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Tax Equality for Immigrants: The Indispensable Ingredient for Remedying Child Poverty in the United States

Roberto Suro and Hannah Findling
University of Southern California

Executive Summary

Both at the federal and state levels, tax credits have proved effective policy instruments to combat poverty, and they are at the heart of President Biden's massive initiative on childhood poverty. However, about one of every five children suffering poverty in the United States has an unauthorized immigrant parent and thus little or no access to tax credits. That is nearly two million children, and 85 percent of them are US citizens. Achieving historic reductions in childhood poverty thus will be impossible without remedying the eligibility exclusions and bureaucratic impediments that unauthorized immigrants face in the US tax system.

All individuals who make money and reside in the United States are obliged to pay federal income taxes via a return filed with the Internal Revenue Service (IRS). For unauthorized immigrants and others who do not qualify for a Social Security Number (SSN) that requires an Individual Taxpayer Identification Number (ITIN). In this two-tier system, ITIN filers have the same income tax due as Social Security filers, but they do not receive the same credits. ITIN filers have never been eligible for the Earned Income Tax Credit (EITC) and some of their children were excluded from the Child Tax Credit (CTC) in the Trump administration's 2017 tax bill. Both credits are highly effective anti-poverty programs, providing immediate relief while also incentivizing work and earnings. The tax credits are the critical policy tool in Biden's American Plan for reducing child poverty, and they would be funded through the budget reconicilation legislation devised by Congressional Democrats in the summer of 2021. As summer drew to a close, ITIN inclusion was beginning to enter the discussion among advocates and legislators about the bill's detailed provisions.

But eligibility is not the only barrier. Internal government monitors have repeatedly criticized the IRS for heavy-handed and inefficient practices that have placed undue burdens on ITIN taxpayers and that have hindered compliance with the law. The use of ITINs has plummeted in recent years from a high of 4.6 million returns in 2014 to 2.5 million in 2020.

Prompted by the economic losses and the medical toll suffered by unauthorized immigrants during the pandemic and by their newly valued roles as "essential workers," the federal government and several state governments have taken important steps to lessen the exclusion of ITIN taxpayers. The first federal stimulus package excluded not only ITIN holders but also their family members with SSNs. Congress extended eligibility to members of ITIN households with SSNs for the second and third stimulus checks. Meanwhile, California, Colorado, Maryland, New Mexico, Washington, Maine, and Oregon broke with the federal government and made ITIN filers fully eligible for their state EITCs, and as of July 2021 similar measures were under consideration in four other states. Early evidence from California and Colorado suggests that ITIN inclusion could prove a highly effective means of reaching poor children with the benefits of a state EITC.

Corresponding Author:
Roberto Suro, Price Center for Social Innovation, University of Southern California, 635 Downey Way, Los Angeles, CA, USA.
Email: suro@usc.edu

Child poverty can only be attacked successfully if ITIN households receive equal access to federal and state tax credit programs. This can be accomplished if:

- Congress and state legislatures permit full eligibility for all EITC and CTC programs.
- Congress mandates reforms to the procedures for getting and keeping an ITIN that have been proposed in multiple reports to Congress by the Taxpayer Advocate Service, an internal monitor at the IRS.
- Immigrants' rights advocates and other civil society organizations, with government support, undertake a multi-year campaign to encourage ITIN application and use.
- The IRS receives funding to support a greatly expanded ITIN program.

Introduction: Tax Credits, Identifiers, and Poverty

In the wake of the Great Recession, California ramped up anti-poverty programs with two increases in the minimum wage, the extension of health care benefits to undocumented children, major increases in benefit levels for CalWorks, the state cash public assistance program, and the creation of a state Earned Income Tax Credit (EITC) that was expanded twice. By 2018, the additional spending totaled $20 billion a year (California State Budget 2018, 10–11).

Nonetheless, in this rich and generous state, poverty remained a chronic problem with absolute numbers and rates comparable to states with far fewer assets (Finch II 2019). The California Poverty Measure, a joint research effort by the Public Policy Institute of California and the Stanford Center for Poverty and Inequality found that 17.6 percent of Californians, about 6.8 million people, lacked the resources to meet basic needs in 2018 once both costs of living and the state's safety net were considered. Poverty was acute among children, with 18.8 percent living without basic needs. And although the research showed that the state's extensive safety net kept the poverty levels from being much worse, the population in poverty was not declining (Bohn, Danielson and Thorman 2020a).

Vexed by these shortcomings, Sacramento created a blue-ribbon task force to find definitive measures to combat child poverty. The resulting report called for operating on two fronts, with programs that either "directly reduce deep child poverty in a relatively short time frame or have a proven foundational impact on disrupting the cycle of poverty by improving upward mobility and increasing positive adult outcomes for children living in poverty" (California Lifting Children and Families out of Poverty Task Force 2018, xvi). A similar approach was endorsed in 2019 by an expert panel convened by the National Academies of Sciences, Engineering, and Medicine to devise national strategies that would halve child poverty in a decade (NASEM 2019, 8).

Safety net programs and other kinds of direct transfers provide needed relief immediately. Job training, minimum wage hikes, and other measures that boost the earnings of working adults improve prospects over the long term. Both the California task force and the National Academies study group advocated mixing and matching these kinds of programs. Both also concluded that tax credits targeted to poor families had established track records as two-for-one solutions, delivering cash to meet children's immediate needs while also incentivizing adults to increase their earnings from work. In assessing how various combinations of measures would perform in reducing poverty, both expert groups ranked the Child Tax Credit (CTC) and the EITC as essential components to any overall anti-poverty strategy (California Lifting Children and Families out of Poverty Task Force 2018; NASEM 2019).

As the social and economic costs of the COVID-19 pandemic became apparent in the spring of 2020, new narratives emerged in debates over poverty-fighting policies. "Essential workers" took on heroic status for staffing the health care and food supply systems while so many others sheltered at home. It quickly became apparent that immigrants, including the unauthorized, were disproportionately represented in the most dangerous and lowest paid of those jobs (Kerwin and Warren 2020). Moreover, they proved highly vulnerable to the virus due to the combination of in-person work, large families, and crowded housing (Poston, Barboza and Menezes 2020).

In Washington, DC, and several state capitals one tool soon emerged as the favored means for getting help to those in need regardless of their immigration

status: the Individual Taxpayer Identification Number (ITIN). Little known, the ITIN serves as a doppelganger to the Social Security Number (SSN). Indeed, the primary qualification for acquiring an ITIN is that the individual is not eligible for an SSN, meaning they are not a US citizen or a lawful permanent resident or an immigrant with a status that provides work authorization. With nine digits arrayed in the same 3-2-4 format, an ITIN is indistinguishable from an SSN to an untrained eye. Indeed, the tax code treats the two identifiers the same when it comes to paying taxes. If you owe Uncle Sam, you must pay regardless of which identifier appears on the tax forms. But, as we shall see, that is where equality—and fairness—ends.

