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## ANALYSIS OF SESSIONS AMENDMENT TO DENY THE EITC TO PEOPLE WORKING HERE LEGALLY AS A RESULT OF THE SENATE IMMIGRATION BILL (AMENDMENT # 1234)

By Aviva Aron-Dine

The Senate yesterday adopted an amendment to the Senate immigration bill offered by Senator Jeff Sessions (R-AL) that would deny the Earned Income Tax Credit to taxpayers who are working in this country *legally* as a result of the legislation. Undocumented immigrants already are ineligible for the EITC. The Sessions amendment would deny this important tax credit to low-income workers who have legal status.<sup>1</sup>

This approach is inequitable and unwise. It would require legalized workers and guest workers to pay income and payroll taxes in the same manner as other workers, but would deny them the use of a tax credit that it intended to offset the heavy tax burdens that low-income working families would otherwise face from these taxes. These workers would effectively be taxed at much higher rates than other workers with the same family situations and adjusted gross incomes, a sharp departure from the longstanding federal tax principle of applying the same rules to everyone.

When Senator Sessions offered a similar amendment to the immigration bill last year, it was defeated by a vote of 60-37, and members of both parties spoke out forcefully against it. Senator McCain stated that the amendment “would really impose an indefensible double standard on legalized workers. What is next? Are we going to say work-authorized immigrants have to ride in the back of the bus?... This amendment, if adopted, would mean that huge number of children would be thrust into, or deeper into, poverty.” Similarly, Senator Kennedy commented that the amendment “is really quite extraordinarily and grossly unfair... It is fundamentally wrong to subject immigrant workers to a different, harsher tax code than the one that applies to everyone else in the country.” And Senator Specter noted, “this is a fairly fundamental issue... it is a tax credit that is an income tax credit they have earned. Just as they have to pay their taxes, they ought to get the benefits from the tax system.”

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<sup>1</sup> Specifically, the amendment would deny the EITC to Z-visa holders (previously undocumented workers who have legalized their status) and Y-visa holders (guest workers). Z-visa holders would be eligible for the EITC only after they attained the status of legal permanent resident, something they would not be able to do for a minimum of eight years after legalizing.

## **Without the EITC, Low-Income Workers With Children Would Face Significant Federal Tax Burdens**

Since its inception, a main purpose of the EITC has been to offset the taxes paid by low-wage workers, especially regressive payroll taxes. The Treasury Department has estimated that a *large majority* of the EITC (including the refundable component of the EITC) simply offsets the income, payroll, and excise taxes paid by tax filers who receive the EITC.

Without the EITC, low-income workers with children would owe substantial federal taxes.

- With the help of the EITC, working families with children do not owe federal taxes until their incomes exceed the poverty line. That is, working parents whose earnings leave their families in poverty receive income-tax refunds that offset the payroll taxes withheld from their wages. In addition, the EITC helps “make work pay” by supplementing working parents’ earnings and thereby lifting millions of children out of poverty each year.

Under the Sessions amendment, working families with children whose incomes leave them at or below the poverty line would instead face significant federal tax burdens. Instead of helping working families with children *escape poverty*, the tax code would push working families with children that are headed by legalized immigrants or guest workers *into or deeper into poverty*.

- Moreover, some of the families that receive the EITC owe federal income taxes before the EITC is applied, in addition to payroll taxes. Without the help of the EITC, these low-income working families would face combined income and payroll tax burdens that are quite high, given their low wages. For example, a single parent with one child and an income of \$30,000 would owe \$3,038 in income and payroll taxes this year. A married couple with one child and an income of \$32,000 would owe \$2,448 in income and payroll taxes.

As these figures indicate, denying the EITC to legalizing workers would have severe adverse effects on children. Denying the EITC to legalized workers would mean that a large number of children — many of them U.S. citizens — would be thrust into, or deeper into, poverty. Many of these children live in families that experience hunger or other hardships. (An Urban Institute study found that 56 percent of young, low-income children of immigrant parents live in families that experience hunger or other food-related problems.)

## **Bringing Immigrants Into the Tax System Is A Net Gain for the Treasury, Even Taking Into Account Costs for Refundable Tax Credits**

The Senate immigration bill, by creating a guest-worker program and a process for undocumented immigrants to legalize their status, would significantly increase the number of legal immigrants filing tax returns.

According to Congressional Budget Office estimates, this change would increase the cost of outlays for refundable tax credits by \$13.7 billion over the next decade, assuming legalized workers are allowed to claim the EITC like all other

Table 1: Effects of Senate Immigration Bill, 2008-2017 (billions of dollars)	
Increases in Income and Payroll Taxes	\$43.3 billion
Outlays for Refundable Credits	\$13.7 billion
<b>Net Effect</b>	<b>+\$29.6 billion</b>

Source: Congressional Budget Office

filers. But over the same period, CBO estimates that the immigration bill would increase federal income and payroll tax revenues by \$43.3 billion. Thus, *the net effect on the Treasury from bringing more immigrant filers into the tax system would be a substantial gain: \$29.6 billion over ten years* (see Table 1).<sup>2</sup> (Even if one takes into account the total increase in entitlement spending that CBO estimates would result under the Senate immigration bill, rather than just costs for refundable tax credits, it still would be substantially less than the total increase in revenues.)<sup>3</sup>

### **The Amendment Would Also Impose Burdens on Other Taxpayers and the IRS**

Implementing the Sessions amendment would require the IRS to identify the immigrant status of millions of tax filers on a case-by-case basis (in order to deny the EITC to those the amendment renders ineligible for it). The IRS would have to determine which immigrant filers are guest workers or have legalized their status under the immigration bill, a process that would likely be error prone and draw substantial resources away from other tax enforcement and taxpayer service activities.

Further, implementing the amendment could require *all* EITC filers to document their immigration status, creating additional complexity and hassle for 20 million-plus EITC filers, most of them U.S. citizens. Thus, the provision could also create new tax-filing burdens for a large number of tax filers who are eligible for the EITC and are not the intended focus of the legislation.

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<sup>2</sup> This figure does not take into account the approximately \$5 billion in revenues (2008-2017) that would be raised by visa fees and penalties. If these additional revenues were included, the total increase in revenues would exceed costs for refundable credits by about \$35 billion (2008-2017).

<sup>3</sup> For a more in-depth discussion of the CBO cost estimates, see James Horney, "CBO Estimate Shows the Senate Immigration Bill's Budget Impact Is Very Modest," Center on Budget and Policy Priorities, revised June 6, 2007.