Illegal Immigration and the Earned Income Tax Credit

A study of fraud, abuse, and liberal activism: a 2018 update

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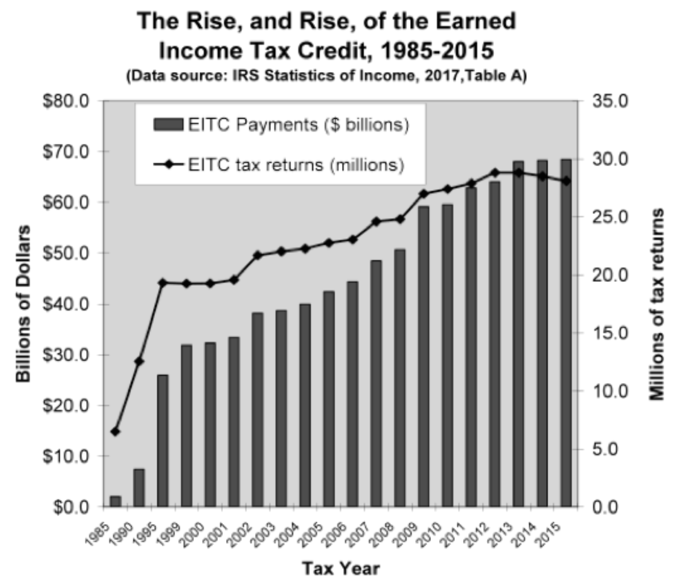
INTRODUCTION

As Americans struggle to file federal income taxes by April 15, millions of illegal immigrants, who have not paid a dime in tax, are lining their pockets with tax refunds. Three programs—the *Earned Income Tax Credit* (EITC), the *Additional Child Tax Credit* (ACTC), and the *American Opportunity Tax Credit* (AOTC)—make this possible; all three programs are administered by the Internal Revenue Service (IRS). They are designed to reduce taxes paid by low-income families with children, but they are "refundable" tax credits, meaning that if the amount of credit exceeds the filer's tax payment, *the government pays the difference in cash*. For many illegals these programs represent a government check received without working, going to school, or having a child.

EITC is the oldest and most expensive refundable tax credit. Created in 1975 to offset the impact of Social Security taxes on poor families with children, EITC eligibility has expanded to include childless families and singles. Since 1979, the EITC credit has been available as an "advance," allowing filers to receive their predicted credit in quarterly payments throughout the preceding year, and settle up with the IRS when the amount they are actually eligible for becomes known.[1] In 2009, the Obama administration expanded the EITC by creating a "third tier" for families with three or more children, allowing them to receive up to $700 more than they otherwise would.

EITC payments have grown every year over the past three decades; the number of tax returns claiming the credit is 4.4 times larger now than it was thirty years ago:



From 1985 to 2015, EITC payments grew from $2.1 billion to $68.5 billion, up by an eye-popping 3,162 percent, while federal income tax revenues rose by a comparatively tame 378 percent. Similarly, the number of tax returns claiming EITC increased by 339 percent, nearly ten times the 36 percent increase in total federal income tax returns over that period.

Entitlement reform is essential if we are serious about cutting the deficit. Over the past thirty years, reductions in Medicare, Medicaid, and other "untouchable" entitlements have been proposed. More recently, Obamacare—along with the tax credits enacted to help

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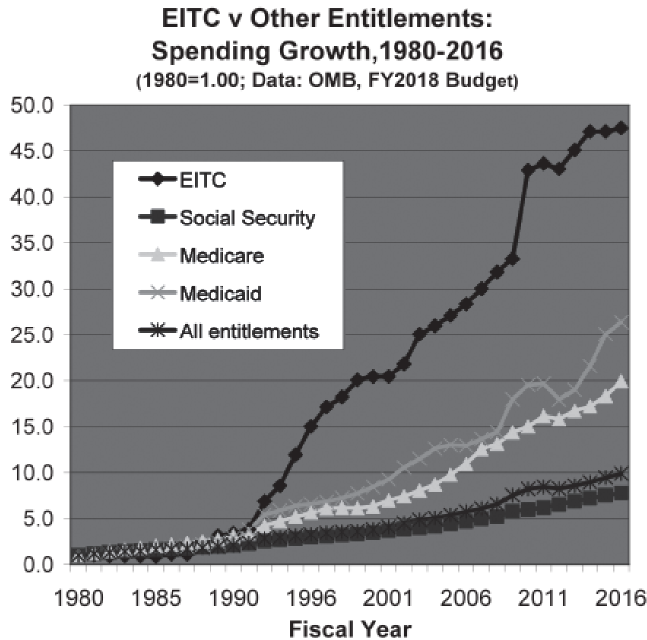
low-income people pay the higher medical insurance premiums, has been targeted for extinction. But the EITC? No way. Neither party has shown any interest in cutting the tax credit.

This is a chronic problem. For decades EITC spending has grown faster than spending for better-known entitlement programs:



In 1980, the refundable part of EITC spending (i.e., the amount paid over and above taxes paid by recipients) was $1.275 billion. By 2016 the refundable part had grown to $60.6 billion, a 47-fold increase, as shown in the above table. Over this period Social Security spending increased 7.8-fold, Medicare rose 20-fold, Medicaid grew 26-fold, and all entitlements grew 10-fold.

While the Trump administration obsesses over Obamacare, EITC remains in the shadows. One reason for its relative anonymity: EITC is part of the income tax code. (That's why we are releasing this update prior to the Tax Day 2018.) The tax code is vast. It contains hundreds of deductions, allowances, and credits, of which EITC is one of the most complex, generous—and abused. But the credit is not subject to the congressional budget appropriation process, so the scandals and fraud associated with it are rarely discussed publicly.

Technically, illegal aliens who do not have Social Security numbers are not eligible to collect the EITC. A constellation of factors, including identity theft, incompetent accountants, aggressive tax preparation services, and pro-immigration activists, have effectively neutralized this prohibition.

The IRS itself is complicit. Each year the tax collection agency mails millions of EITC refunds to households that claim children and sufficiently low income on their 1040 return. In 2018, these refunds can be as high as $6,318. No interviews. No eligibility checks. No effort to ascertain whether the person filing the return is really working, or simply using a Social Security number stolen from someone who is.

A 2017 audit by the Treasury Department's Inspector General for Tax Administration (TIGTA) found the tax agency unable to fulfill this mission:

> IRS processes are not sufficient to identify all employment identity theft victims. For example, 497,248 victims, who did not have a tax account in Processing Year 2015, were not identified even though identity thieves electronically filed tax returns with evidence that they used the victims' Social Security Numbers (SSN) to gain employment. For another 60,823 victims, who have a tax account, the IRS did not update their account with an employment identity theft marker. In addition, IRS processes do not identify employment identity theft when processing paper returns…[2]

Claiming fictitious children is a major source of EITC fraud. One inspector general's report found, for example, that 2,137 returns were filed from a single address in Lansing, Michigan, each claiming children that lived at that address. The IRS was asleep at the switch: this one incident triggered $3.3 million in refunds before the fraud was detected.[3]

TIGTA identified seven specific actions that the IRS needed to take in order to weed out fraudulent tax returns and safeguard Social Security card-holders from identity theft. IRS management rejected five of the seven ideas. In a blog post Dan Cadman, a retired ICE/INS expert on immigration law enforcement, writes: "This is beyond disturbing; it beggars belief. Why would they not accept the TIGTA's recommendations?"

By way of explanation, Cadman notes that the IRS "…is an agency that, incredibly, harbors employees who are themselves tax scofflaws." He implies, in effect, that self-interest plays a role in IRS management's turning a blind eye toward tax fraud, adding: "If this is not the classic definition of a rogue executive branch agency, I don't know what is."[4]

On top of everything, Barack Obama's de facto amnesty extended EITC eligibility to immigrant groups most likely to qualify for the credit: the so-called Dreamers and their parents. Forty percent of both Mexican and Honduran households qualify for the tax credit, as do forty-two percent of households headed by a Guatemalan. Those rates are nearly twice the EITC eligibility rate for all immigrants (23.5 percent) and four times the eligibility rate for natives (10.5 percent).[5]

Instead of curtailing EITC fraud, the Obama administration fueled an entirely new component—one that the Trump Administration has yet to squash. Nearly one-quarter (24.8 percent) of all EITC payments, worth an estimated $16.8 billion, were issued improperly in 2015, according to recent congressional testimony.[6]

Fraudulent payments are, of course, a long-standing problem that affects every federal program. Advocates for the poor insist that EITC fraud is unfairly singled out by those who would reduce all payments to deserving poor. But the size and intensity of EITC fraud are demonstrably larger than for the fraud in other federal programs. We know this from an annual survey conducted by the Government Accountability Office (GAO).

The Improper Payments Act of 2002 requires agencies to identify programs and activities susceptible to fraudulent payments, estimate the amount of such payments, and report on actions they have undertaken to reduce them. In 2016 GAO reviewed 22 such reports, covering 112 government programs. Improper payments totaled a stunning $144.3 billion in 2016, up from $107.1 billion in 2012.[7]

More than two-thirds of this waste stems from three mega-programs: Medicare, Medicaid, and the Earned Income Tax Credit. As for the improper payment *rate*, EITC is by far the worst:

IMPROPER PAYMENTS REPORTED BY FEDERAL AGENCIES, FY2016

(5 largest improper payments reported by OMB)

Program	Improper payment estimate ($ mils.)	Improper payment rate (% of program outlays)
Medicare (Parts A and B)	41,084.7	11.00%
Medicaid	36.253.3	10.48%
Earned Income Tax Credit (EITC)	**16,762.7**	**24.02%**
Supplemental Security Incomes (SSI)	4,210.5	7.42%
Direct Education Loans	3,867.9	3.98%
Five most wasteful programs	102,179.1	10.83%
107 other programs	42,154.7	2.22%
Federal total	144,333.8	5.08%

Sources: GAO, *Improper Payments: Additional Guidance Could Provide More Consistent Compliance and Reporting by Inspectors General,* Table 6, May 2017.

Yet politicians from Paul Ryan to Michael Bloomberg tout the EITC as the one anti-poverty program that works. Their enthusiasm stems from the perception that EITC only helps the working poor—especially families with children. Unlike traditional welfare programs that reduce benefits as a recipient's private earnings go up, the EITC credit goes up, increasing work incentives for low-income individuals. Only as income approaches the poverty level are EITC payments phased out.

In truth, the EITC phase-out creates work disincentives that are every bit as damaging as those in traditional welfare. At income as low as $18,343, every extra dollar earned takes 21 cents away from a family's EITC benefit.[8] To avoid this, many EITC claimants stay in dead-end jobs interminably. (There is no time limit placed on EITC eligibility.) Equally perverse is the marriage disincentive: If a single parent gets married, the new spouse's income can disqualify the new household from receiving any EITC benefit. The credit becomes, in effect, a marriage tax.

These negatives notwithstanding, support for the credit extends beyond the Beltway: In 2017 29 states plus the District of Columbia had their own EITCs.[9] These state plans generally mimic the federal structure on a smaller scale, with individuals receiving a state credit equal to a fixed percentage—generally between 15 and 30 percent—of what they receive from the federal credit. A few small EITCs have been enacted by local governments—in San Francisco, New York City, and Montgomery County, Maryland.

Washington's love affair with EITC has allowed the minimum wage to decline in real value. Native workers have suffered as a result. So have labor unions. In effect, EITC subsidizes employers who hire low-wage immigrants and reject equally qualified natives. No one should be surprised, therefore, that Walmart, the U.S. Chamber of Commerce, and most liberal activist groups, are major EITC supporters.

For low-income families the tax refund is often the largest sum of money received during the year. Most receive it after filing income taxes. But some need the money immediately and they can get it—for a price. A niche financial sector thrives by lending EITC recipients immediate cash in return for a hefty chunk of their credit check. The cost to the poor of these so-called Refund Anticipation Loans (RALs) has been estimated at 6 percent of the entire EITC program.

Has EITC lived up to its hype? In answering this, consider the following:

• EITC originated as an anti-poverty program; the number of tax returns claiming EITC refunds more than doubled (+123 percent) from 1990 to 2015, while the poverty population rose 28 percent.

• EITC benefits rise sharply with parenthood; yet poverty rates for families with children have risen faster than those for childless families since the credit was created.

• EITC's payment structure is supposedly pro-family; yet a larger share of poor children lives in single-parent households now than when the credit started.