An ITIN taxpayer with modest earnings will pay more in taxes than an SSN filer with an identical return, and the bite is hardest for those who work and still do not break the poverty line. That is due to the eligibility requirements for the EITC: Taxpayers with an SSN receive this credit. ITIN filers do not and neither do their families. One ITIN appearing on a return will disqualify an entire household even if it includes spouses and children who are native-born US citizens.

The 30 states that have created their own versions of the EITC to complement the federal credit all initially adopted these federal rules of eligibility. During the pandemic summer of 2020, California and Colorado expanded eligibility for their EITCs to include ITIN filers, and in California's case, a state tax credit for young children as well. Five more states—Washington, Maryland, Maine, Oregon, and New Mexico—subsequently took similar measures, and as of July 2021, four other states were debating legislation that would extend state tax credit programs to ITIN filers (Findling 2021).

Some advocates for ITIN inclusion emphasized that beyond addressing immediate needs brought about by the pandemic, these measures tackled long-standing poverty. State Senator Julie Gonzales, a co-sponsor of Colorado's EITC legislation said, "Crisis exacerbates inequality, and in a time of massive hardship and a reckoning with systems that are too-often discriminatory, it becomes even more critical for decision-makers to take actions that address structural inequity" (United Ways of California 2020).

Other supporters emphasized the inclusion of ITIN filers as a remedy to injustice in the tax code. On signing the California bill, Governor Gavin Newsom noted estimates that two of every three ITIN filers benefiting from CalEITC are "essential workers," and he said, "these Californians are taxpayers and should be treated like taxpayers, eligible for the same credits, and pay the same tax rates" (Office of Governor Gavin Newsom 2020).

In Washington too, policy-makers came to understand the utility and fairness of using the ITIN as a means of reaching taxpayers and families in need. However, proposals to include ITIN holders in the stimulus checks were defeated when Congress passed the first federal pandemic relief bill in March 2020. An SSN was required of everyone on a tax return to qualify for the $1,200 stimulus payments with an exception for members of the armed services. Amid an outcry over the exclusion of US citizen children in households with ITIN taxpayers, and of US citizen spouses, the strictures were loosened for the second stimulus payment, the $600 payment, enacted in December 2020 (Preston 2020). Children and spouses with SSNs could receive the checks even if a taxpayer on the same return filed with an ITIN, and they were allowed to file retroactively for the first check. Still, at least one taxpayer must have an SSN for qualifying dependents—US citizen children—to receive the money. According to estimates by the Migration Policy Institute, 2.9 million spouses and children who had SSNs, qualifying income, and lived in households with an ITIN taxpayer gained access to the relief measures (Gelatt, Capps and Fix 2021). The same eligibility rules remained in place for the third stimulus, the $1,400 payment, enacted as part of President Joe Biden's American Rescue Plan (CRS 2021).

Moments after the Senate passed that legislation on March 6, 2021, President Biden made brief remarks at the White House. "And one more thing: This plan is historic," he said. "Taken altogether, this plan is going to make it possible to cut child poverty in half. Let me say that again—it's significant, historic: It will cut child poverty in half" (The White House 2021b). He was not extolling the stimulus payments but rather another part of the legislation that provided a temporary but huge expansion of the two federal tax credit programs aimed at poverty, the EITC and CTC. A little more than a month later, repeating his promise to halve child poverty, Biden used an

address to a Joint Session of Congress to propose extending the new benefits until 2025, in order to ensure long-term poverty reductions. And, Congressional Democrats in both houses included the expanded tax credits in the initial plans for the budget reconciliation legislation due to be debated in fall 2021. Some analysts described the tax credit expansions as the most consequential change in social policy in a generation or more (Tankersley and Deparle 2021).

As we will demonstrate later in this paper, about one in every five of the children that Biden aims to help lives in a household with an adult who can only file taxes, and hence collect the credits, by using an ITIN. And yet, ITIN taxpayers remain entirely excluded from the federal EITC. Adults filing with an ITIN can claim the CTC for children with an SSN, but children with an ITIN are excluded.

Eligibility rules only constitute one form of exclusion. The ITIN population also contends with bureaucratic procedures that have evolved in recent years to make it increasingly difficult to apply for and then keep an ITIN. As will be detailed below, the use of the ITIN in tax filing and applications for new identifiers has dropped precipitously as the new procedures have gone into effect. Tax credits bring no benefits to poor children unless their parents can file eligible tax returns. Hence, robust participation by ITIN-eligible taxpayers is essential to the success of the poverty reduction measures recently undertaken in Sacramento, Denver, and other state capitals, as well as for the historic ambitions that Biden and Congressional Democrats have embraced.

Beyond the impediments to achieving poverty reduction, the differential treatment of ITIN and SSN taxpayers poses normative issues. Francine J. Lipman, a tax law scholar at the University of Nevada at Las Vegas, has argued that the two-tier system of tax identifiers imposes "separate and unequal treatment" on an entire category of taxpayers (2006, 822). The exclusion of ITIN filers from the EITC and CTC has "created an abyss in federal relief for these hard-working families" who actually pay higher taxes and experience deeper poverty compared to SSN filers because they do not qualify for tax credits (2006, 861). "This irrational result," Lipman concludes, "may be an unintended result of an increasingly incomprehensible tax system and impracticable immigration policies" (Lipman 2006, 865).

The Evolution of the Two-Tiered Tax Identification System

With the passage of the Social Security Act of 1935, the federal government needed the means to keep track of earnings and benefits for a vast labor force, and the idea of issuing a unique numerical identifier was born. As computerized data processing became prevalent in the 1960s, the use of the SSN spread quickly to a variety of functions in governments at all levels as well as to the private sector. The imperative was to make the identifier easy to obtain and easy to use. For decades, SSNs were issued based on identity documents alone, and it was not until the 1970s that applicants were first required to show proof of citizenship, work authorization, eligibility to receive social benefits, or some other evidence of their fiscal status (Singer and Dodd-Major 2004, 1430–1431).

With the Immigration Reform and Control Act of 1986, Congress enacted measures to deter the employment of unauthorized immigrants. Among them was a requirement that employers review documents presented by prospective hires to prove eligibility to work. A Social Security card was one of the acceptable documents. At the time, some 210 million SSNs were considered active, and 16 versions of the card were in use. A US Government Accountability Office report issued as the law went into effect warned that the Social Security application process was vulnerable to fraud, that the cards themselves could easily be counterfeited, and that employers could not be expected to verify documents (USGAO 1988). These flaws and others in the legislation had been identified in the years of study and debate that preceded enactment, but competition among special interests ranging from civil rights organizations to corporate farmers led to a law riddled with contradictions and inefficiencies (Calavita 1989). Absent both the means and the political will, enforcement of the 1986 law's employment provisions never gained momentum and declined through the 1990s to the point of irrelevance (Brownell 2005).

Complaints that Washington was failing to control unauthorized migration fueled a political backlash in the mid-1990s that in turn led to the adoption of extensive new legislation meant to step up immigration enforcement (Suro 1996; Kerwin 2018). With the SSN increasingly in use as proof of legal immigration status, noncitizens were finally, in 1996, for the first time, required to show proof of work authorization when making their initial application for a number (Singer and Dodd-Major 2004, 1431–1432). However, no parallel effort was undertaken to police the existing stock of SSNs issued under previous rules, and Congress turned back numerous proposals to improve employment verification.

