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THE EITC SHOULD NOT BE DENIED TO WORKERS WHO ARE WORKING HERE LEGALLY AND PAYING TAXES

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Senator Sessions has filed an amendment to the Senate immigration bill that would deny the EITC to taxpayers who are working in this country legally as a result of S. 2611. Illegal immigrants already are ineligible for the EITC. The Sessions amendment would deny this important tax credit to low-income workers who have legal status. The amendment is unwise and inequitable.

The approach amounts to highly inconsistent treatment of legal workers; they would be subject to income and payroll taxes in the same manner as other workers, but would be denied the use of a key element of the U.S. tax code that is largely designed to offset the heavy tax burdens that low-income working families otherwise would face.

- Legalized workers and new guest workers would largely be taxed in the same manner as other U.S. citizens. They would pay payroll taxes, income taxes, and excise taxes. It would be inequitable to deny legal workers the Earned Income Tax Credit.

The EITC was specifically designed to offset payroll tax burdens (and some other taxes) on low-income working parents. The large majority of the costs of the EITC simply offset the payment of other taxes.

- 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.

- A significant share of the families that receive the EITC owe federal income tax before the EITC is applied, in addition to paying payroll taxes. Low-income working families in this category who are denied the EITC consequently will face combined income and payroll tax burdens that are quite severe, given their low wages. The severity of this tax burden would be compounded by the fact that S. 2611 does not create an immediate path to citizenship; the citizenship path will take a minimum of 11 years. Millions of low-income workers would be paying taxes for many years before they become eligible to receive the EITC.

Denying the EITC to legalized workers would unduly harm children, including many children who are citizens.

- About 98 percent of the EITC goes to working families with children. Census data show that the EITC lifts more children out of poverty than any other federal program.

- Denying the EITC to legalized workers would mean that a large number of children — including many children who are U.S. citizens — would be thrust into, or deeper into, poverty. Many of the children in these low-income families are citizens who 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.)

With the value of the federal minimum wage at its lowest level since 1949 by one key measure, denying these low-income workers the EITC is especially harsh.

- The minimum wage has not been increased for more than eight years. It now equals less than one-third the value of the wage of the average private non-supervisory worker, its lowest relative value since 1949. It would be harsh to increase the tax burdens, and further diminish the after-tax income, of families headed by minimum-wage workers who have received legal status. A significant fraction of immigrant workers have earnings at or near the minimum wage.

- Many conservative policymakers and analysts have strongly supported the EITC in the past because they believe it is a better approach to helping low-wage workers than the minimum wage. But to let the minimum wage erode markedly and then to eliminate the EITC for a substantial number of minimum-wage families would be very troublesome.

On balance, the immigration bill would raise federal revenues.

- The Senate immigration bill, by creating a guest-worker program, expanding the number of family-sponsored and employment-based admissions, and creating a process for undocumented immigrants to legalize their status, would significantly increase the number of legal immigrants filing federal tax returns. Some have expressed dismay over CBO estimates that show these changes would increase costs for refundable tax credits such as the EITC.

- *But the CBO and Joint Tax Committee estimates show that bringing these legal immigrants into the federal tax system would substantially increase federal revenue collections overall.* Revenues would rise by more than $2 for every dollar paid in refundable tax credits. The EITC is, and should be recognized as, an integral component of the federal tax code. Applying the tax code to more immigrant workers, as the Senate bill would do, would result in a net gain for the Treasury of more than $30 billion between 2007 and 2016, according to the CBO and the Joint Tax Committee estimates. (See text box.)

Finally, to implement this amendment, the IRS would have to determine the immigrant status of large numbers of tax filers claiming the EITC, which would both be burdensome and difficult for the agency to do. It would drain IRS revenues from other tax enforcement

activities, which could result in revenue losses and almost certainly would cause the EITC error rate to rise.

- Under the Sessions amendment, U.S. citizens and certain categories of legal immigrants with a "work authorized" Social Security number (SSN) would be eligible for the EITC, while other categories of legal immigrants with work-authorized Social Security numbers would be *ineligible* for the EITC. This would be extremely difficult for the IRS to administer.

- The IRS can sort tax filers into eligible and ineligible categories based on whether filers do or do not have a work-authorized SSN. The IRS *cannot*, however, ascertain and verify a tax filer's particular immigrant category while processing millions of tax returns each spring. In the absence of cumbersome and costly new systems (and the shifting of resources from other tax enforcement activities), the IRS could not administer such a new requirement with any degree of accuracy. Even with substantial new resources, the IRS likely would not be able to implement this requirement without a substantial increase in the EITC error.

- If the IRS determined it needed to verify the citizenship or immigration status of *all* EITC filers in order to identify those made ineligible by the amendment, 20 million low-income filers would face new burdens.

Bringing Immigrants into the Federal Tax System Would be a Net Gain for the Treasury

By expanding the population of legal immigrant workers, the Senate legislation increases the number of federal tax filers. The new tax filers would be taxed in the same manner as all other tax filers are, and they would qualify for the same tax deductions and credits as other tax filers, including the EITC, which is refundable, and the Child Tax Credit, a portion of which is refundable. (It may be noted that many of the children of these workers, whom the workers would claim under the EITC and Child Tax Credit, are U.S. citizens.)

Effects of Senate Immigration Bill on the Treasury, 2007-2016 (billions of dollars)	
Increases in Income and Payroll Taxes	62.1
Outlays for Refundable Credits	-29.4
Net Effect	**+32.7**

Source: Congressional Budget Office and Joint Committee on Taxation

The CBO cost estimates show that, as a group, the new population of legal immigrants would pay *more than twice as much* in income and payroll taxes as they would receive in refundable credits, paying $62.1 billion in taxes and receiving $29.4 billion in tax credit refunds, for a net gain to the Treasury of $32.7 billion. In fact, the increase in revenues that would result from bringing these new filers into the federal tax system would exceed the total increase in costs for all federal benefit programs that would result from the legislation, including costs for food stamps, Medicaid, and other programs. CBO projects that altogether, the bill would increase federal benefit and tax credit expenditures by $54 billion over the next ten years while raising $66 billion in revenue (including revenues from fees).*

* The revenue increases thus would more than pay for the benefits. The bill as a whole — including the additional appropriations that the bill would authorize for law enforcement and grants to states — could have a modest net cost if all of the discretionary funding that the bill authorizes were actually appropriated (and the increased appropriations were not offset by some reductions in funding levels for other discretionary programs). It is far from clear that all of the authorized discretionary funding actually would be appropriated. Actual funding levels for discretionary programs often are well below the authorized levels.