Clearly, the much-heralded work incentives embedded in EITC have not worked as advertised. In fact, EITC appears to be a textbook case of unintended consequences.

A related tax credit, the Additional Child Tax Credit (ACTC), is explicitly available to illegal aliens.

ACTC is the refundable part of the Child Tax Credit (CTC), a credit dating from the Taxpayer Relief Act of 1997. Initially ACTC provided a maximum payment of $500 per child. President George W. Bush's tax cuts of 2001 and 2003 doubled the maximum ACTC payment to $1,000 per child, and extended ACTC eligibility to families with one or two children. Those expansions were renewed by Obama in 2009—but were slated to expire in 2013. The American Taxpayer Relief Act of 2012, enacted in response to the "fiscal cliff" emergency on New Year's Day 2013, made the expansions permanent.[10] As a result, ACTC payments skyrocketed from $1 billion in tax year 2001 to $27 billion in tax year 2015.[11] The share of tax filers receiving the payment increased from 1 percent to 18 percent.

Most families with children eligible for EITC are also eligible for the ACTC. Unlike EITC benefits, which max out at three children, ACTC payments increase for every child in a taxpayer's family. Since larger families generally have more income than smaller families, ACTC payments are less concentrated on low-income groups than EITC payments. More than 58 percent go to taxpayers making more than $20,000.

More importantly, a large share of ACTC refunds go to illegal aliens who are not eligible to work in the United States. Most of these folks file tax returns with an Individual Taxpayer Identification Number (ITIN) because they cannot legitimately obtain a Social Security number. They claim dependent children who do not exist, are in a foreign country, are over-aged (the child must be under age 17), or are illegal aliens.[12] This occurs despite the explicit statements in the 1996 Clinton welfare reform law (PRWOA, or Personal Responsibility and Work Opportunity Act) that "[I]t is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits," and illegal aliens are "not eligible for any Federal public benefit."[13]

IRS is part of the Treasury Department. The Treasury Department's Inspector General for Tax Administration (TIGTA) is the individual charged with IRS oversight—i.e., determining whether the tax collection agency's policies are legal and ethical. In a 2011 report the TIGTA summarized IRS policy regarding the ACTC and illegal aliens as follows:

"Many individuals who are not authorized to work in the United States, and thus not eligible to obtain a Social Security Number (SSN) for employment, earn income in the United States. The Internal Revenue Service (IRS) provides such individuals with an Individual Taxpayer Identification Number (ITIN) to facilitate their filing of tax returns. Although the law prohibits aliens residing without authorization in the United States from receiving most Federal public benefits, an increasing number of these individuals are filing tax returns claiming the Additional Child Tax Credit (ACTC), a refundable tax credit intended for working families. The payment of Federal funds through this tax benefit appears to provide an additional incentive for aliens to enter, reside, and work in the United States without authorization, which contradicts Federal law and policy to remove such incentives.[14]

Jan Ting, a professor of law at Temple University, sees the IRS as knowingly enabling this fraud:

> In light of a decision by a U.S. Court of Appeals that the child tax credit is a 'public assistance benefit', it should be hard if not impossible for the IRS to justify continuation of its implicit position that the credit is not a 'public benefit.' Nevertheless, the likelihood that the IRS will abide by the appellate court's decision must be weighed against its self-evident determination to frustrate the intent of Congress, as expressed in the PRWOA, to 'remove the incentive for illegal immigration provided by the availability of public benefits.'[15]

The TIGTA report presented data showing ACTC rapidly becoming a program for individuals not eligible to work in the U.S.—i.e., illegal aliens:

ACTC REFUNDS RECEIVED BY ILLEGAL ALIENS, 2005-2010
(ITIN tax returns)

		Returns with ACTC	
Processing Year	Amount ($ Bil.)	Number	as % of all ITIN returns
2005	$0.92	795,705	51%
2006	$1.31	1,060,000	52%
2007	$1.71	1,300,000	53%
2008	$2.14	1,530,000	60%
2009	$2.86	1,850,000	65%
2010	$4.20	2,330,000	72%

Data: Treasury Inspector General for Tax Administration, *Individuals Who Are Not Authorized to Work in the United States Were Paid $4.2 Billion in Refundable Credits*. Table 1, July 7, 2011.

As seen in the table, nearly three-quarters (72 percent) of all tax returns filed by illegal aliens claimed the ACTC in 2010. These folks paid no income taxes, yet collected an aggregate $4.2 billion in refundable ACTC

tax credits that year. Over the five-year period, 2005 to 2010, the number of aliens claiming the credit rose nearly three-fold, and the dollar amount they received grew more than four-fold.

While the Great Recession undoubtedly contributed to increased ACTC usage, Barack Obama's economic recovery plan is also culpable. The American Recovery and Reinvestment Act of 2009 increased ACTC eligibility and enabled some qualifiers to claim a greater amount. In addition, there was an increase in the number of filers who filed retroactively—for back years as well as the current year—in order to maximize their ACTC refund. In 2010, for example, about 238,000 ITIN filers submitted multi-year returns claiming more than $1 billion in ACTC money.[16]

At a superficial level, there is some good news to report: ACTC refund payments peaked in tax year 2011, and have declined every year since then, while the EITC, which at least tries to avoid sending benefits to illegals, has increased each year:

From 2011 to 2015 total ACTC refunds declined by 7.0 percent, from $28.6 billion to $26.6 billion, while EITC payments rose by 8.9 percent, from $62.9 billion to $68.5 billion. Put differently, in 2011 total ACTC refunds were about 45 percent the size of EITC refunds; by 2015 (latest available data) they slipped to 39 percent of EITC payments. It should be noted that these figures reflect all refund payments, those received by illegal aliens filing with ITINs as well as those received by U.S. citizens filing with valid Social Security numbers.

Another piece of good news, which may explain some of the decline in ACTC outlays noted above, is that the IRS has tightened its rules governing the issuance of ITINs. ITINs issued prior to 2013 were valid for a period of five years. Today such numbers must be applied for annually.[17]

The new regulation appears to have had a chilling effect on those who fraudulently secured ITINs in the past. IRS data show a significant drop in ITIN applications since 2013. Unfortunately, the percentage of applications rejected by IRS has also dropped:

ITIN APPLICATIONS, GRANTS, AND REJECTIONS 2013-2015

Year	Applications	Grants	Rejections	% rejected
2013	1,206,204	622,814	583,390	48.4%
2014	958,669	636,041	322,628	33.7%
2015	891,050	608,373	282,677	31.7%

Data source: David North, Good News/Bad News on IRS Program that Pays Illegals to Stay in the U.S., CIS, October 4, 2016.

David North, an internationally recognized expert on immigration policy, suggests that the downward trend in rejection rates "may relate to a better mix of applications, to lower standards on the part of the IRS, or to some combination of the two."[18]

The IRS data in this table are not publicly available. They were pried out of the IRS via a Freedom of Information Act Request by Ian Smith of the Immigration Law Reform Institute. The data relate only to the number of ITINs issued, not the type of tax credits or the dollar amounts they secured. We can only hope that the Trump team will staff the IRS with individuals willing to release this information.

THE AMERICAN OPPORTUNITY TAX CREDIT

The AOTC was created by the American Recovery and Reinvestment Act of 2009 as a modification of the nonrefundable Hope Credit, a Clinton-era program. The credit covers up to $1,000 of payments for tuition, college fees, and course materials, and is limited to the first four years of postsecondary education. As with the EITC and ACTC, the credit is reduced when income rises above specified threshold levels. Unlike those credits, AOTC is available to taxpayers with income well above poverty level: In 2014 single filers with income as high as $90,000, and joint returns with up to $180,000 in gross income, were eligible for AOTC refund checks.

The TIGTA found widespread AOTC fraud, with many filers claiming the credit for students enrolled for more than four years, students who went to non-accredited institutions, and those attending school less than half-time. Treasury also found that 250 inmates in correctional facilities have claimed the credits as students.[19] When confronted with this evidence of AOTC fraud, the Obama administration responded by simply legalizing the abuses identified in the audit:

"Currently students must be at least half-time to qualify for the AOTC, and families can claim the credit for no more than four years. Under the President's plan, part-time students would be eligible for a $1,250 AOTC (up to $750 refundable) and all eligible students would be able to claim the AOTC for up to five-years," the 2015 tax plan said.[20]

While Obama's proposals did not make it into law, the AOTC remains the most lucrative education tax break of all. Households that pay no taxes get can get a check from the federal government for up to $1,000 for four years. For those who pay taxes, the credit is as much as $2,500 per year for up to $4,000 in tuition.[21]

In 2015 these three tax programs paid a combined $102 billion to more than 56 million tax filers.[22] IRS estimates that nearly one-quarter (24.6 percent) of all payments made under these programs that year were "improper"—defined as a payment that should not have been made, was made in an incorrect amount, or was made to an ineligible recipient.

The risks inherent in refundable tax credits are highlighted in 2017 congressional testimony by the Treasury Inspector General for Tax Administration:

THE THREE LARGEST REFUNDABLE TAX CREDITS, TAX YEAR 2015

	Tax Returns (millions)	Total Payments ($ billions)	Improper Payments (a) Amount ($ billions)	Improper Payments (a) as a % of Total Payments
EITC	27.5	$67.5	$16.8	24.9%
ACTC	19.2	$26.0	$7.2	27.7%
AOTC	9.6	$8.5	$1.1	12.9%
Total	56.3	$102.0	$25.1	24.6%

a. IRS estimates of improper payments made in FY2016, as reported in data source.

Data source: J. Russell George, Duplication, Waste, and Fraud in Federal Programs, Senate Testimony, April 26, 2017, pages 10 and 11.

"Although refundable credits provide benefits to individuals, the unintended consequences of these credits is that they can result in the issuance of improper payments and can be the targets of unscrupulous individuals who file erroneous claims. Refundable credits can result in tax refunds even if no income tax is withheld or paid; that is, they can exceed an individual's tax liability. Consequently, they pose a significant risk as an avenue for those seeking to defraud the Government. Whereas, nonrefundable tax credits are limited to the amount of an individual's income tax liability, refundable tax credits do not have such a limitation."[23]

EVERYBODY'S DOING IT?

Fraudulent payments are, of course, a longstanding problem that affects every federal program. Advocates for the poor insist that EITC fraud is unfairly singled out by those who would reduce all payments to deserving poor. But the size and intensity of EITC fraud is demonstrably larger than that in other federal programs. We know this from an annual survey conducted by the Government Accountability Office (GAO).

The Improper Payments Act of 2002 requires agencies to identify programs and activities susceptible to fraudulent payments, estimate the amount of such payments, and report on actions they have undertaken to reduce them. In 2016 GAO reviewed 22 such reports, covering 112 government programs. Improper payments totaled a stunning $144.3 billion in 2016, up from $107.1 billion in 2012.[24]

More than two-thirds of this waste stems from three mega programs: Medicare, Medicaid, and the Earned Income Tax Credit. As to the rate of improper payments, EITC is by far the worst:

IMPROPER PAYMENTS REPORTED BY FEDERAL AGENCIES, FY2016
(5 largest improper payments reported by OMB)

Program	Improper payment estimate ($ mils.)	Improper payment rate (% of program outlays)
Medicare (Parts A and B)	41,084.7	11.00%
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107 other programs	42,154.7	2.22%
Federal total	144,333.8	5.08%

Sources: GAO, *Improper Payments: Additional Guidance Could Provide More Consistent Compliance and Reporting by Inspectors General,* Table 6, May 2017.

For the record, neither the ACTC nor AOTC submitted Improper Payment reports in FY2016. ■

Endnotes

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3. Ernest Istook, *Needed: Watchdogs over waste, misguided payments*, Washington Times, April 8, 2015.
4. Cadman, op. cit.
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11. IRS, *Statistics of Income*, Tax Statistics Publication 1304, Table A.
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15. Jan Ting, op. cit.

16. Peter A. Schulkin, *Illegal Immigrants Receive Billions of Dollars More from the IRS than They Pay in,* David North, Center for Immigration Studies, September 16, 2011.

17. David North, *Good News/Bad News on IRS Program that Pays Illegals to Stay in the U.S.*, CIS, October 4, 2016.

18. Ibid.

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20. Ibid.

21. http://time.com/money/4622625/tuition-fees-education-tax-deduction-ends/

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23. J. Russell George, op. cit.