While increased reliance on the SSN as an instrument of immigration control failed to have the desired effect, it did produce unintended results of considerable magnitude. Limiting the issuance of new SSNs to noncitizens with work authorization created a void. Other noncitizens were still required to pay federal, state, and local taxes and still required an identification number for other official purposes. This included foreign investors and others with US-sourced income who did not live in the country, nonresident immigrants with investments and other forms of nonwage income, as well as resident noncitizens whose immigration status was in flux plus those in the country with no authorization at all. The ITIN was created to fill that void. Any noncitizen who was not eligible for an SSN was entitled to this perfectly legal form of tax identification. Indeed, the ITIN became the mandatory alternative to the SSN for all returns filed after December 31, 1996, as it remains today (Lipman 2006, 835).

With an ITIN the US government allows noncitizens to establish an identity as legitimate taxpayers separate and apart from their immigration status. It offers a vehicle for compliance with legal and financial obligations. The ITIN creates a category of membership in American society that is predicated not on the circumstances of an individual's arrival but on their conduct as income earners and taxpayers once here. It segregates immigration control from the basic civic obligation to pay taxes, and it creates a space where noncitizens and government can engage productively. And it is in that space created by the ITIN where policy-makers are now pursuing the common good by expanding access to poverty-fighting tax credits.

The Test of Presence

> Although the immigration laws of the United States refer to aliens as immigrants, nonimmigrants, and undocumented (illegal) aliens, the tax laws of the United States refer only to RESIDENT AND NONRESIDENT ALIENS.
>
> (IRS 2020, emphasis in the original)

No matter what the immigration authorities may think of you, the tax collectors only care about whether you are physically present in the country. The Internal Revenue Service (IRS) applies the "Substantial Presence Test," a complex formula based on time spent in the United States. One part of the federal government might want to deport you, but if the number of days you have been in the country crosses the threshold, you are officially a "U.S. Person" for tax purposes and subject to the same requirements as a native-born citizen—except that you will be filing with an ITIN.

Presence establishes identity and legitimacy for purposes far beyond income taxes, of course. Rights guaranteed under the US Constitution and obligations under US law are tied to presence and personhood, rather than citizenship or any other form of civic status. And, when it comes to the ITIN, the federal government has expanded the value of presence to confer an umbrella of legitimacy to a wide range of financial activities.

Implementing regulations for the USA Patriot Act of 2001 established the ITIN as equal to an SSN for a US person establishing their identity with a financial institution. The post-9/11 legislation created a Customer Identification Program for financial institutions to help combat terrorist financing and money laundering (FDIC 2012). As a law enforcement imperative, the government wanted monetary transactions to be traceable through an identification number. Since then, millions of noncitizens have used ITINs to open bank accounts, take out mortgages and other loans, join credit unions, and even buy Wall Street stocks (Reyes 2017).

When it has suited the government's interests, Washington has not only permitted financial inclusion regardless of immigration status, but it has also promoted the use of the ITIN by the private sector. For

example, in 2004 the Federal Deposit Insurance Corporation (FDIC) issued a supervisory notice that touted "the size and economic potential of the Latino immigrant market (and) the innovative approaches that some banks are using to capture this new customer base" including acceptance of the ITIN as an identifier for new account holders (Frias 2004).

Federal overseers of the financial industry wanted to encourage newly arrived immigrants to handle their money through regulated institutions, for example, banks and credit unions, rather than payday lenders, check cashing services, and the like. In the 2004 supervisory notice, the FDIC estimated that as many as 10 million households, mostly made up of Latino immigrants, were "unbanked." Wells Fargo drew special praise from the FDIC for opening more than 400,000 new bank accounts for Mexican immigrants with ITINs in the previous three years. As the FDIC concluded, these and other efforts show "that unbanked Latin American immigrants can be brought into the financial mainstream" (Frias 2004). Financial regulators wanted them all under the regulatory umbrella regardless of their immigration status, and the ITIN was the essential mechanism to achieve that goal.

"Full economic integration of immigrants requires that they have access not only to the informal financial sector but also to the formal one, including banking, insurance, pension funds, and other institutions," said Federal Reserve Governor Ben Bernake at a 2004 conference hosted by the central bank to promote financial inclusion for the foreign-born (Federal Reserve Board 2004). Research presented at the conference showed that although the IRS had issued more than 8 million ITINs since 1996, "different government agencies give banks conflicting signals about the acceptability of courting immigrant customers, particularly undocumented immigrant customers" (Paulson et al. 2006, 37). A 2008 survey by the FDIC found that 38 percent of banks accepted ITINs during the process of opening a new account (FDIC 2009, 5).

Washington provided a further impetus for filing taxes with an ITIN during the debates over Comprehensive Immigration Reform in 2006–2007 and 2013–2014. Although no legislation was ultimately enacted, bills passed by the Senate in both periods featured extensive legalization programs for unauthorized immigrants. To get on the pathway to citizenship, applicants would have been required to prove they had been in the country prior to a cutoff date, and in some proposals, they would have been obliged to account for their income and pay back taxes. Making the case for why undocumented immigrants needed an ITIN, the National Immigration Law Center argued, "Immigrants can use tax returns to document their work history and physical presence in the US In order to be eligible for legal immigration status under any future immigration reform, people who currently are unauthorized to be in the US most likely will have to be able to prove that they have been employed and have lived continuously in the US for a certain number of years" (NILC 2017).

The immigration courts offered an additional benefit to the use of the ITIN. Under certain conditions, a noncitizen can contest a removal order by establishing their Good Moral Character, but whether that status has been demonstrated adequately and whether it outweighs whatever negative claims are presented by the immigration enforcement authorities is entirely up to the discretion of an immigration judge who must engage in a "balancing test." The Immigrant Legal Resource Center advises attorneys that proof of paying taxes is one form of evidence that can be used to show that a client is worthy of remaining in the United States (ILRC 2018).

Amid encouraging signs from Washington and growth in the eligible population, there was a 246 percent increase in the number of tax returns filed with ITINs from 530,000 in 2001 to more than 1.8 million in 2007 (TIGTA 2009). Between 2012 and 2014 an average of some 4.6 million people used an ITIN to fulfill their tax obligations (TAS 2015, 196). That is when the use of the ITIN peaked.

