amount of money](#)" compared with the entire federal budget. It's true that it wouldn't save \$4.2 billion a year, the figure cited by the IG, at least by official scoring of congressional tax experts. The nonpartisan staff of the Joint Committee on Taxation projected that [the proposal would reduce federal outlays by \\$1 billion](#) in 2014, and \$7.6 billion over 10 years.

In reality, the savings likely would be larger, however. The JCT projection assumes (as it is required to do) that tax law remains otherwise unchanged. And under current law, the child tax credit is set to fall to \$500 in 2013, and the "temporary" liberalization initiated by the 2009 stimulus measure is also set to expire. The savings would be higher if Congress continues the credit at \$1,000 per child, as Democrats and Republicans have agreed to do in the past.

Not all Democrats defend the payments. In the Senate, Claire McCaskill of Missouri called the IG report "alarming" and asked the IRS to act. "While the total amount of payments to unauthorized workers is enormous, the trend lines are even more disturbing," [McCaskill wrote](#) in a letter to IRS Commissioner Douglas Shulman on Sept. 7, 2011. "Wrongful payments of refundable tax credits, should be easy to identify and stop. The law is clear that individuals who are not authorized to work in the United States are not entitled to public benefits."

But McCaskill is in a tough reelection fight in a conservative state, and other Senate Democrats are not so eager to go after the payments. Senate Democratic Leader Harry Reid is publicly opposed, for one. "[I just think the child tax credit is working just fine and there's no need to punish children](#)," Reid told *The Associated Press* in early February.

– Brooks Jackson

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