24. House Budget Committee, *Building a Better America, https://budget.house.gov/wp-content/uploads/2017/07/Building-a-Better-America-PDF-1.pdf, p. 51.*

THE EARNED INCOME TAX CREDIT (EITC)

A credit, not a deduction

A tax credit reduces tax *payments* dollar for dollar. A tax deduction, by contrast, reduces taxable *income* dollar for dollar. A deduction's impact on tax liability depends on the taxpayer's marginal tax rate—the lower the rate, the less the tax reduction.

The lowest federal income tax rate in tax year 2017 was 10 percent. It applied to joint returns with taxable income under $18,650. For taxpayers in this bracket, a $1,000 deduction lowers tax liability by $100 (10 percent of $1,000), while a $1,000 credit lowers tax liability by the full $1,000.

EITC is a refundable tax credit. Refundable tax credits can generate *a negative income tax liability*, where the taxpayer's income tax refund exceeds his income tax payment. In this way, refundable credits are a form of negative income tax.

The following example highlights the difference between a refundable credit like EITC and a tax deduction of equal amount.

Assume a family with two children has taxable income of $18,000. Their federal income tax liability is $1,800 (10 percent of $18,000.)

A $4,000 tax deduction reduces the family's taxable income to $14,000, and cuts its tax liability to $1,400—a reduction of $400.

A $4,000 refundable tax credit reduces the family's tax liability by $4,000. This is more than the family's tax bill. So after paying taxes of $1,800, the family receives a check for $4,000. Their net tax payment is therefore negative $2,200.

Bottom line: A $4,000 deduction reduces this family's tax liability from $1,800 to $1,400. A $4,000 refundable credit eliminates the family's tax liability completely, paying them $2,200 over and above the $1,800 they paid in taxes. ■

I. EITC AND ACTC FRAUD

After creating the false Forms W-2, [Pepe] Anetipa then transferred the information onto tax returns on which she claimed her clients were owed significant refunds. In order to increase the refunds, Anetipa also encouraged her clients to find dependents to include on their returns. The addition of dependents allowed taxpayers to claim that they were entitled to the Earned Income Tax Credit (EITC) even though they were in fact entitled to $0 from the United States Treasury…. the IRS ultimately linked Anetipa to the preparation and filing of hundreds of false returns that resulted in the payment of approximately $2 million in false refunds….
—Department of Justice (DOJ) Press Release, November 17, 2015
https://www.justice.gov/usao-ak/pr/washington-woman-sentenced-2-million-fraud-scheme

Kevin Kunlay Williams, aka Kunlay Sodipo, a Nigerian citizen, [is charged] with mail fraud, aggravated identity theft, voter fraud, illegal reentry and being a felon in possession of a firearm. According to the indictment, Williams and others stole public school employees' IDs from a payroll company and used them to electronically file more than 2000 fraudulent federal income tax returns seeking more than $12 million in refunds. He also allegedly stole several Electronic Filing Identification Numbers (EFINs) that he used to secure bank products allowing him to print refund checks and direct the Internal Revenue Service (IRS) to send refunds to prepaid debit cards.
—DOJ Press Release, March 29, 2017
https://www.justice.gov/opa/pr/missouri-man-indicted-12-million-tax-refund-fraud-voter-fraud-illegal-reentry-and-felon

A federal court in Orlando, Florida, has permanently barred Jason Stinson, of Longwood, Florida, from preparing federal tax returns…. The court found that Stinson falsified information on his customers' returns to claim the maximum EITC amount by: "claiming bogus dependents, fabricating unreimbursed employee expenses and charitable contributions, and fabricating business income and expenses." The court found that in many instances Stinson and his preparers fraudulently lowered a customer's taxable income by claiming false unreimbursed business expenses in large amounts, at times more than half of what the customer earned in a given year....
—DOJ Press Release, March 8, 2017
https://www.justice.gov/usao-ndal/pr/court-orders-return-preparation-business-owner-pay-nearly-950000-united-states

Technically, EITC is available only to low-income workers eligible to work in the United States. In practice, Social Security number (SSN) theft, counterfeit W-2s, and other scams nullify such restrictions. Shady tax preparation services enable illegal aliens to maximize the credit by fudging income and claiming non-existent dependents.

Most illegal immigrants have fraudulent Social Security cards, according to Federal Security officials. Their favorite target: young children. SSNs assigned to infants are stolen from medical paperwork and used to file returns. The fraud can go undetected until the child looks for a job as a teenager.[1]

The IRS does little to verify the validity of SSNs on tax returns, the existence of immigrant children, or to ascertain that they have lived with the taxpayer for more than six months of the year as required by law. Illegals still claim all kinds of dependents—including some in Mexico. Prompted by tax preparation services, illegal alien husbands and wives often file separate returns on which both claim the same kids.

EITC outreach groups—most prominently the Center for Budget and Policy Priorities (CBPP)—offer tips as to how illegals can receive EITC payments for years in which they did not have a valid Social Security number. As a result, some studies have found that illegal aliens receive EITC at greater rates than their legal counterparts.

The incentive to cheat is huge: a worker with two children and income below $45,007 can receive an EITC refund up to $5,616 in 2018. A related tax credit—the Additional Child Tax Credit (ACTC)—pays this person $1,000 for each additional child. For most illegal aliens, these refunds are the largest checks they receive all year.

The ACTC is available to illegals even if they do not have a valid Social Security number. All they need is an Individual Taxpayer Identification Number (ITIN)—which tax preparation services are happy to apply for

on their behalf. And unlike the EITC, which maxes out at three children, ACTC payments go up for each additional child.

The IRS makes getting $1,000 per child easy. One IRS staffer told a TV reporter:

"We see the same docs photocopied and attached to different applications. It's the same person, same photo, same address. I've seen the same birth certificate 12 times now in the past day. You see it all on an ITIN application..."[2]

When asked what he does with the applications, the IRS insider admitted

"If the document is there, process it."

The same reporter tracked down an illegal alien:

> One of the workers who was interviewed at his home in southern Indiana admitted his address was used this year to file income tax returns by four other undocumented workers who don't even live there. Those four workers claimed 20 children live inside the one residence and, as a result, the IRS sent the illegal immigrants tax refunds totaling $29,608.
>
> 13 Investigates [news program] saw only one little girl who lives at that address (a small mobile home). We wondered about the 20 kids claimed as tax deductions?
>
> "They don't live here," said the undocumented worker. "The other kids are in their country of origin, which is Mexico."[3]

A TIGTA report from 2012 focused on massive mailings of approved ITINs and ITIN-related tax refunds to specific postal addresses. There were, for example, 23,984 tax refunds, claiming a combined $46,378,040 in refunds, sent to a single address in Atlanta, Georgia. Another tabulation showed that 15,769 ITINs were mailed to a single address in Phoenix.[4]

Cases where hundreds, or even thousands, of tax returns claiming children are mailed from the same address usually involve the ACTC. More often than not, the address is that of a tax preparation service that caters to illegal aliens. They procure ITINs from the IRS, pay for stolen SSNs for children (who may or may not exist), and coach their clients on income eligibility limits. The catch: customers must agree to have the refunds sent to the tax preparer's office. This procedure is a win-win for illegal alien filers, who do not want the Feds to know their true whereabouts, and the tax preparer, who takes a hefty fee from the tax refund before disbursing the balance to his or her client.

In the (very unlikely) event that the IRS gets around to investigating the address in question, the pop-up office is long gone.

IRS tax forms do not ask the citizenship status of filers; therefore, the agency does not know how many illegal aliens receive refundable tax credits. Private think tanks, however, have estimated EITC and ACTC usage of immigrants born in countries known to send a disproportionate number of illegal aliens to the U.S.

The Center for Immigration Studies (CIS) examined welfare recipiency rates among immigrants in a 2016 report. They found that immigrants in general, and Mexican immigrants in particular, use major means-tested program at higher rates than natives.

EITC stands out as the program most likely to be received by immigrant households from Mexico:

IMMIGRANT RECIPIENCY RATES: EITC, ACTC, AND OTHER MEANS-TESTED PROGRAMS, 2015

	EITC	ACTC	CASH WELFARE	HOUSING
All Immigrants	**23.5%**	**17.2%**	**6.1%**	**5.2%**
Mexico	**40.3%**	**33.0%**	**5.9%**	**3.2%**
Hispanic	35.8%	27.8%	6.4%	5.0%
Black	21.3%	14.8%	6.2%	8.2%
Asian	13.7%	8.6%	5.0%	4.9%
White	10.3%	6.2%	6.7%	4.2%
All Natives	**10.9%**	**6.9%**	**6.1%**	**4.6%**
Hispanic	20.4%	15.2%	10.4%	7.5%
Black	18.7%	11.5%	12.9%	13.2%
Asian	8.9%	6.0%	4.2%	3.2%
White	8.4%	5.2%	4.4%	2.7%

Note: Cash welfare includes TANF and SSI; Housing includes subsidized and public housing.

Source: Steven Camarota and Karen Ziegler, *Immigrants in the United States: A Profile of the foreign-born using 2014 and 2015 Census Bureau Data*, CIS, October 2016. Table 12.

Households headed by Mexican immigrants are more than three times as likely to receive EITC than households headed by native-born Americans. For ACTC, the tax credit explicitly available to illegal aliens, the eligibility ratio was nearly five-to-one (33.0 percent of households headed by a Mexican versus 6.9 percent of households headed by a native.)

Moreover, immigrants receive larger average benefit payments than natives. For EITC, average payment amounts in 1999 were as follows: Natives $1,456; All immigrants, $1,693; Mexican immigrants, $1,887.[5] This is because EITC payments, like payments for public assistance and food stamps, typically reflect the number of people in the households. Because immigrant households are larger on average (primarily because of higher fertility), the size of their average payment is also larger.

All nationalities and ethnicities are more likely to receive tax credit refunds than cash welfare or housing subsidies. This reflects the relative ease with which potential participants can access these programs. For example, local welfare offices typically require face-to-face interviews before individuals can receive benefits.

Traditional office hours—8:00 AM to 5:00 PM—pose a barrier to potential applicants who work and would have to take time off to apply.

By comparison, getting an EITC or ACTC refund check is relatively easy. Tax returns showing income in the eligible range can receive tax credit refunds as early as February 15, the date the IRS is now required to hold refunds claiming the EITC and ACTC. It had been January 31, but was pushed back to give the IRS more time to compare income reported on tax returns with income employers reported on W-2 forms sent to the Social Security Administration. Despite this extension, more than half (58 percent) of refunds claiming these tax credits are sent without income verification. The problem is especially acute for returns filed electronically[6]

The bottom line: Only persons whose employment is not reported to the IRS (i.e., they work off the books). or who do not file an income tax return, are shut out completely from refundable tax credits.

EITC RECIPIENCY BY STATE

Further evidence of a link between EITC and illegal aliens is seen in state data. States with large illegal alien populations have above average fractions of federal tax returns claiming the credit.

The positive correlation is evident in the table:

ILLEGAL ALIENS AND EITC RECIPIENCY BY STATE 2014

(15 states with largest illegal alien populations)

	Illegal aliens as % of state or regional pop.	% of tax returns claiming EITC	Average EITC Payment	Illegal alien population (1,000s)
Nevada	7.2%	20.0%	$2,316	210
Texas	6.1%	23.7%	$2,600	1,650
California	6.0%	19.3%	$2,314	2,350
New Jersey	5.4%	14.6%	$2,246	500
Arizona	4.9%	21.3%	$2,481	325
Florida	4.2%	24.0%	$2,396	850
Maryland	4.2%	15.0%	$2,248	250
New York	3.9%	19.7%	$2,273	775
Colorado	3.8%	15.3%	$2,124	200
Georgia	3.6%	26.3%	$2,639	375
Washington	3.6%	14.4%	$2,104	250
Illinois	3.5%	17.4%	$2,397	450
Virginia	3.5%	16.7%	$2,250	300
North Carolina	3.4%	22.4%	$2,415	350
Massachusetts	3.1%	12.9%	$2,016	210
States (above)	**4.7%**	**19.9%**	**$2,381**	**9,045**
Rest of U.S.	**1.6%**	**18.8%**	**$2,332**	**2,055**
TOTAL U.S.	**3.5%**	**19.4%**	**$2,362**	**11,100**

Note: Illegal alien population estimates are for 2014; EITC data are for 2013.
Data sources: Jeffrey Passel and D'vera Cohn, "Overall Number of Unauthorized Immigrants Holds Steady Since 2009," Pew Research Center, September 20, 2016, Appendix B (population data); Congressional Research Service, *The Earned Income Tax Credit (EITC), An Overview*, January 19, 2016, Table A-2 (EITC data).