Even as some elements of the federal government favored the use of ITINs, others, primarily the IRS, worked in the opposite direction, making it increasingly more difficult to obtain and keep an ITIN and cutting access to tax credits. Moreover, for four years the Trump administration relentlessly threatened unauthorized with heightened scrutiny and ruthless punishment. In 2019 the number of tax returns filed with an ITIN had fallen to 2.5 million (TAS 2021). According to estimates by the Center for Migration Studies of New York (CMS), the size of the unauthorized immigrant population—a proxy for the ITIN-eligible population—dropped by >1 percent from 2015 to 2019 while ITIN use plummeted by nearly 40 percent. Demography

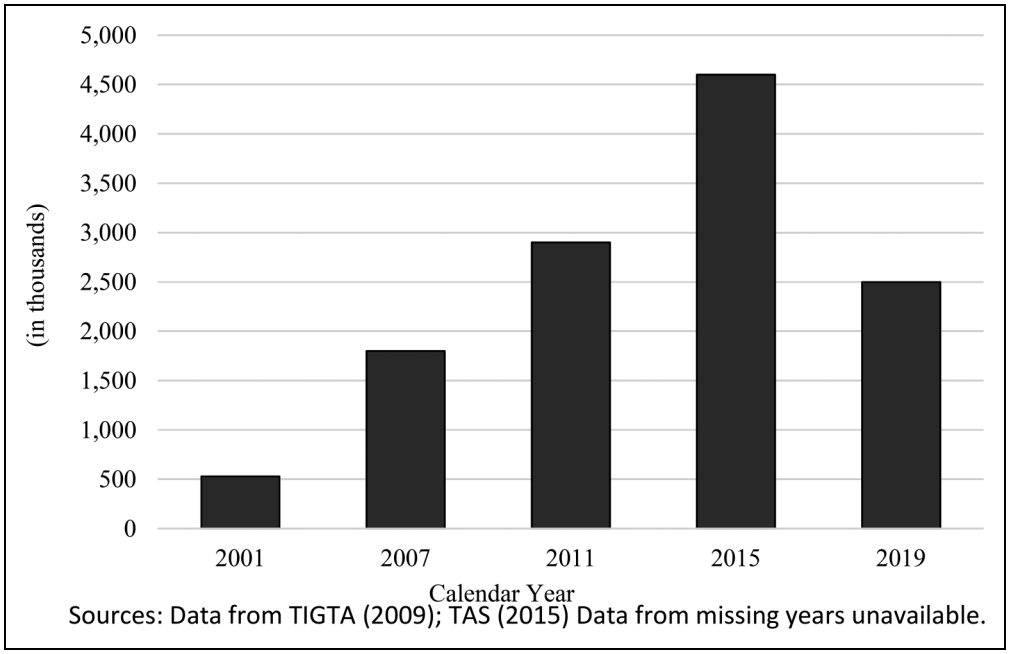

Figure 1. Tax Returns Filed With an ITIN. Sources: Data From TIGTA (2009) and TAS (2015). Data From Missing Years Unavailable.
Note. ITIN = Individual Taxpayer Identification Number.
Sources: Data from TIGTA (2009); Tas (2015) Data from mising years unavilable.

does not explain the decline in the ITIN program, policy does (Warren 2021) (Figure 1).

Erecting Bureaucratic Barriers

In a report to Congress, the Taxpayer Advocate Service (TAS), an independent watchdog office within the IRS, described the first turning point this way, "On June 22, 2012, the IRS abruptly and unilaterally changed ITIN application procedures without discussing these changes with internal and external stakeholders" (TAS 2012, 158). For several years the IRS had faced complaints from members of Congress that it lacked procedures to detect fraudulent ITIN applications, and an audit report from the Treasury Inspector General for Tax Administration (TIGTA) found that although procedures were weak, no evidence existed of actual fraud or abuse by ITIN-users (Treasury Inspector General for Tax Administration 2012).

The new rules required most applicants to mail in original identification documents like passports and birth certificates rather than notarized copies as before, and according to the TAS, applicants were advised it could take 60 days or more before the documents were mailed back to them. Additional provisions created a minefield for applicants such that the share of applications rejected by the IRS doubled in the first year of implementation. The TAS complained that the new procedures imposed an "unprecedented burden on ITIN applicants, imperiling their future tax compliance as well as their personal welfare and safety" (TAS 2012, 158). In 2012, the IRS received more than 2 million applications for ITINs. By 2014 the volume had fallen to half that number, and in 2017 there were only 650,000 applications (TAS 2017, 190). By 2020, the IRS received only 470,000 applications for new ITINs (TAS 2021) (Figure 2).

Congress further added barriers to tax compliance by the ITIN-eligible population with the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) (Division Q of P.L.114-113). A legislative grab bag, it included a measure that rendered permanent expansions of both the EITC and the CTC enacted during the Great Recession (Greenberg 2015). But, out of concern over improper payments in those programs, Congress ordered the IRS to take new anti-fraud measures, including several aimed at ITIN taxpayers.

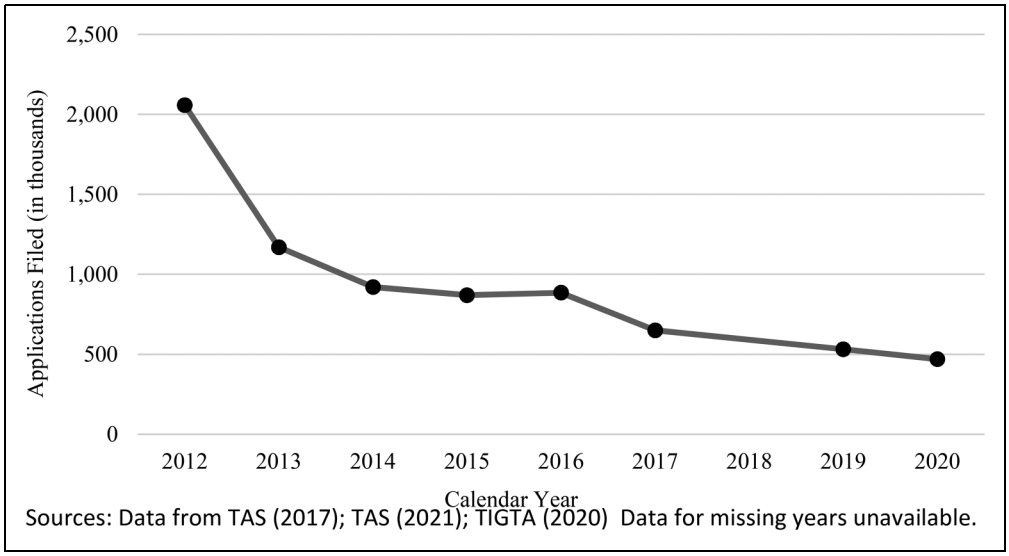

Figure 2. Change in the Number of ITIN Applications Filed.
Note. ITIN = Individual Taxpayer Identification Number.
Sources: Data From TAS (2017), TAS (2021), and TIGTA (2020). Data for Missing Years Unavailable.

A major impetus for these provisions of the PATH Act was a 2014 report by the TIGTA finding that about a quarter of EITC and CTC payments were made in error. Rather than evidence of fraud, the report pointed to mistakes by both filers and the IRS related to the complex reporting requirements for both programs and the IRS' inability to verify key information. Then of now, ITIN filers were not eligible for the EITC which is the larger program by far, and the report makes no mention of the ITIN at all (Treasury Inspector General for Tax Administration 2014). Congressional attention focused on ITIN filers after the Treasury Department reported that CTC payments had risen rapidly and unconfirmed media reports alleged that some of those claims were made improperly on behalf of children who did not reside in the United States (CRS 2016, 1–2).

The PATH Act laid out new rules for how to apply for an ITIN (codifying the 2012 changes), when an ITIN must be issued to receive certain tax credits, and when an ITIN expires. A major provision called for the IRS to purge ITINs issued before 2013 or that had fallen into disuse and to establish new procedures for scrutinizing applications and renewals. In the first 20 years after the inception of the ITIN program, the IRS issued 21 million ITINs. Then, in just two years, 2016 and 2017, the IRS deactivated 15.2 million ITINs (TAS 2018, 136).

According to evaluations by TAS and TIGTA, implementation of the ITIN provisions by the IRS has been heavy-handed, incomplete, and incompetent, with the result that the ITIN-eligible population has faced additional barriers to compliance with tax laws for uncertain gains.

In a series of audits between 2018 and 2020, TIGTA found that despite some improvements, the IRS had failed to remedy administrative practices that the PATH Act was supposed to address. Faulty procedures for identifying which ITINs were due for deactivation had led to errors, procedures to identify fraudulent applications had not been implemented, and the IRS had failed to report to Congress on implementation of the legislation as required. (Treasury Inspector General for Tax Administration 2018, 2020).

Meanwhile, in its annual reports to Congress, the TAS repeatedly warned that the IRS was making it progressively more difficult for the ITIN population to fulfill its tax obligations and receive credits meant to alleviate poverty. In 2017, the taxpayers' advocate reported, "IRS processes for ITIN applications, deactivations and renewals unduly burden and harm taxpayers" (TAS 2016, 239). A 2017 report concluded that "The IRS's failure to understand and effectively communicate with the ITIN population imposes unnecessary burden and hinders compliance" (TAS 2017, 140).

In January 2017, for example, the IRS rushed to deactivate 11 million ITINs based solely on their date of issue because it could not keep up with the schedule set by Congress to identify ITINs no longer being used to file tax returns. The ITIN holders would only have a few weeks to apply for renewals. Yet the IRS only sent letters to 440,000 of the taxpayers notifying them of the need to renew (TAS 2016, 239). Meanwhile, the IRS failed to take measures mandated by Congress to expand options for the submission and vetting of identity documents in the application and renewal processes. Instead, it insisted on receipt of original documents by mail in a narrow timeframe and examining them with procedures that had been repeatedly found faulty. Although the goal of the legislation was to improve the administration of the ITIN program rather than cut the numbers wholesale, the IRS received half the number of renewals in 2017 that it had projected for Congress (TAS 2018, 239–252; TAS 2019b, 140–147).

Trump Excludes Dreamers

Exclusion took a new and unprecedented form in 2017 when the Republican majorities in Congress enacted President Donald Trump's signature tax cut legislation. The Tax Cut and Jobs Act (TCJA) (P.L. 115-97) limited eligibility for the CTC to children with an SSN and hence excluded children identified with an ITIN (CRS 2018). Most were brought across the border without authorization as young children and have spent the bulk of their lives in the United States. They are American in every sense except for their immigration status.[1]

According to the TAS, 665,189 returns filed in 2016 had included claims for the CTC on behalf of ITIN children. The number of children affected was certainly higher given that more than one child could be listed on a single return. How much higher is suggested by the impact of another provision of the Trump tax, which eliminated the dependency exemption for ITIN children. Based on returns filed in the previous four years, the TAS calculated that the legislation would deny the dependent exemption to 1.3 million children a year based on their tax identifier.

As a result of these provisions, the TAS predicted that applications for new ITINs would "plummet" and that the number of ITIN returns would drop. "For taxpayers who previously claimed tax benefits for children or family members with ITINs, there may be less of an incentive to file a return if the return will not result in a refund," the watchdog concluded (TAS 2019a, 124). And the TAS warned of a cascading effect: if those ITINs were not used to file tax returns, the IRS would deactivate them, further reducing avenues of compliance (TAS 2019a, 123–124).

Under the provisions of the Trump tax cut, which remain in force until 2025 unless reversed by Congress, two siblings—one with an ITIN and one with an SSN—are treated differently by the tax code. One produces a tax credit. The other does not. If their parents' income qualifies for the poverty-fighting benefits of the CTC, only the child with the SSN merits the credit.

Thus, the two-tier tax identification system has two forceful components. The first consists of eligibility requirements that saddle ITIN filers with a greater tax burden than similarly situated SSN taxpayers and that distinguish among children based on their tax identifier. The second consists of the accumulated bureaucratic barriers that make it difficult to acquire and keep an ITIN.

The ITIN and Poverty

In touting the accomplishments of his first 100 days in office to a Joint Session of Congress on April 28, 2021, President Biden said: "And, maybe most importantly, thanks to the American Rescue Plan, we're on track to cut child poverty in America in half this year" (The White House 2021a). Biden

[1]The Deferred Action for Childhood Arrivals (DACA) program has provided benefits to a small subset of the overall population of childhood arrivals often known as "Dreamers." Established by executive action in 2012, DACA enables beneficiaries to live and work in the United States legally on a temporary, renewable basis. One of the many eligibility requirements was that applicants had to have served in the US Armed Forces or had a high school diploma or an equivalency certificate. As of March 31, 2021, a total of 828,270 DACA applications had been approved since the program's inception (DHS 2021). CMS estimated that in 2018 the resident unauthorized immigrant population included 2.8 million persons who had entered the country before age 16 (CMS 2021).

was referring to the one-year boost to the EITC and the CTC included in the massive relief bill enacted in March 2021. Later in the address, Biden promoted a proposal to extend the benefits to 2025 as part of his American Families Plan to ensure the poverty reduction endures.

Biden's goals will be difficult, perhaps impossible, to achieve without remedying the eligibility exclusions and the bureaucratic barriers to participation that are the results of the two-tier system of tax identification. As detailed below, one of every five children suffering from poverty in the United States lives in a household with an unauthorized immigrant, almost always a parent. That is 1.9 million children and about 85 percent are US citizens. They are all excluded from the EITC, among the most wide-reaching and effective federal anti-poverty programs. Children lacking an SSN are excluded from all forms of the CTC, among the most targeted and effective federal anti-poverty programs. And even those who are eligible will face huge impediments unless the process for acquiring and retaining an ITIN is reformed. But, with simple steps (outlined below), the ITIN can become a highly effective tool for combating child poverty.

According to a consensus study on child poverty by the National Academies of Science, Engineering, and Medicine, a total of 9.6 million children as of 2015 lived in poverty in the United States for an overall poverty rate of 13 percent. The panel of experts compiled multiple data sets for 2015, when recovery from the Great Recession was judged complete, and then modeled it to project the impact of various changes in federal policies. Assessing poverty among various population segments, the National Academies report found that 6.9 percent of all children in the United States are US citizens who live in a household with an unauthorized immigrant and the poverty rate among them in 2015 was 31.5 percent. That was three times higher than the rate (10.2 percent) for children in households where everyone is a US citizen. And similarly, US citizen children in households with unauthorized immigrants experience deep poverty—household income that is less than half of the poverty threshold—at a much higher rate (6.4 percent) than their counterparts in households where all members are citizens (2.3 percent) (NASEM 2019) (Figure 3).