The table ranks the 15 states with the largest illegal alien populations on the share of state population composed of illegals. At the top is Nevada, where an estimated 7.2 percent of residents are illegal aliens. Texas ranks second, with 6.1 percent, while California, at 6.0 percent, is now third, although the state maintains a commanding lead in the number of illegal alien residents—2.35 million. At the other extreme are Massachusetts and North Carolina, where illegal aliens account for 3.1 percent and 3.4 percent of state populations, respectively.

EITC was claimed on 19.9 percent of tax returns filed by residents living in these 15 states, versus 18.8 percent of returns from residents living in other states. The average EITC benefit was also larger—$2,381 in the top 15 illegal alien venues against $2,332 in the rest of the country.

Zeroing in on top five states (Nevada, Texas, California, New Jersey, and Arizona), the recipiency rate differences are even more pronounced. Residents in those states claimed EITC on 20.3 percent of tax returns, versus 18.8 percent recipiency in the rest of the country.

Residents of the top five illegal alien states also received significantly larger benefits—an average $2,427—or 4.1 percent more than the $2,332 average in the rest of the country. The differential reflects, in part, the relatively large number of children in illegal immigrant households.

As discussed below, EITC benefits rise when children enter the picture. There is thus a strong incentive for low-income households—including illegals—to have children (anchor babies), or misrepresent their status as custodial parents, in order to qualify for larger EITC payments.

EITC FRAUD IN CONTEXT

According to Bernard Wasow of the Century Foundation:

> The IRS estimates that a single type of illegal scheme—offshore sheltering of income—practiced by 505,000 taxpayers in 2000, resulted in tax losses of $20 billion to $40 billion. This one scheme, used by only a half million high-income evaders, cost the Treasury two to four times as much as the six million EITC noncompliers…[7]

Mr. Wasow has a point: The amount of federal tax dollars lost to EITC fraud is small compared to the amount lost from fraudulent tax evasion activities of middle and upper income Americans. These relationships are highlighted in the "Tax Gap" report issued periodically by the Internal Revenue Service.

The latest report, covering years 2008 to 2010, finds an average annual Tax Gap of $458 billion over

that period, with $40 billion of it attributable to tax credits.[8] A different set of numbers, in which improper EITC payments are broken out separately, puts the EITC-related tax gap at $16.8 billion. So the total tax gap is about 27 times larger than the amount lost from EITC fraud alone ($458 billion versus $16.8 billion).

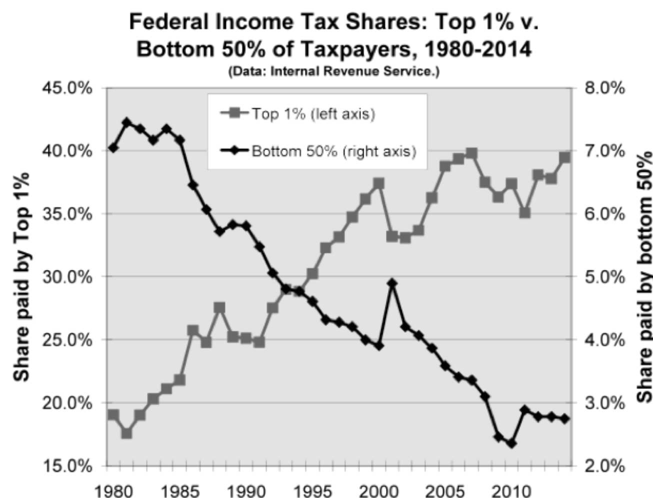
But wait a minute: On average 141.9 million income tax returns were filed annually over the 2008 to 2010 period, and only 26.4 million of them claimed the EITC. So, on a per return basis, the difference between EITC fraud and other tax fraud is only about one-fifth as large as the aggregate dollar amounts indicate.

Even more telling is the percent of total tax liability each group fraudulently evades. From 2008 to 2010 U.S. taxpayers paid the federal government $2.038 trillion on time, a figure equal to 81.7 percent of their true average annual tax liability over that timeframe. This implies that the noncompliance rate for all federal taxes is 18.3 percent, or about one-third less than the 24.9 percent improper payment rate for EITC shown above.

Moreover, late payments and enforcement efforts such as IRS audits and collection activities (payment arrangements, liens, and other legal actions) will recover some of the tax gap. The IRS estimates these activities will eventually collect $52 billion of the unpaid 2008 to 2010 tax liability. By comparison, fraudulent EITC payments are rarely recovered.

It's not that middle or upper income taxpayers are more honest than EITC recipients—though that may indeed be the case. Most of us simply cannot avoid paying taxes because of withholding. And most of us cannot "hide" income because employers report our wages and salaries and tips directly to the IRS through form W-2. Less than 1.5 percent of income subject to withholding is misreported on income tax returns.[9]

Skeptics still believe the tax code is tilted toward the rich, and that the EITC should be expanded to ease the burden on low-income workers. The data simply do not support this view:



In 1980 the richest 1 percent of taxpayers paid 19 percent of all federal income taxes; by 2008, their tax share doubled, to 38 percent, and in 2014 (latest available data) it was 39.5 percent. Over the same period the share paid by the bottom half of taxpayers fell sharply—to 2.8 percent in 2014 from 7.1 percent in 1980.

Average tax rates (tax as a percent of gross income) have declined for all taxpayers since the 1980s—thanks to the Reagan revolution. But the poorest half have been the biggest beneficiaries. Their average tax rate (taxes as a percent of Adjusted Gross Income) fell from 6.1 percent in 1980 to 3.5 percent in 2014. For the top 1 percent, the decline was more muted: from 34 percent in 1980 to 27 percent in 2014.

Bottom line: the tax system is far more progressive today than it was in 1980.

Most of the increase progressively reflects changes in tax rates and other policies designed to ease the burden on lower income taxpayers. Some of it, however, is unintended—the result of high rates of tax fraud among low-income taxpayers. EITC and its companion, the ACTC, are responsible for much of this trend. ■

Endnotes

1. http://transcripts.cnn.com/TRANSCRIPTS/0605/12/ldt.01.html

2. David North, *Paying Illegals to Stay, the IRS Gives Out Billions Each Year,* CIS, October 14, 2013.

3. Ibid. (source of quote)

4. Treasury Inspector General for Tax Administration, *Substantial Changes Are Needed to the Individual Taxpayer Identification Number Program to Detect Fraudulent Applications*, July 16, 2012. https://www.treasury.gov/tigta/auditreports/2012reports/201242081fr.html

5. Steven Camarota*, Immigration From Mexico: Assessing the Impact on the United States*, CIS, July 2001.

6. GAO, *2017 Filing Season: New Wage Verification Process Holds Promise but IRS Faces Implementation Challenge*s, April 26, 2017.

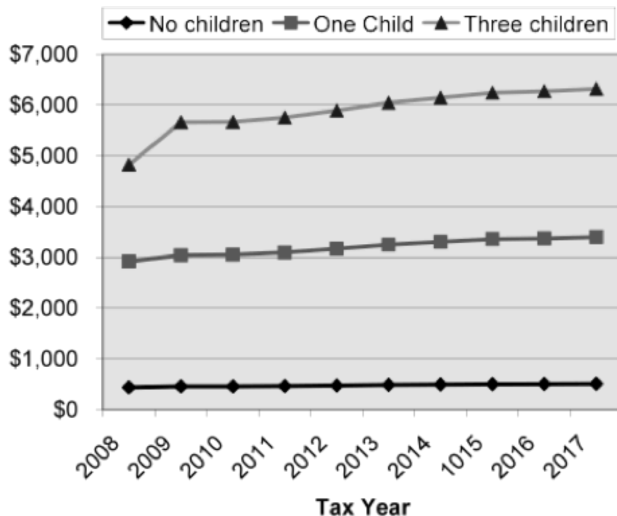
7. Bernard Wasow, *Earned Income Tax Credit: The Compliance Challenge*, The Century Foundation. http://www.tcf.orgPublications/EconomicsInequality/EITC.pdf

8. IRS, *Tax Gap Estimates for Tax Years 2008-2010*, April 2016. https://www.irs.gov/pub/newsroom/tax%20gap%20estimates%20for%202008%20through%202010.pdf

9. IRS, Understanding the tax gap, March 2005.http://www.irs.gov/newsroom/article/0,,id=137246,00.html

II. EITC AND POPULATION GROWTH

EITC originated as an income supplement to help low-income workers pay Social Security taxes. Somewhere along the line its mission was expanded. Today it is a program whose benefits are heavily contingent on parenthood. The pro-procreation incentives of the tax credit have increased steadily over time:



EITC payments rise sharply as the number of children in the taxpayer's household rises. In 2008 a family with no children received a maximum EITC payment of $438; a family with one child received up to $2,917, while two or more children bumped the maxim credit to $4,824. Thus in 2008 families with children could receive EITC refunds that were 11 times larger than those available to those with no children ($4,814 versus $438).

The pro-child bias was exacerbated when a fourth EITC bracket, for families with three or more children, was added in 2009. Subsequent inflation adjustments widened the dollar gap between the maximum refund available to the childless and those with children.

On returns filed this April (Tax Year 2017) childless families will be eligible for an EITC payment of up to $510, while a family with three or more children will receive up to $6,318. Thus, the presence of children triggers a 12-fold rise in EITC refunds in 2017.

In dollars, the refund gap between childless households and those with three or more children rose from $4,386 in 2008 to $5,808 in 2017. That's an increase of $1,452, or 33.1 percent, in EITC's pro-procreation incentive over this period.

While these dollar amounts may seem modest to most taxpayers, they are irresistible windfalls for low-income workers, a big incentive to procreate—or at least claim to. The IRS estimates that roughly half of the incorrect filing claims under the EITC involve fraudulent child custodial claims.[1] Yet the tax collection agency does little to verify the existence of children claimed on tax returns.

But most children claimed on EITC tax returns are real—and therein lies the problem. The decision to have children may be influenced, at least in part, by the generous tax credit.

PRO-CHILD, BUT ANTI-MARRIAGE

EITC payments ramp up dramatically when children are born. But married parents often receive a far smaller benefit than single or cohabiting parents with similar incomes. The marriage penalty occurs when the combined earnings of husband and wife push them into EITC's "phase-out" income range—from $23,930 to $50,597 for a married couple with two children in 2017. Every additional dollar of income within that range reduces EITC payments by 21 cents.

If a childless full-time minimum wage worker marries a minimum wage worker with two children, they suffer an EITC marriage penalty of nearly $1,800 compared to what they would have received if they remained single. If they each have two children, they stand to lose nearly $7,000 in EITC payments upon tying the knot.

In 1979 73 percent of children lived in married couple households; in 2016 only 65 percent did. While many cultural and demographic factors play into this trend, the fraction of children living with married parents declines most dramatically during economic downturns, or exactly when EITC eligibility is on the rise.

While it is impossible to determine how many births are directly attributable to the EITC, circumstantial evidence suggests a linkage. First and foremost: the rapid growth of births to immigrant mothers eligible for the EITC.

In 1970 immigrant mothers accounted for about 6 percent of U.S. births. By 2002 their share more than tripled, to 22.7 percent. (Even in 1910—the peak of the Great Wave—only 21.9 percent of births were to foreign-born mothers).[2] While births to immigrants and native-born women have declined since the Great Recession, the share of all U.S. births to immigrant women in 2015—19.9 percent—is more than three times what it was prior to the EITC.

The EITC's child-bearing incentives are far more pervasive among immigrant households:

EITC ELIGIBILITY RATES, 2015	
All immigrants	23.5%
Immigrant households with children	39.6%
All natives	10.9%
Native households with children	23.9%

Data source: Steven A. Camarota and Karen Zeigler, Immigrants in the United States: A profile of the foreign-born using 2014 and 2015 Census Bureau Data, October 2016, Table 12.

Immigrant households with children under 18 are about 66 percent more likely to be eligible for EITC than comparable households headed by natives. This reflects their larger family size and lower average incomes.