The 2015 American Community Survey showed that the population under 18 years old totaled 73,629,710 (United States Census Bureau 2021). Applying the findings from the National Academies report yields an estimate of 1.87 million children living below the poverty level in households with at least one unauthorized immigrant, most likely a parent. That is 19% or roughly one in five of Biden's target population.

Among those children with an unauthorized parent, 1.6 million are US citizens according to the estimates in the National Academies report, and the two-tiered tax identification system takes a very direct toll on them. First, there is an eligibility barrier. An otherwise qualified US citizen who is the dependent of an unauthorized immigrant is excluded from the EITC entirely. Then there are the bureaucratic barriers. Those US citizen children can only receive the CTC if their unauthorized parent successfully obtains an ITIN and files taxes. Congressional mandates and IRS procedures that have contributed to the long-term decline in ITIN usage are now an impediment to Biden's anti-poverty agenda.

The 2017 Trump tax cut created an additional eligibility barrier for an additional subset of the child poverty population. It denied the CTC to children without an SSN. According to the National Academies report, 1.1 percent of all children in the United States are not citizens and live in a household with unauthorized immigrants. These children are highly unlikely to qualify for an SSN. The National Academies study found they experienced a poverty rate of 33.3 percent and a deep poverty rate of 15.2 percent. Extrapolating from those estimates yields a population of approximately 810,000 children in 2015 of whom 270,000 lived in poverty. And, unless the eligibility criteria are returned to the pre-Trump formulation, they will remain in poverty regardless of what else Biden's programs might accomplish.

All estimates of the unauthorized immigrant population are necessarily subject to limitations, particularly when multiple characteristics are applied to define a subset of that population. But, even allowing some statistical latitude, the National Academies report provides authoritative calculations that leave little doubt about the bottom line: child poverty in the United States cannot be remedied without including ITIN-eligible households in the poverty-fighting tax credit programs.

Population group	Estimated total	Share of total	Poverty Rate	Number in poverty	Share of poverty population
All children	73,629,710	100%	13 %	9.6 million	100%
US citizen children—all members of household are US citizens	60 million	81.5%	10.2%	6.1 million	64%
US citizen children—some members of household are unauthorized	5.1 million	6.9%	31.5%	1.6 million	17%
Non-US citizen children—some members of household are unauthorized	810,000	1.1%	33.3%	270,000	3%

Figure 3. Population Numbers and Poverty Rates for Children by Citizenship of Child and Presence of Unauthorized Immigrants in Household.
Source: Gross Population Numbers Drawn From American Community Survey, 2015, One-Year Estimates Table B01001. Estimates of Fractions of Children in Each Group and Poverty Rates for Each Group Drawn From "A Roadmap to Reducing Child Poverty." Report Highlights. Figure 1. National Academies of Sciences, Engineering, and Medicine, 2019.

The ITIN as a Tool to Reach the Poor

Early data from two states that have extended their tax credit programs to ITIN filers show what eliminating eligibility barriers can accomplish. ITIN taxpayers are disproportionately low-income workers and have more children than their SSN counterparts. Due to these characteristics, ITIN tax returns are a highly efficient means of getting tax credits to poor children. Full inclusion of ITIN filers in state EITCs and CTCs has immediately extended the reach of these key poverty-fighting programs to otherwise hard-to-reach households. In California, nearly one of every five poor children became newly eligible for tax credits.

As the pandemic's economic harm became apparent, Sacramento extended full eligibility for CalEITC to ITIN filers in September 2020. Early estimates by the Franchise Tax Board suggested that with the new measure the state would deliver cash assistance to the families of approximately 300,000 children living in poverty (Stephenshaw 2021). That is nearly one out of every five of the 1.6 million children counted as impoverished in the California Poverty Measure. These children are poor not only because their parents earn low wages but also because their access to safety net programs, like the federal EITC and CTC, is impeded by their immigration status, or their parents' (Bohn, Danielson and Thorman 2020b).

The value of reaching the ITIN population in California was magnified by the enactment of the Young CTC in 2016 that added extra payments to CalEITC recipients with a child under six years of age (Franchise Tax Board 2021). A fifth of those qualifying for the ITIN-extended CalEITC will also receive the young child credit, according to the tax board's estimates.

The leverage provided to anti-poverty programs by ITIN inclusion is further illustrated by another set of calculations. In 2018, the last year for which full data was available, a total of 2,045,899 returns—all with SSNs since that was the only acceptable identifier then—qualified for the CalEITC (Franchise Tax Board 2018, 6). The early estimates for 2020 filings by the Franchise Tax Board envisioned a 10% increase due to the inclusion of ITIN filers, anticipating an additional 215,000 returns qualifying for CalEitc. However, because ITIN households have a disproportionately large number of dependents, the 10 percent increase in returns generated an estimated 30 percent increase in the number of poor children reached by the credit (Stephenshaw 2021).

Additional evidence of the ITIN's reach among poor families with children comes from data collected by the Colorado Department of Revenue ahead of the state's expansion of its EITC enacted in 2020. The data is from federal tax returns by Colorado residents in 2017 and allows comparisons between SSN filers who claimed the EITC and ITIN filers with similar income levels and household characteristics. ITIN filers whose incomes would qualify for the EITC have many more dependents than comparable SSN filers, and they are poorer. For example, among the SSN returns, the share of filers with no dependents, 30 percent, was twice as high as among ITIN filers. Conversely, the share of returns with two or more dependents was nearly twice as high among ITIN filers, 66 percent, than it was among SSN filers, 38 percent. (Sobetski 2021).

Aside from the states that are pioneering ITIN inclusion, this tool for combating poverty remains vastly unused. According to estimates by CMS, 7.4 million adult unauthorized immigrants were employed in the United States in 2018 (Kerwin and Warren 2020, 285). All of them are potential ITIN taxpayers. Yet only 2.5 million ITIN returns were filed in 2019.

As noted above, reduced participation apparently resulted from impediments to holding an ITIN and the reduced benefits that it yielded. Hence, reversing exclusionary policies—both in eligibility criteria and bureaucratic barriers to participation—has a strong chance of significantly increasing participation. A concerted effort might get the numbers back to the levels of the early and mid-2010s. And we know from the National Academies report and the early experience of states like California and Colorado that increasing the number of ITIN filers will yield a proportionally higher impact on the number of children who are reached by tax credits.

Recommendations for ITIN Inclusion

In 1982 the US Supreme Court ruled that all children, regardless of their immigration status, had an equal right to a K-12 education in public schools.[2] Exclusion, the court found, "raises the specter of a permanent caste of undocumented resident aliens, encouraged by some to remain here as a source of cheap labor, but nevertheless denied the benefits that our society makes available to citizens and lawful residents."[3] The two-tier system of tax identification makes that specter very concrete with the ITIN population as a caste of inferior status. Among other things, members of this caste are excluded from tax credits that effectively relieve poverty and that they have earned by virtue of working hard for low wages.

And this caste has indeed become quite permanent. About 60 percent of the unauthorized immigrant population—6.3 million people—had been living in the country for a decade or more as of 2018, according to estimates by CMS (2021). One result of this permanence is a large population of native-born US citizen children now being raised by unauthorized immigrant parents. The Pew Research Center estimated their number at 5.6 million as of 2016 (Passel and Cohn 2018). Their plight brings the cruel ambivalence that defines this permanent caste more sharply into focus.

Unauthorized immigrants, as the Plyler court put it, enjoy an "inchoate federal permission to remain."[4] They live and work in this country for decades, generally undisturbed but never lose vulnerability to round-ups and removal. The tax system formally acknowledges their presence, requires them to participate, but denies them a fair and efficient process. They pay into the public coffers in myriad ways from sales taxes to Social Security withholding, but they are barred from many benefits.

For unauthorized immigrants' US citizen children, the permission to remain is explicit and absolute, but the ambivalence of their parents' status carries over to them. "In our zeal to make life in this country less desirable for the undocumented person and to discourage illegal immigration," Piatt explains that we have "punished children of the undocumented" and warns that we have created a group of "second class citizens" (1988). Ryo and Peacock describe the "diminished or devalued citizenship rights" of these citizen children (2019). This is certainly true in the context of the EITC and the CTC—they are a native-born caste denied aid meant to keep them from destitution, aid available to all other citizens. In something of an understatement, the Plyler court noted, "the existence of such an underclass presents most difficult problems for a

[2]Plyler v. Doe, 457 U.S. 209, 226 (1982).

[3]See *ibid*.

[4]See *ibid*.

Nation that prides itself on adherence to principles of equality under law."[5]

The challenge to principles of equality takes on additional weight when considering the disparate effects on people of color. The tax code, like so many other public policies, has been shaped in part by historical racism and continuing prejudice that can come in many forms. And, decisions about how to administer the tax code can have different effects across racial and ethnic groups (Huang and Taylor 2019). The two-tier system has different effects simply by virtue of the composition of the ITIN population. Hispanics make up 72 percent of the unauthorized immigrant population with Blacks and Asians accounting for another 21 percent (CMS 2021). In making the case for expanding eligibility for the state EITC to include ITIN filers, New Jersey Policy Perspectives, a nonpartisan think tank, noted multiple benefits, including that it "would improve racial equity in the tax code" (Kapahi 2020).

Simple efficacy offers another argument for ending the exclusions and bureaucratic barriers. It is axiomatic that any effort to reduce poverty in a state or a nation should attempt to reach the largest possible share of the population that qualifies for the assistance. As this paper has demonstrated, a sizable portion of people living in poverty, especially children, are beyond the reach of tax credits because of the two-tier system. Eligibility exclusions are only part of the problem. Neither the federal nor state tax credits will achieve their poverty-fighting potential unless the decline in ITIN usage is halted and reversed. That will require undertaking the steps outlined below to change the way the ITIN program is administered.

And once the eligibility rules for tax credits and the bureaucratic procedures for obtaining and maintaining an ITIN have been addressed, government and civil society organizations should embark on a full-on campaign to promote and facilitate ITIN application. In addition to advancing the poverty-fighting objectives of state and federal tax credits, expanding the number of ITIN filers would have important benefits in the integration of unauthorized immigrants. As became evident during the initial enrollment for the Deferred Action for Childhood Arrivals (DACA) program, the process of registration itself, acquiring a government-issued identifier and receiving benefits from the government, can have transformative effects on the beneficiaries and the constellations of social actors that assist them (Kerwin et al. 2017). Moreover, fulfilling tax obligations with an ITIN could serve as an important demonstration of compliance, and in expectation of a legalization program, it could be an onramp to recognition as permanent immigrants.

We recommend action in three phases. First, ending exclusions from poverty-fighting tax credits. Second, reforming the process of getting and retaining an ITIN. Third, undertaking a national campaign to encourage and facilitate widespread use of the ITIN to fulfill tax obligations. Some specific steps are the following:

Include ITIN households in the EITC. The federal EITC was created in 1975, made permanent in 1978, and expanded in 1986. Across this long history, it has received bipartisan support as a highly effective antipoverty measure. The EITC is a refundable credit, meaning that the credit is provided even if the filer does not owe any taxes. All versions of the EITC provide a credit based on a percentage of the filers' earnings. The exact rates and maximum credits depend on family size. A singular characteristic of the EITC is that it rewards work because each dollar of increased earnings yields increased benefits until reaching the maximum credit (Tax Policy Center 2020). State EITC programs typically calculate benefits as a percentage of the credit a taxpayer receives from the federal program.

President Biden's proposed enhancement of the EITC under the American Families Plan would boost 19.5 million workers with benefits concentrated among the nation's poorest households. Of the $12.4 billion in additional annual disbursements in 2022 about three-fourths would go to families with less than $22,400 in income, according to estimates by the Institute on Taxation and Economic Policy (ITEP) (Davis 2021).

The single, and most sweeping, measure that Washington could undertake to remedy the ill-effects of the two-tier system would be to include ITIN filers in this enhanced EITC. Applying a model based on 2015 IRS data, ITEP calculated that 2.4 million households with current ITIN filers would benefit if the exclusion were ended (Economic Security Project 2020). A much larger population would benefit if all individuals eligible for an ITIN were able to acquire the credential, although that will require the adoption of recommendations listed

below regarding the application and renewal process for an ITIN.

Meanwhile, activism on the state level is gaining steam. As previously mentioned, and as illustrated in Appendix A, a growing list of states are passing legislation to include ITIN filers in their EITCs. Seven states have already succeeded in this endeavor and another four states are debating currently pending legislation.

Persistent state activism on this issue may prove to be significantly impactful as more state and national legislators look for ways to address the drastically disparate harm that the Covid-19 pandemic has had on the lowest income earners in the US One result of state activism on this issue is a further legitimizing of ITIN filers as taxpayers to be treated just like any others. Even in the absence of federal policymaking, and sometimes in spite of it, states have fundamentally improved the civic status and the wellbeing of their immigrant residents by expanding eligibility for driver's licenses, tuition at public universities, and safety net programs (Suro 2015). Further state initiatives on EITC eligibility would similarly produce a cumulative impact in the pursuit of effective anti-poverty measures and equity in the tax code.

Reverse the Trump exclusion of ITIN children from the Child Tax Credit. Central among President Biden's campaign promises on immigration was a vow to reverse his predecessor's most egregious and punitive policies. To that end, the Biden administration should prioritize reversing Trump's exclusion of ITIN children from the CTC when Congress takes up the American Family Plan. An expanded CTC is at the heart of President Biden's promise to cut child poverty in half. By limiting eligibility to children with SSNs, Trump's 2017 tax cut bill eliminated about one-tenth of the credit's potential beneficiaries. Biden's initiative cannot accomplish its moral and civic purpose—galvanizing the public around an anti-poverty campaign—if Trump's gratuitous exclusion of ITIN children remains in place. However, in the fight against child poverty this alone would be only a step towards Biden's objectives. A relatively small number would regain equal access – 675,000, according to the Center for Budget and Policy Priorities which announced support for CTC inclusion in August 2021 (Hingten 2021). Equal access to the EITC would reach more than twice as many poor children, the great majority of them US citizens.