The pro-child bearing incentives of EITC could explain why immigrant fertility rates are higher in the U.S. than in their country of origin:

THE EITC EFFECT? IMMIGRANT FERTILITY RATES ARE HIGHER IN U.S. THAN IN HOME COUNTRY

Country of origin	TFR in Home Country	TFR in U.S.
Mexico	2.40	3.51
Philippines	3.22	2.30
China	1.70	2.26
India	3.07	2.23
Vietnam	2.32	1.70
Korea	1.23	1.57
Cuba	1.61	1.79
El Salvador	2.88	2.97
Canada	1.51	1.86
United Kingdom	1.66	2.84

Total Fertility Rate (TFR) is the number of children a woman can be expected to have in her reproductive years. Estimates are based on analysis of 2002 American Community Survey data. Data source: Steven Camarota, "Birth Rates Among Immigrants in America," Center for Immigration Studies, October 2005. Table 1. http://www.cis.org/articles/2005/back1105.pdf

Immigrant mothers from most countries have more children in the U.S. than in their home country. Throughout the world, a woman's educational level is a key determinant of her fertility, with more educated women generally having fewer children than the less educated. Yet even after controlling for education differences, immigrant fertility is higher here than the home country.

Clearly, something happens here that does not happen there. The availability of EITC and other pro-child public benefits to low-income, poorly educated immigrants, is surely one factor.

Fertility rates for both native-born and immigrant women have dropped over the past decade. However, the latest data indicate foreign-born women of all major races and ethnicities will have more children over their reproductive lifetimes than native-born women in their respective groups. The pattern closely mirrors eligibility for the tax credit:

TOTAL FERTILITY RATES, 2015

	Native-born	Immigrants
White	1.74	1.99
Black	1.69	2.56
Asian	1.59	1.76
Hispanic	1.85	2.38
EITC Eligibility Rates, 2015		
	Native-born	Immigrants
White	8.4%	10.3%
Black	18.7%	21.3%
Asian	8.9%	13.7%
Hispanic	20.4%	35.8%

Data: Steven Camarota and Karen Ziegler, Center for Immigration Studies, 2016 and 2017.

Fertility and EITC eligibility rates for white and Asian immigrants are well below the average for all immigrants. By contrast, Black and Hispanic immigrants were the most fertile and the most likely to qualify for the EITC in 2015. In fact, they are the only foreign-born females with Total Fertility Rates (TFRs) above the 2.1 level needed to keep population stable over the long run.

TFR represents the expected number of children a woman will have over the course of her lifetime, based on current birth rate trends. TFR comparisons are particularly useful when there are large age differences among groups. If, say, female immigrants are much younger than female natives, the TFRs of the two groups will not be affected. By contrast, birth rates—calculated as births per 100,000 population—will generally be larger in the group with the younger population.

Put differently, the TFR reflects the desire of

women in various groups to have children. The prospect of a generous child benefit such as EITC can certainly affect that decision. And if history is any guide, the immigrant/native fertility gap will remain intact in future generations. That is, fertility rates of the U.S.-born descendants of today's immigrants will exceed by a similar margin those of the descendants of today's natives.

Even small differences in fertility rates can produce large differences in population growth if they persist over a long period of time. They are the demographic equivalent of compound interest rates. In this way immigrants influence future population growth by more than their numbers might suggest. Over time the immigrants die, but their U.S.-born offspring will have children themselves, followed by grandchildren and subsequent generations. A sophisticated population projection methodology is required to measure the impact of future immigrants on future population growth.

The Census Bureau's 2014 national population projections are the first to incorporate separate fertility assumptions about native and foreign-born women. Higher fertility rates for immigrant women and their U.S.-born children, some of it due to EITC, is one factor behind the steady rise in the U.S. population over the 2014 to 2060 period.

U.S. POPULATION BY NATIVITY 1970-2060
(POPULATION IN THOUSANDS)

	Total	Native Born	Foreign Born	Foreign-born % of Total
1970	204,401	194,788	9,613	4.7%
1980	227,537	213,864	13,673	6.0%
1990	248,623	229,023	19,600	7.9%
2000	281,646	250,478	31,168	11.1%
2010	309,350	269,394	39,956	12.9%
2014 National Projections				
2014	318,748	276,398	42,350	13.3%
2020	334,503	286,611	47,692	14.3%
2030	359,402	302,545	56,857	15.8%
2040	380,213	315,103	65,116	17.1%
2050	398,328	326,030	72,299	18.2%
2060	416,795	338,564	78,230	18.8%
Projected Increase (2014-2060)				
Persons	98,047	62,166	35,880	
%	30.8%	22.5%	84.7%	

Data: Census Bureau (1970-2010)
2014 National Projections (2014-2060)

Total U.S. population is expected to increase by 31 percent, or by 98.0 million, from 2014 to 2060. The native-born population will grow by 22.3 percent, while the immigrant population is projected to rise nearly four times as fast—up by 84.7 percent over the 2014 to 2060 timeframe.

Based on these figures, the foreign-born population will account for 37 percent of total population growth between 2015 and 2060. But a full accounting of immigration's impact must add the U.S.-born children and grandchildren of immigrants arriving during this time. Census estimates that 39.8 million children—about 20 percent of all U.S. births—will be born to immigrant mothers who arrive during the projected period. We have not seen Census estimates of grandchildren. Meanwhile, about 300,000 immigrants die each year, and an equal number voluntarily leave (emigrate).

Ascertaining the impact of immigration over a multi-generation time frame is no easy matter. A comprehensive analysis would require projecting U.S. population assuming zero immigration over the 2014 to 2060 period, and comparing the results with the actual Census projections. The official 2014 national projections do not include a zero-immigration scenario. However, a 2013 Census Blog item projects the impact a zero-immigration policy would have on 2060 population.

The Census bloggers concluded that under then-current immigration policies, U.S. population would rise to 420 million in 2060, versus 341 million if no immigration were allowed over the 2012 to 2060 period. This implies that immigrants arriving over the next 45 years or so, and their U.S. born children and grandchildren, will add 79 million to U.S. population by 2060. As things stood in 2014, immigration was expected to account for more than two-thirds of U.S. population growth over the next forty-five years.

But that was BT—Before Trump. Hopefully the next set of Census projections will be based on a border wall, enhanced deportations, and lower EITC eligibility rates for illegals. Immigration's impact on population growth will be far smaller than projected only a few years ago.

RACE, ETHNICITY, AND THE EITC

Minorities qualify for the EITC at higher rates than whites because their incomes are lower. Their average credit payment is also larger due to the presence of children. The latter difference is especially pronounced for Hispanic households. The Hispanic TFR in 2015 was 2.05 children per woman. This value is higher than for any of the race groups; white and Asian TFRs are 1.75 and 1.67, respectively, and the black TFR is 1.81. The higher rate for Hispanic women is in large part due to the relatively high fertility of foreign-born women, who have a TFR of 2.38.[3]

Although fertility rates overall are expected to decrease, Hispanic, black, and Asian TFRs will remain above the white TFR, and immigrant fertility will remain above the native-born. The inevitable result: minorities will displace whites as the majority population group. The tipping point is a little more than a generation away, according to the 2014 national projections (see data table, page 17).

Whites were an 87 percent majority in 1950. Today (2015) they account for 62 percent of the population.

While still the "majority" group, the census calculates that around 2030 the non-Hispanic white population will start to decline. According to the most recent Census projections the majority-minority crossover will occur in 2044—barely one generation removed from today.

By 2060 the Hispanic population will be 2.1 times larger than today, there will be 2.2 times more Asians, and 36 percent more blacks. By contrast, there will be 16.5 million fewer non-Hispanic whites, a reduction of 8.5 percent.

THE COMING WHITE MINORITY: PROJECTED POPULATION BY RACE AND HISPANIC ORIGIN 2015-2060

	Total	White Non-Hispanic	Hispanic	Black Non-Hispanic	Asian Non-Hispanic	Other
Population in Thousands:						
2015	321,369	198,354	56,754	39,782	16,978	9,501
2020	334,603	199,400	63,551	41,594	19,255	10,703
2030	359,402	199,403	77,463	45,118	23,999	13,419
2040	380,219	195,197	91,626	48,162	28,756	16,478
2050	398,328	188,419	105,550	51,006	33,391	19,962
2060	416,795	181,930	199,044	54,028	37,879	23,914
% of Total						
2015	100.0%	61.7%	17.7%	12.4%	5.3%	3.0%
2020	100.0%	59.6%	19.0%	12.4%	5.8%	3.2%
2030	100.0%	55.5%	21.6%	12.6%	6.7%	3.7%
2040	100.0%	51.3%	24.1%	12.7%	7.6%	4.3%
2050	100.0%	47.3%	26.5%	12.8%	8.4%	5.0%
2060	100.0%	43.6%	28.6%	13.0%	9.1%	5.7%

Data: Census Bureau, Table 10.
https://census.gov/data/tables/2014/demo/popproj/2014-summary-tables.html

The main reason for the majority-minority transition is the persistently higher fertility rates among immigrant women. U.S.-born children of Hispanic immigrants have long since replaced Hispanic immigrants as the fastest-growing segment of the Latino population. While these children may surpass their parents in earnings and education, they are unlikely to close the gap with non-Hispanic whites.

A mother's culture, education, and earnings potential are undoubtedly more important than the prospect of a higher EITC payment when she decides to have another child. But for many low-income immigrants, the credit is a factor. Even a tiny change in average fertility rates, when compounded over time, has enormous consequences.

A MODEST PROPOSAL

Pro-child, yet anti-marriage. Anti-poverty, yet harmful to workers whose wages rise above the poverty threshold. The EITC tries to be everything to everybody, and ends up being a complicated, fraud-riddled mess for the nation. Policymakers should restore the credit to its original mission: to offset payroll taxes paid by the poor.

To do this, policymakers should strip all child-related incentives from EITC and focus on payroll tax-related aspects of the credit. The mechanics are simple: a single EITC phase-in rate of 15.3 percent (equal to the combined Social Security and Medicare payroll-tax liability), with maximum benefits available at the poverty thresholds for single workers and families, should be made available to all taxpayers. Differentiation by family size should be left to the income tax, via personal deductions, and the non-refundable child tax credit available only for people who pay income tax.

As it stands now, EITC discriminates against low-income singles and rewards households with children. Single wage earners are taxed into poverty. For example: a 21-year-old just starting out in the workforce and making poverty-level wages of $12,500 will have a combined $956 in Social Security and Medicare payroll taxes deducted from his paycheck. Because he receives zero in EITC (childless workers below 25 are not eligible), his after-tax income is $956 below the poverty line.

The benefits of paying higher EITC benefits to young singles extend beyond income. Labor force participation rates of childless workers (the percentage who are working or actively looking for work) will rise. For decades these rates have been falling: in 1989 89 percent of childless men aged 20 to 24 with less than a high school degree were in the labor force; in 2014 only 71 percent were.

Marriage rates will also rise. In 1987, sociologist William Julius Wilson noted the correlation between falling real wages and declining marriage rates in low-income communities.[4] Low employment rates and falling wages, Wilson argued, reduced the "marriageability" of young men, creating an epidemic of female-headed households. A number of studies suggest that boosting EITC for low-income singles will reduce crime rates.[5]

Restructuring EITC this way would accomplish three major conservative policy goals. First, it would eliminate the possibility that payroll and income taxes push workers into poverty. Second, it would eliminate the de facto marriage penalty embedded in the current EITC program. Third, the existing EITC is rife with error and fraud because of its complexity and the fact that refunds can exceed total tax liability. Eliminating child-related provisions and reducing EITC payments in line with payroll tax liability will reduce the likelihood for error and eliminate the incentive for fraud. ■

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III. EITC and Low-Wage Jobs

The federal government spent three times more on EITC refund checks in 2016 than it did on Temporary Assistance for Needy Families (TANF), the traditional cash welfare program. Good news for the working poor? That's what liberal activists would have us believe. So would the House Majority Leader, Rep. Paul Ryan (R-WI), the Heritage Foundation, the *Wall Street Journal* editorial page, and disciples of economist Milton Friedman.

Conservative support for EITC stems mainly from the fact that *only* the employed are eligible; liberal activists, finding themselves in such strange company, would do well to ask: is there a catch? History suggests there is, and it revolves around the perverse incentives that wage subsidies—such as the EITC—have on employers.

The "Speenhamland system"—an obscure law in force in England between 1795 and 1834—is eerily reminiscent of today's EITC. Like EITC, Speenhamland linked welfare to work. Upper class eighteenth century Englishmen were no more eager to subsidize idleness than their twenty-first century American counterparts.

And also like the EITC, Speenhamland was an attempt to raise earnings without placing a burden on employers. If wages fell below a certain level, the government paid the difference; as wages rose, the government payment fell. For those who did not work, there was no government subsidy.

Employers soon discovered they could "game" the system by cutting wages below what workers were really worth to them. Before Speenhamland they would have gotten what they paid for: mediocre, malnourished, resentful workers, or none at all. But with the country taking up the slack, they had nothing to fear.

"In the long run the result was ghastly," wrote economic historian Karl Polanyi in his 1944 classic *The Great Transformation*: "Wages which were subsidized from public funds were bound eventually to be bottomless." The result was that, as Notre Dame University economist Teresa Ghilarducci puts it, "The government subsidized wages so much they went broke."[1]

EITC, like Speenhamland, rewards employers who pay workers sub-standard wages. To see this perversity at work, imagine that the economy consists of two companies producing widgets. Employer (1) hires moderately skilled workers at $10 per hour, but he produces 10 widgets per worker per hour.

Employer (2) hires only the least skilled workers. In the absence of the EITC subsidy, assume that no worker would take the job for less than $7.50 per hour. But workers on his less sophisticated assembly line produce only 5 widgets per worker per hour—half the productivity of employees of employer (1).

The result will be employer (1) will have to pay $1 in wages for every widget produced ($10 per hour for 10 widgets per hour), while employer (2) will have to pay $1.50 for every widget produced ($7.50 per hour for 5 widgets per hour.)

In this labor market, low-wage employer (2) will be unable to compete with his more productive, higher-wage competitor. Curtains for employer (2).

Now introduce an EITC program that adds, say, 50 cents to every dollar of wages. Theoretically, employer (2) could offer his workers only $5/hour, since they would receive an added $2.50 from the government. So, workers at (2) will stay on the job and produce widgets at $1 per widget—the same cost as employer (1).

Increase the EITC subsidy rate even more, and employer (2) will be able to drive his more technologically advanced, higher-wage competitor out of business.

The bottom line is that wage subsidies like EITC destroy high-wage jobs.

This is somewhat of a simplification: in the real world, employers do not cut wages a dollar for each dollar of wage subsidy. But employers have learned how to exploit a system that is ripe for exploitation—a system where government subsidizes low-wage jobs while taxing moderate wages.

Walmart, for example, has "educated" its workers about the EITC for more than a decade. "The momentum behind it is education—ways our employees can save money and live better," a company spokesperson said at that time.[2]

While Amazon has left Walmart in the dust in terms of retail sales, Walmart is still the largest private employer, with 1.5 million employees in the U.S. alone. And it's a hugely profitable one: it generated $482 billion in revenue in 2016. Yet the nation's largest employer relies on taxpayer money to subsidize employee wages.

A single adult with one child who works full time for $10 an hour (the company's minimum wage for non-supervisory workers) will still qualify for the EITC.

Two of the largest states in which Walmart operates, New York and California, approved a statewide $15 minimum wage earlier this year. A federal bill would also increase the federal minimum wage to $15 by 2020.Yet the company claims it cannot pay workers that wage.

General Motors (GM), by contrast, does not "educate" its workers on how to utilize the EITC for this reason: it pays them too well to qualify.

Gary Gereffi, professor of sociology at Duke University, deconstructed the vastly different business philosophies of the two companies on the PBS program "Frontline." [The Frontline interview with Gary Gereffi was conducted September 9, 2004, before Walmart changed its logo from Wal-Mart.]

Gereffi: "…it's very interesting to compare Wal-Mart with General Motors, which was the best known, largest, most respected company 50 years ago. I think these two models are radically different models. The Wal-Mart model is premised on global efficiency. The General Motors model was premised on having workers that could afford to buy the products that they made."[3]

Frontline: "Are you suggesting here that Wal-Mart is pushing prices so low and pushing wages so low that it may, in fact, eventually bankrupt its own customers because they won't be making enough money to go shopping?"

Gereffi: "Wal-Mart is pushing wages down to a level where the people that work in Wal-Mart stores are going to be forced to buy in Wal-Mart stores, because they can't make enough money to buy goods elsewhere in the economy.

"The traditional model of American capitalism from the mid-twentieth century was that American corporations were respected because they were globally efficient, but they also paid their workers a good wage so that workers could become consumers and part of the middle class of American society. I think we've lost that model today, because globalization has pushed Wal-Mart and companies like them towards global efficiency, where consumer prices are the only things that matter. ..."

Gereffi again: "Wal-Mart is also having a negative impact on employment in the retail sector. Wal-Mart is the largest employer in the United States after the federal government. But Wal-Mart is also very well known for being a non-union company and pushing non-union conditions on its workforce. ... It pays its workers at a minimum pay scale with very few fringe benefits. Because Wal-Mart's the largest private employer in the United States, whatever Wal-Mart does in terms of the labor market, all other businesses have to follow. So Wal-Mart is really determining the direction in which the U.S. labor market is moving."[4]

Walmart, and its enabler, the EITC.

EITC FROM THE EMPLOYEE'S PERSPECTIVE

Consider a household with two children and income less than $50,597 in 2018. For each dollar earned up to $14,040 the government kicks in an extra 40 cents. Between $14,040 and $23,930 the benefit is the same, $5,616, neither increasing nor increasing with additional earnings. So if this hypothetical two-child household earned the minimum wage in 2018, they would receive an extra $5,616 after filing their income taxes.

But once the family's income exceeds $23,930—hardly enough to support four persons—their EITC payment starts to "phase out." For this unfortunate family, this means they lose 21.06 cents of EITC for every additional dollar of income. Add in Social Security and income taxes, and in some states more than 50 percent of any pay hike is lost to higher taxes and lower credits—a higher marginal tax rate than the wealthy pay.

Why earn more if the government takes over half of the increase?

Why invest time, effort, and money to improve your work skills?

If poor families are rational, they will respond to the work disincentives of EITC by working less. Data backs this up. Around 77 percent of EITC recipients have incomes that fall in the flat or phase-out range of the credit. Economists generally agree that most of these folks will work fewer hours, and devote less time and effort to improving their work skills and education, because of the negative EITC incentives.[5]

In the short run, the EITC is effective in moving people out of poverty. But over the long haul, the program enables employers to offer less to workers, who because of the program's perverse incentives, may be satisfied with less. As a result, the program originally envisioned as a transfer to low-wage workers has become a transfer to their employers.

EITC VS. THE MINIMUM WAGE

> *The minimum wage law is most properly described as a law saying that employers must discriminate against people with low skills.*
>
> —Milton Friedman

In this statement the great conservative economist gives voice to what has become the conventional wisdom among free market libertarians: Minimum wage laws hurt the poor.

Their argument runs like this: In a free market, wages will track a worker's "marginal productivity"—his or her value to the firm. Employers who try to pay

workers less than their true worth will only lose them to competitors. They either match the competitive wage, or go out of business. But minimum wage laws interfere with this process. Many unskilled, uneducated workers simply do not contribute enough to a firm's bottom line to justify receiving the minimum wage. They are its victims rather than its beneficiaries.

Or, as Friedman cheekily observed: "It has always been a mystery to me why a youngster is better off unemployed at $4.75 an hour than employed at $4.25."

In fact, Friedman's minimum wage takedown does not hold up in the real world. We've had dozens of state minimum wage increases and now have 19 states with minimums above the federal level. If the classical labor market model so beloved by Friedman and his fellow libertarians were correct, we would see fewer workers employed in low-wage jobs. This has not happened.

In the real world, employers absorb modest minimum wage hikes without reducing employment of minimum wage workers. They can raise prices, accept lower profits, or demand higher productivity from minimum wage workers. History shows that minimum wage hikes that affect less than 10 percent of the workforce do not significantly reduce employment of the workers affected by the change.[6]

The impact of higher minimums on employment has been researched ad nauseam by economists in academia and the private sector. John Schmitt, an economist with the non-partisan Center For Economic and Policy Research, summarized this extensive literature a few years back:

> The employment effect of the minimum wage is one of the most studied topics in all of economics. This report examines the most recent wave of this research—roughly since 2000—to determine the best current estimates of the impact of increases in the minimum wage on the employment prospects of low-wage workers. The weight of that evidence points to little or no employment response to modest increases in the minimum wage.[7]

An earlier study of state minimum wage laws found that "wages are higher and employment is no lower" in states with a higher minimum wage than those without. The median minimum wage was $1.40 (more than 25 percent) higher than the federal minimum in states that had raised their minimum wage.[8] Another study, outlined by economists Alan Krueger and David Card in their book *Myth and Measurement*, finds that raising the minimum wage actually increases employment for the poor because it encourages higher productivity and creates more spending in the poor communities themselves.[9]

The pro-EITC crowd argues that the minimum wage is too blunt a tool to be effective against a complex, nuanced problem like poverty. While it reaches low-wage workers, it doesn't take into account family size or household income. Indeed, many of these critics believe the typical minimum wage beneficiary is a teenager working part-time while living with parents in a middle-class neighborhood. Not so! An analysis by the Economic Policy Institute finds that nearly three-quarters of workers affected by minimum wage laws are in the bottom half of the workforce by household income level. Eighty-four percent are at least 20 years old, and nearly half (47 percent) work full time.

Nevertheless, ideological objections to minimum wage laws have influenced public policy:

Since 1990 the average EITC benefit, adjusted for inflation, has more than doubled (up by 125 percent), while the minimum wage grew by a mere 5.3 percent. The federal minimum wage was last increased in 2009. Since then its real value declined by 10 percent, while the average EITC payment has risen 1 percent. Even during the period of its sharpest expansion the EITC fell notably short of offsetting the drop in the minimum wage.

Raise the EITC even more, you say? That would merely increase the government subsidy to low-wage employers. The obvious answer is to increase the minimum wage to a level where the EITC subsidy is no longer necessary.

EITC AND IMMIGRATION

The same business groups that tout the virtues of EITC also support mass immigration. That should come as no surprise: the influx of unskilled, un-educated foreign workers depresses wages for all American workers—foreign and native-born alike. Lower wages mean higher profits, higher share prices, and a net transfer of hundreds of billions of dollars from the pockets of workers to employers.

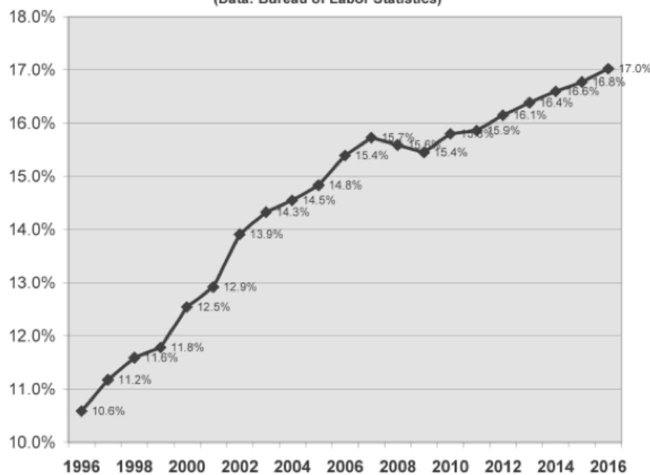
EITC and immigration share joint responsibility for one of the most pernicious economic trends of our time: the obscene income gap between rich and poor in the U.S. George Borjas, an economist at Harvard's Kennedy School of Government, estimates that "almost half the decline in the relative wage of high school dropouts may be attributed to immigration." Black Americans in particular are big losers, with immigration reducing the income of the average native black person about $300 per year (Peter Skerry, "How Immigration Re-Slices the American Pie," *The Washington Post*, October 28, 1999).

EITC reinforces the negative impact of immigration by subsidizing low-wage employers and eroding the work incentives of their employees. One must also consider the direct impact EITC has on the number of immigrants entering annually. As the most accessible, generous, and immigrant–friendly of all federal benefits, it undoubtedly ranks high among factors considered by potential entrants.

Mass immigration in the modern (post-World War II) era dates from the Immigration Reform Act of 1965. Prior to that law only about 250,000 immigrants a year entered the country; By the 1990s the country was admitting more than 800,000 legal immigrants a year, with an additional 300,000 to 500,000 aliens entering and staying in the country illegally.