Reform IRS application and renewal procedures: In several reports to Congress in recent years, the TAS has made recommendations that can serve as a roadmap on how to make the ITIN more accessible and thus reverse the decline in ITIN usage that it has documented (TAS 2017, 2019a, 2019b). Moreover, the TAS reports take pains to note that current law grants the IRS sufficient discretion to adopt most of the proposed fixes. Congress and the White House should ensure that the IRS brings about the necessary changes, which at a minimum should include:

- Allow ITIN applications to be filed electronically at any time of the year. Under the current process, with a few exceptions, an applicant can only apply for an ITIN at the same time that they file their taxes and must submit paper forms.
- Expand the range of what is considered acceptable documentation. Currently, applicants either have to submit original documents or obtain certification through a complex process that can be difficult to access, costly, and time-consuming. A key recommendation from the TAS is to broaden the number and types of officials who can review and certify documentation. Taxpayer Assistance Centers, state agencies, and court clerks could all play a role.
- Make the ITIN permanent like the SSN. Until 2015, ITINs did not expire. As documented by the TAS and described above, the process of deactivating and renewing ITINs has been arbitrary and inefficient for little apparent gain.
- Provide the IRS with adequate funding to administer a significantly expanded ITIN program and hold the agency accountable for the program's success through Congressional oversight, Treasury Department audits, and prominent attention to the work of the Taxpayers Advocate Service.

Undertake a national campaign to encourage the use of ITINs to comply with tax obligations. If the recommendations listed here were adopted so that the ITIN was readily accessible and provided important tax credits to poor families, an honest case could be made to unauthorized immigrants (especially those with children), that tax compliance with an ITIN is in their best interests. In addition, Washington would have to

provide additional reassurances that no immigration enforcement consequences could result from ITIN filers' efforts to comply with the tax code. Philanthropies, immigrant rights advocates, community-based organizations, state and local governments, and federal agencies could all contribute to a national campaign to promote ITIN applications. More than a public information effort, an effective campaign would have to provide direct assistance in completing the application process. And, then once eligible taxpayers have

Table A.1 States That Have Extended Their State EITCs to ITIN Filers.

State	Date of enactment	Potential number of EITC eligible ITIN returns[a]	Other key provisions and/or relevant information
Colorado	July 11, 2020	47,190	This bill Increased the state EITC from 10% to 15% of the federal credit beginning in 2022. The inclusion of ITIN filers in Colorado was part of a much larger bill focusing on fairness in the state tax code.
California	September 18, 2020	723,935	The legislature approved an expansion in June 2020 of the state EITC to ITIN filers with children under age 6 and then in September 2020 to all ITIN filers. California's EITC has the highest refundable credit of all states, set at 85% of the federal credit.
Maryland	March 5, 2021	57,310	Governor Larry Hogan had opposed this measure when it was included in his Covid Relief Act, but a separate bill later passed both houses with enough votes to overturn a veto, and it became law without the governor's signature. This Act, however, was classified as an emergency measure, and is set to expire in 2023. Advocates are working to make these changes a permanent facet of Maryland's state credit.
New Mexico	April 6, 2021	16,440	This bill also extended eligibility for the state credit to filers as young as 18. The amount of the credit was raised from 17% of the federal credit to 20%, and is scheduled to be raised again in 2023 to 25% of the federal credit.
Washington	May 4, 2021	69,170	Washington's version of the EITC, the Working Families Tax Credit, was passed by the state legislature in 2008 but had never actually been funded. This bill funds the Working Families Tax Credit for the very first time, and includes ITIN filers. It passed with overwhelming support across the aisle, with a vote of 47-2 in the Senate and 93-3-2 in the House.
Maine	July 15, 2021	65	The bill also provides funding towards tax assistance, outreach about tax credits, and financial education to low-income individuals and families. It became law without the governor's signature.
Oregon	July 19, 2021	30,945	The original bill introduced in Oregon would have also compensated ITIN filers for the amount of credit that they are denied on the federal level. While that element did not pass, ITIN filers are now eligible for Oregon's state EITC with the passage of this bill.

Note. EITC = Earned Income Tax Credit; ITIN = Individual Taxpayer Identification Number; ITEP = Institute on Taxation and Economic Policy.

[a]ITEP analysis, March 2020, using SPEC Returns Database for the ITIN market segment for tax year 2015 and ITEP's microsimulation tax model.

Table A.2 States That Have Pending Legislation to Extend Their State EITCs to ITIN Filers.

State	Potential number of EITC eligible ITIN returns[a]	Status as of July 25, 2021	Other key provisions and/or relevant information
Massachusetts	18,515	Pending in the Joint Committee on Revenue	This bill builds on the state EITC to establish a Guaranteed Minimum Income. This would go farther than the EITC by including those who have no income. The bill would also raise the state EITC from 30% to 50% of the federal credit, and households with more than three children would be eligible for even higher percentages of the federal credit
New York	100,905	Pending in the Budget and Revenue Committee	This bill would raise the state credit amount from 25% of the federal credit to 30% in 2021 and 40% in 2022. It would lower the minimum age to receive the credit from 25 to 19. The bill would also allow advance payment of the credit, and adjusts the income phase-out amount. Separately, New York recently created an Excluded Worker Fund that is aimed to fill in the gaps made by the federal exclusion of ITIN filers from unemployment insurance and the stimulus payments.
Illinois	156,330	Pending in the Rules Committee	This bill includes clauses to expand the state EITC to filers aged 18–24 and to those over age 65 with no child dependents, as well as to caregivers providing unpaid care in the home.
New Jersey	77,560	Pending in the Budget and Appropriations Committees	This bill is a standalone extension of the state EITC to ITIN filers.

Note. Tables updated from Findling (2021). EITC = Earned Income Tax Credit; ITIN = Individual Taxpayer Identification Number; ITEP = Institute on Taxation and Economic Policy.
[a]ITEP analysis, March 2020, using SPEC Returns Database for the ITIN market segment for the tax year 2015 and ITEP's microsimulation tax model.

acquired an ITIN, they will need ongoing counseling and education on how to file their taxes and how to take advantage of tax credit programs.

Accomplishing these objectives could have important results beyond providing significant relief to millions of poor families.

By identifying themselves with the government and filing taxes, those lacking legal immigration status would present themselves as contributors to the nation's economic wellbeing who work hard for low wages in essential jobs. Including them in a poverty-fighting program would endorse their role as parents, who are fullfilling a sacred civil mission that is recognized generously elsewhere in the tax code and in many social policies. ITIN participation would serve as an onramp to compliance for those who are otherwise outside the law in many regards. Granting them equal access to tax credits would amount to a form of transactional recognition by the government. At a time when the prospects for a general legalization of the unauthorized are dim at best, these twin steps would imbed the logic of legalization in tax and social policies and in the functioning of important bureaucracies in Washington and the states.

While not resolving the structural inequities that have fostered a large population of unauthorized immigrants living in poverty, the ITIN agenda mitigates some of the economic injustice with equal treatment by the tax code.

And while not repairing a broken immigration system, the ITIN agenda opens new trajectories towards legal status.

Appendix A

See Tables A.1 and A.2.

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