During the decade of the 1990s, 47 percent of U.S. civilian labor force growth was due to immigration. This represented the largest influx of foreign workers *ever* to enter the U.S. in a given decade—substantially exceeding the number who came here during the Great Wave of 1890 to 1910.[10]

In the first decade of this century (2000 to 2009), the foreign-born share of labor-force growth remained at the lofty 47 percent. More recently, as native-born Baby Boomers start to retire, the immigrant share of labor-force growth has gone beyond that level, to 60 percent, over the 2010 to 2016 period.



The foreign-born share of total employment rose from 10.6 percent in 1996 to 17.0 percent in 2016. Only in the Great Recession (2008 and 2009) did the immigrant share of total employment fall (see chart below, left column).

Even more important than quantity is the decreased *quality* of recent immigrants. In 1960 the average immigrant man living in the U.S. earned about 4 percent more than the average native man. By 1998, the average immigrant earned about 23 percent less.

The worsening economic performance of immigrants is due mainly to a decline in relative skills of the more recent cohorts. The newest immigrants arriving in the country in 1960 were better educated than the average native; by 1998 the newest arrivals had nearly two fewer years of schooling. As a result of this growing native/immigrant education gap, the relative wage of successive immigrant waves also fell. Immigrants entering around 1960 earned 13 percent less than natives; by 1998, the newest immigrants earned 34 percent less.[11]

The diminished quality of post-1965 entrants reflects fundamental changes in criteria for admission. The 1965 law repealed the national origins system, which granted visa mainly to persons living in the U.K., Germany, and other Western European countries. In its place, the law made family ties to persons already living in the key factor in determining whether a visa applicant is admitted to the country.

One notable consequence: the increased Mexicanization of U.S. immigration. This phenomenon's downside is neatly captured by Professor Borjas:

> …In 1940, 0.5 percent of all male high school dropouts were Mexican immigrants. Even as recently as 1980, only 4.1 percent of male high school dropouts were Mexican immigrants. By 2000, however, 26.2 percent of all male high school dropouts were Mexican born.[12]

How much does immigration reduce the income of native-born Americans? A 2016 report from the National Academies of Sciences, Engineering, and Medicine provides insight. The NAS study (on page 180) finds that native-born workers at every educational level suffered wage losses due to immigrants arriving between 1990 and 2010. High school dropouts lost 4.9 percent; high school graduates lost 2.3 percent; college grads 2.7 percent; and even native-born Americans with advanced degrees suffered a 3.3 percent wage decline.

That native-born high school dropouts saw wages drop the most is not surprising, given that a disproportionate share of immigrants arriving between 1990 and 2010 were in that educational category. In general, education-related wage declines among native-born workers in a given educational level will rise or fall as the

share of immigrants in those educational levels rises or falls This is not rocket science; it's supply and demand.

As might be expected, the biggest losers were earlier (pre-1990) immigrant cohorts with similar educational levels. Foreign-born dropouts here since 1990, for example, lost a whopping 8.5 percent of their wage income, while foreign-born college grads lost a hefty 8.1 percent. The 1990-2010 influx increased the supply of dropouts by 26 percent, and college grads by 11 percent. ■

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IV. EITC and the Culture of Debt

> When it comes to getting loans, sometimes it feels impossible. You may be wondering where you should even begin, and what kind of loan you are even looking for. With a 2018 Online Refund Anticipation Loan , you can be sure there will be no hassle or uncertainty. With the help of our lenders, we can help you get that short-term loan you have been looking for, and once approved you could have the money deposited into your account within 24 hours. There are no fees to apply, and the application is short and nearly effortless. With just a few requirements, you could have the loan you've been looking for. Why wait!
>
> —*Tax Advance online application, July 31, 2017*
> https://www.itaxadvance.com/blog/2018-online-refund-anticipation-loan/

Refund Anticipation Loans (RALs) are loans made by banks, secured by and repaid directly from the proceeds of the borrower's tax refund. These loans are usually repaid when the actual IRS refund is received, a period of about 7-14 days. That's the first indicator of just how unnecessary most RALs are: Most taxpayers could have their refund in two weeks or less even without the loan.

But for poor families, the tax refund check is often the largest single sum of money they receive during the year. They may need money quickly, and RALs deliver hard cash sometimes in the same day or even within an hour of filing their tax returns.

In their heyday more than 60 percent of all RALs were for workers who claimed the EITC.[1] But they are costly.

RALs cost from about $30 to over $125 in loan fees. Some tax preparers also charge a separate fee, often called an "application" or "document processing" fee, up to $40.

The smaller the RAL, the higher the effective interest rate. The APR (Annual Percentage Rate) for a 10-day loan ranges from about 40 percent for a loan of $10,000 to 500 percent for a loan of $300. Most EITC loans are less than $500.

If application fees are included in the calculation, the effective APR on an EITC loan can be over 1,100 percent.[2]

There is a name for interest rates like these: USURY. Usury is illegal in most states, but thanks to a 1978 Supreme Court decision, national banks were exempt from usury laws when doing business outside their home state.[3] This loophole was closed in Obama's first term, and as a result, between 2009 and 2012 banks exited the RAL market either voluntarily or because they were forced out by federal regulators.[4]

IRS data show a collapse in the RAL market, with applications falling from 9.9 million in 2008 to 100,000 in 2013:

THE RISE AND FALL OF REFUND ANTICIPATION LOANS, 2000-2013

	Number of RAL Applications (millions)	% change from prior year	RAL Fees ($millions)
2000	12.0	-	$810
2001	13.4	12%	$907
2002	14.1	5%	$1,100
2003	13.5	-4%	$1,090
2004	13.8	2%	$1,240
2005	10.7	-22%	$960
2006	10.0	-7%	$900
2007	10.2	2%	$833
2008	9.90	-3%	$738
2009	8.40	-15.2%	$606
2010	6.85	-18.5%	$338
2011	1.0	-85.4%	$46
2012	0.84	-16.0%	$39
2013	0.1	-88%	unknown

Data source: The IRS, as reported in Chi Chi Wu, *It's a Wild World: Consumers at Risk from Tax Time Financial Products and Unregulated Preparers*, Consumer Federation of America, Feb. 2014, Table 1.

But fraud always finds a way. While the large tax preparation chains (H&R Block, Jackson Hewitt, and Liberty Tax) no longer market RALs to their customers, there are literally thousands of small or solo independent preparers who do. These tax entrepreneurs range from licensed professionals like attorneys and CPAs, to businesses that deal in other lines entirely.

"Among the last group," notes a 2014 report by the National Consumer Law Center, "…there is a segment that is highly problematic—the fringe preparer. Fringe preparers include businesses that are historically associated with the exploitation of consumers, such as payday loan stores, check cashers, and used car dealers. Some retailers, such as jewelry and furniture stores, also act as fringe tax preparers. Many of these preparers encourage clients to use their tax refunds for large purchases."[5]

For states, the integrity of the federal credit is crucial because their own EITC refunds are usually set as a fixed percentage of the federal EITC amount. Many conduct surreptitious "mystery shopping" tests in which a faux customer gives financial information to a tax preparer.

The results are alarming.

Alabama conducted mystery shopper tests of 13 tax preparers. Testers described themselves to preparers as parents with one or two children who lived with them less than six months of the year, which would make them ineligible for the EITC. Nevertheless, 11 of the 13 preparers incorrectly claimed the EITC. In addition, 10 of them did not report income from other jobs such as babysitting; 9 did not report interest income; and 11 tax preparers allowed testers to claim "head of household" status without being qualified for it.

None of the Alabama testers qualified for refunds, yet each preparer calculated a refund ranging from $65 to $6,247. Five preparers calculated a refund of $6,247 for a taxpayer who actually owed $112 to the IRS. These five preparers included a fringe preparer (a finance company), a Mo' Money Taxes outlet, and three other independent preparers.[6]

In 2010, consumer groups conducted 19 mystery shopper tests in Arkansas, New York City, and Durham, North Carolina. At least 6 of the 19 testers, or over 30 percent, were victims of incompetent tax preparation or outright fraud.

A very disturbing example came from a tester in New York City who described how the preparer, when realizing the tester would receive only a $1,000 federal EITC refund and would owe state taxes, began making up deductions:

> [The tester] reported that the tax preparer tried to entice her to commit tax fraud by showing her how much her federal refund would increase if she took deductions in excess of the standard deduction. [The tester] does not attend church, but the tax preparer included a $2,000 church donation. The preparer also deducted the cost of work clothes and laundry, then showed [the tester] that her federal refund would increase to $3,000 from about $1,000. The preparer also tried to convince [the tester] to make up a dependent as she does not have any—showing her that her refund would go up to $5,000 if she did so. The preparer also tried to qualify her for EITC even though she is not eligible… [7]

An incorrectly prepared tax return can lead to dire economic consequences or even criminal sanctions. This is especially true for EITC recipients, of whom over 60

percent—or 16 million families—pay for tax preparation.

Yet in most states there is no regulation of these "fringe" private tax preparers. There are no minimum educational, training, competency, or other standards for the businesses that could determine the EITC applicant's financial fate for the coming year. While some tax preparers are licensed CPAs, the vast majority do not have such qualifications.

In 46 states, there are more regulatory requirements for hairdressers than tax preparers.

UNINTENDED CONSEQUENCES, OR A LIBERAL POWER GRAB?

In retrospect, the government's decision to force large commercial tax preparers out of the RAL market was a mistake. RAL fraud, abuse, and costs are more egregious today than when the large tax preparation franchises were allowed to partner with banks.

Large commercial tax preparers flourish because they provide a level of convenience, speed, and expertise that "fringe" preparers cannot match. Competition among the H&R Blocks of the world significantly reduced preparation fees and RAL interest costs. All U.S. taxpayers, especially those who receive EITC, are worse off now that the large commercial tax preparers are prohibited from making RAL loans.

By pushing commercial companies out of the RAL business, the government increased the clout of liberal activist groups that offer free tax preparation service. Foremost among them: The Center on Budget and Policy Priorities (CBPP).

As discussed in the next section, CBPP has harnessed a large network of community organizations, schools, state and local governments, labor unions, and advocacy groups to its EITC outreach campaign. Members receive a "Tax Credit Outreach Campaign Kit"—updated annually—outlining CBPP's strategy for promoting the credit and linking eligible workers to free tax filing assistance. Flyers in Hmong, Tagalog, and eighteen other languages—designed to hook immigrants into the EITC culture—are prominent features.[8]

In negotiations surrounding the Trump tax cut, CBPP has lobbied for expanding eligibility and increasing EITC payment amounts. The demise of the commercial RAL market has increased their leverage. ■

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THE CENTER ON BUDGET AND POLICY PRIORITIES

Robert Greenstein (left), founder and president of the Center on Budget and Policy Priorities (CBPP)—a MacArthur Fellow and recipient of a "genius grant" in 1996—was listed in *The New Republic* (October 12, 2011) as one of Washington's "most powerful, least famous people." According to *The New Republic*, "Greenstein's reputation—and the stature of the center he created in 1981—makes CBPP an arbiter in liberal policy debates; years of unfailingly rigorous, data-driven policy analysis mean that its approval or disapproval carries substantial weight. With the major controversies of the moment revolving around dollars and cents, the impact of CBPP has never seemed greater."

The CBPP, is "its own special interest group," as *TSC* contributor Ed Rubenstein notes. CBPP, an influential Washington-based organization that promotes a robust EITC, has increased its clout in recent years with a multi-million dollar budget and staff "of more than 100." CBPP is part of the Democracy Alliance, a network of Soros-funded interest groups. ■

V. EITC and Liberal Activism

Do you believe in the Deep State? The term entered the national discourse in 2017, when Donald Trump complained that entrenched Washington insiders were thwarting his agenda for change. Political scientists have used the term for years to describe individuals and non-governmental institutions that exercise power independent of—and sometimes over—civilian political leaders.

Barack Obama acknowledged the Deep State concept, if not the term itself, throughout the 2008 campaign, when he vowed to "change" the way Washington works. Front and center: he would declaw the lobbyists, influence peddlers, and other inside-the-beltway types, who wield inordinate power to influence federal legislation on behalf of the "special interests."

Obama's populism was understandable. Lobbyists have a bad rap. Politicians of both parties routinely vilify them—blaming their own legislative failures on a conspiracy of sleazy insiders. Periodic scandals confirm the stereotypes: Remember Republican lobbyist Jack Abramoff, who wined and dined key congressmen while pulling down millions from casinos, large corporations, and wealthy families?

But Obama's crusade was based on two myths.

Myth No. 1: Lobbying is anti-democratic because it frustrates "the will of the people." Just the opposite is true: lobbying is democracy in action. Americans are a collection of special interests—and one person's special interest is another person's moral imperative. If people can't organize to influence government, then democracy is dead.

Myth No. 2: Lobbying favors the wealthy because only they can afford to organize and pay for access to high profile politicians. Tax cuts tilted towards of the rich? Anti-poverty programs cut back? Affordable health care beyond the reach of the middle class? Public education starved for funds?

You can blame the rich and powerful.

Reality check: if anything, the rich are the servants of government, not its masters. Consider that the richest 10 percent of taxpayers pay about 55 percent of federal taxes—and within that the richest 1 percent pay 28 percent, according to the Congressional Budget Office. Meanwhile, about 60 percent of the federal budget goes to payments to individuals—mostly the poor and middle class.[1]

EITC did not become the most expensive federal anti-poverty program without powerful lobbyists.

Many non-profits promote EITC on behalf of the working poor. Some even assist taxpayers in filing the tax forms required to receive the credit. But only one is powerful enough to actually shape legislation in Congress. Only one has a seat at the table when the House Ways and Means Committee hammers out income thresholds, eligibility requirements, and fraud controls for the EITC.

The *Center on Budget and Policy Priorities* (CBPP) is ostensibly a non-profit think tank. It describes itself as a "... nonpartisan research and policy institute" that pursues "…federal and state policies designed both to reduce poverty and inequality and to restore fiscal responsibility in equitable and effective ways."[2]

In fact, CBPP is a lobbying juggernaut—one of the most powerful liberal organizations in Washington. Editorials on EITC and other budget issues don't show up in the *New York Times* or the *Washington Post* without being run by the Center. Its head has been described as "one of the top five liberals in America." Stephen Moore, a former member of the *Wall Street Journal*'s editorial board, recollects being at meetings with Democratic congressmen where they said "What would Greenstein say?" about some proposal.

Robert Greenstein founded the Center on Budget and Policy Priorities in 1981. A former high school history teacher, Greenstein came to Washington in the 1970s to work on food stamps and other low-income issues at the Community Nutrition Institute. He was hired by the Carter Department of Agriculture, where he ultimately headed up the Food and Nutrition Service.

At the beginning there was a staff of six and a budget of $50,000. In *The Social Contract*'s previous report about the EITC in April 2009, CBPP had a budget of $18.3 million and a staff of more than 100. Today (2016) its budget is $28.6 million.[3] More than 95 percent of its revenues are unrestricted grants from such sources as the Walmart Foundation, the Ford Foundation, the Annie E. Casey Foundation, and George Soros' Open Society Foundations.[4]

In the strictest legal terms, the CBPP is not a lobbying organization. Its nonprofit status allows it to spend only a small percentage of its time "lobbying." Just two Center employees are officially dubbed lobbyists,

according to a somewhat dated *National Journal* profile.[5]

Yet the Center is not exactly reticent about its lobbying prowess:

> In 2007, the Center helped to design and promote major improvements in the EITC and the CTC. [Child Tax Credit]. One such improvement would greatly expand the EITC for low-income workers who are not raising children….
>
> Another proposal the Center has promoted would reduce the earnings threshold (now about $12,000) for the refundable CTC, which disqualifies more than 6 million children in low-income working families that earn less than $12,000 a year from receiving the credit.
>
> A major tax reform bill that Charles Rangel (D-NY), chairman of the House Ways and Means Committee, introduced in the fall of 2007 included significant, Center-designed expansions in the CTC and EITC. While Congress did not consider the bill in 2007, prospects for such expansions are improving.[6]

Question: How does Greenstein's group maintain such clout?

Answer: By promoting itself as a dispassionate, numbers-oriented research organization free of ideological bias.

Robert Greenstein has been called a genius—and not just because he received a MacArthur Foundation grant for $306,000 in 1996. His genius is in marketing his left-wing Center as a "just the facts" think-tank.

Of course, he has had a little help from his liberal friends: during the Bush II years, the *Washington Post* began referring to the Center on Budget and Policy Priorities as "a fiscally conservative group that advocates for programs that benefit low-income workers…" That accolade raised eyebrows on both sides of the aisle.

But even GOP stalwarts acknowledge the Center's uniqueness.

Ron Haskins, a former GOP staff member of the House Ways and Means Committee, says the Center projects credibility like no other liberal think-tank. In a *National Journal* interview he recalled an instance where the Center was planning to release a report critical of the Republican Congress's work in fighting poverty. Greenstein asked Haskins to look over the report. He agreed, and was surprised to find that the report came down hard on the GOP's efforts. "I said to Bob, 'We've had the best success fighting poverty since the 1960s and you're pooh-poohing it.'" Greenstein agreed not to release the report.[7]

"In our view, the issue is not to score political points, it's to do the best possible analysis," Greenstein explained. "We'll pass a paper around before we release it, and often someone will comment that if you want to be as rigorous as possible about it, you'd change this, though it would then lose a lot of its political power. We will invariably modify the paper and have it lose a lot of its power."[8]

Heritage Foundation welfare expert Robert Rector, who has sparred with him over the years, points out that Greenstein's forte is to win some obscure policy change that, while others nod, raises welfare benefits and gets more people on the rolls. P. J. O'Rourke calls it the "tyranny of boredom": The last one left awake gets to spend all the money.[9]

The trouble is, policy minutiae and boring analysis do not necessarily lead to wisdom. Indeed, they often help hide the forest fire through the trees.

The Center's analysis of the Bush tax cuts is a prime example. Greenstein claimed the 2001 plan would "cost" the Treasury $2.5 billion over the 11-year period 2001 through 2011. That sum was $1.2 trillion more than the estimate of Congress's Joint Committee on Taxation, and $900 million more than the tax loss estimated by the White House.[10]

No, the Center did not fudge the figures to inflate the loss. It merely ignored the effect tax cuts have on behavior. Tax cuts don't just put money into people pockets; they change incentives. The statistics that groups like the Center brandish don't take into account how people respond to incentives or how those responses affect outcomes. Thus, a tax cut that stimulates investment and economic activity will often increase the tax base enough to offset much of the reduction in tax rate. That benefit would never make into a Center chart.

To complain, as conservatives often do, that the "static models" of liberals ignore the "dynamic effects" of tax cuts—or other policy changes—is to understate the philosophical issue. A methodology that ignores the potential for change as incentives change assumes that people are passive and inert. This can lead to exactly the wrong policy prescription.

Case in point: Robert Greenstein's 2005 analysis of the EITC.[11] Here we excerpt several of the static, albeit formally correct, statements about EITC contained in Greenstein's report—we dub them "Center truths,"—with our own dynamic, more realistic, "Higher truths:"

Center truth: "Recent research also documents another powerful effect of the EITC: reducing poverty. Census data show that in 2003, the EITC lifted 4.4 million people out of poverty, including 2.4 million children."

Higher truth: He's right: Poverty is reduced by EITC. That's the good news. The bad news: EITC

increases the likelihood that low-income workers will always need federal support in order to escape poverty. This insidious result occurs because EITC induces employers to cut wages and workers to work fewer hours.

Center truth: "Without the EITC, the poverty rate among children would have been nearly one-fourth higher.… Census data show that the EITC lifts more children out of poverty than any other single program or category of programs."

Higher truth: Once again, the statement is formally true: EITC does lift children out of poverty. At the same time, the credit's generous parenthood subsidy, combined with its marriage penalty, increases incentives for single parents to have children. Taking this dynamic into account, the number of poor households is probably larger *with* EITC than it would be without it. As with tax cuts, the Center's static model misses the point.

Center truth: "Only people who work are eligible for the EITC, and for workers with very low earnings such as those who work less than full time, the size of the credit increases with each additional dollar of earnings, providing an incentive for more work."[12]

Higher truth: This assertion studiously ignores evidence that: (1) businesses pay their employees less because of the credit, and (2) many EITC recipients work fewer hours when they reach the "phase-out" range of income, thereby negating the credit's (alleged) positive work incentives.

Center truth: "….the EITC remains much too complex for low-income working families. Due in significant part to its complexity, the EITC can lead to tax-filing errors, and about 70 percent of filers claiming the EITC resort to paying commercial tax preparers to file their return, a larger percentage than for tax filers generally…. Simplification of the EITC would be highly desirable."[13]

Higher truth: Most of the errors made on EITC tax returns involve understating income or overstating the number of dependent children in the household, according to the IRS. This is not the result of "complexity"; it is outright fraud. And besides, how can complexity be a problem when, thanks to Center's outreach efforts, free tax preparation service is made available to EITC filers.

Center truth: "The EITC strongly complements the minimum wage. For several years after the EITC expansions of 1990 and 1993, the combination of the EITC, the minimum wage, and food stamps met the goal of ensuring that a family of four with a full-time minimum-wage worker would not have to raise its children in poverty. This goal cannot be met by the minimum wage alone; the minimum wage would have to be set at more than twice its current level to achieve the goal by itself…."[14]

Higher truth: In recent decades the real (inflation adjusted) minimum wage has declined while the EITC has expanded. Had the Center devoted even a fraction of its lobbying efforts to the minimum wage, this could have been avoided. By promoting EITC, the Center has aligned itself with Walmart, McDonald's, and other low-wage, low-benefit corporations.

Our take: EITC's perverse incentives increase the likelihood that low-income households will remain dependent on federal largesse. While this may be bad for the poor, it represents "job security" for CBPP and its network of liberal activists.

At the end of the day, CBPP is its own special interest group.

THE EITC NETWORK

All politics is local. Even politics relating to the federal EITC. CBPP has harnessed a large network of community organizations, schools, state and local governments, labor unions, and advocacy groups to its EITC outreach campaign. Members receive a "Tax Credit Outreach Campaign Kit"—updated annually—outlining CBPP's strategy for promoting the credit and linking eligible workers to free tax filing assistance.[15] Flyers in Hmong, Tagalog, and twenty-two other languages—designed to hook immigrants into the EITC culture—are prominent features.

January 29, 2016, was the tenth annual National EITC Awareness Day.[16] Here is a sampling of the activities CBPP suggested its affiliated organizations do on that day:

• Promote EITC and the Child Tax Credit awareness on Facebook and Twitter. Sample tweets are provided.

• Schedule a radio or TV interview to discuss the importance of the EITC to individuals and to communities.

• Arrange for a local political leader, business owner, and/or EITC recipient to participate in these interviews.

• Share the story of a worker whose family has benefited from the EITC at an event, in a newsletter, through a video, or in an interview. Focus on one key fact in press releases and event invitations, such as the average family refund or the total EITC dollars brought into your community.

• Distribute outreach materials about the tax credits to families and partner organizations. Help workers learn eligibility requirements and where to find free tax help. Customize posters and flyers to add details about the local VITA [free tax service] site.

• Check the deadlines for shopper's guides and other free papers to print an advertisement about the EITC and the free tax VITA sites. Include a checklist of documents tax filers should bring to the site.

Arrange a meeting with the local newspaper's editorial board to try to get an editorial printed on January 29 that underscores the importance of the EITC and the availability of free tax help.

The public relations blitz extends beyond the federal EITC. Each year the Center on Budget and Public Priorities issues a report with state-by-state information on the income level at which families begin to owe state income tax. These reports receive widespread media coverage, and generate editorials—all designed to shame state legislators into easing tax burdens on low-income workers.

> To maximize the report's impact, we work with a number of partner organizations in individual states to issue materials on the findings regarding their state and to hold conference calls for journalists to highlight that state's particular problems.[17]

Success, in the Alice in Wonderland world of EITC zealotry, is measured by the number of state EITCs created or expanded:

> In 2007, our collaborations scored exciting victories in this area. Louisiana and North Carolina became the first states in the South to adopt state EITCs that are "refundable," meaning that families with incomes too low to owe income tax can receive the credit in the form of a refund check to supplement their income. New Mexico also adopted a state EITC, and six other states—Illinois, Iowa, Kansas, Maryland, Nebraska, and New Jersey—expanded their state EITCs.[18]

This outreach is driven by one key assumption: EITC is underutilized, a relatively unknown benefit that good liberals should be anxious to publicize. This is simply not the case. As shown in the fraud section of this report, EITC recipiency rates are many times greater than those of cash welfare and housing programs.

Why do liberal activists tout EITC and ignore other, relatively less-used poverty programs? Why do they downplay the minimum wage? Are they in league with the Walmarts and McDonald's of the world?

The question deserves an answer. ■

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