



October 5, 2026

Submitted electronically

Internal Revenue Service
Department of the Treasury
Room 5503
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RE: IRS Notice titled "Application of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to the Refunded Portion of Certain Federal Refundable Tax Credits," RIN 1545-BS06, Docket No. REG-119882-25, 91 Fed. Reg. 53812 (Aug. 20, 2026)

I. Introduction

ZERO TO THREE appreciates the opportunity to comment on the Internal Revenue Service (IRS) proposed rule to provide that the refundable portion of certain tax credits be considered a federal public benefit under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). The proposed change would newly exclude certain non-citizen groups currently eligible to receive the refundable credits from doing so in the future. ZERO TO THREE strongly opposes the changes in this proposed rule, because they do not comport with the purpose of these tax credits to recognize working families' efforts to provide for their children and to promote other opportunities that would enhance family economic stability or children's futures. Constricting access to refundability will harm the well-being of the very children the tax credits are meant to support, including infants, toddlers, and U.S. citizen children. We therefore urge the IRS to withdraw the proposed rule.

Founded more than 40 years ago, ZERO TO THREE is a national nonprofit organization whose mission is to ensure that all babies have a strong start in life. We translate the science of early childhood development into useful knowledge and strategies for parents, practitioners, and policymakers. We work to make sure that infants and toddlers benefit from the family and community connections critical to their well-being and healthy development. Our comments are based on the research on early childhood development that points to the ingredients all babies need for the strongest start in life.

The Notice of Proposed Rulemaking (NPRM) proposes to remove access to the refundable portion of four tax credits from certain immigrant tax filers: (1) the Additional Child Tax Credit (ACTC), which is the refundable amount of the Child Tax Credit, (2) the Earned Income Tax Credit (EITC), which incentivizes work, (3) the American Opportunity Tax Credit (AOTC), which helps defray higher education costs to encourage skilled work, and (4) the Adoption Tax Credit (ATC), which helps families pay for the costs of the process to adopt a child. As discussed below, this change could undermine the economic stability of hundreds of thousands of children living in families of tax filers whose eligibility would be revoked. Congress designed these refundable credits in large part around the needs of children, focusing not only on workforce incentives but also the need for young children to be raised in financially secure homes for healthy development. The loss of these resources and opportunities can have long-lasting effects for



children, particularly young children whose development is most sensitive to a lack of resources. Their futures are shaped by their parents' opportunities to aspire to better paying jobs through education or a forever family who is enabled to give them the love and security they need thrive. Diminishing the resources the tax code affords to recognize work efforts or other opportunities for immigrant families that Congress intended to be included in eligibility would undermine families' ability to meet the developmental needs of young children, many of whom are American citizens.

In previous comments to this Administration, ZERO TO THREE has laid out a "Framework for Babies," consisting of six principles ZERO TO THREE urges policymakers to consider in any proposed regulatory or policy changes to ensure policies address the needs of infants and toddlers.¹ These include: transparency and engagement; using the science of child development to guide policy; prioritizing the well-being of young children; strengthening the family to support the child; the need for knowledge, skills, and training to work with children; and the need to ease the burden of policies on individuals and families, not just systems. Unfortunately, the implications of the proposed regulatory changes regarding eligibility for key child-oriented tax credits—changes that would affect many infants and toddlers—are inconsistent with many of these principles, and the impacts of this proposed rule risk setting back the growth and development of the young children in the affected families.

II. The Proposed Rule is Inconsistent with Congressional Intent Behind Refundable Tax Credits Rewarding Families' Work Efforts

We believe the NPRM misconstrues Congressional intent regarding the nature of the refundable portion of these tax credits in considering them public benefits under PRWORA. The four tax credits—ACTC, EITC, AOTC, and ATC—and their refundability aspects were meant better adjust the tax code to recognize that working families with low income are stretched financially and to both reward that work and ensure children have the strong start they need by expanding resources for those families. With the exception of the ATC, these tax credits already require a Social Security Number (SSN) that can be used for work. In the 30 years since PRWORA's passage, there has been no indication that Congress considered the refundable portion a federal public benefit as defined in PRWORA.

Congress defines which non-citizens are eligible for the tax credits in the statutes establishing them. The credits existed prior to PRWORA's passage, at which time Congress could have specified that all or part of them qualified as federal public benefits. In addition, Congress has revisited these tax credits several times since PRWORA's passage, including to address access by certain groups of immigrants, with no indication that they considered the refundable portion out of bounds to immigrants who have lawfully obtained SSNs to work, but who would be excluded from such benefits were PRWORA to apply.

This proposed reinterpretation of tax law could impact as many as one million people, including hundreds of thousands of U.S. citizen children.² It is important to note that undocumented immigrants already cannot claim the ACTC, EITC, and AOTC. Therefore, this new regulation would primarily affect

¹ ZERO TO THREE (2025). *Public Comment RE: HHS Notice titled "Request for Information (RFI): Ensuring Lawful Regulation and Unleashing Innovation to Make America Healthy Again"*. Docket AHRQ-2025-0001, 90 Fed. Reg. 20478 (May 14, 2025). <https://www.regulations.gov/comment/AHRQ-2025-0001-0788>.

² Davis, C., Frankel, E., & Sifre, E. (2026). *The Impact of Proposed New Tax Credit Restrictions for Immigrant Filers: An Updated Analysis of the DACA Recipient Population*. <https://itep.org/tax-credit-restrictions-immigrant-filers-daca-2026/>.



immigrants who are lawfully working, such as those with Temporary Protected Status. The NPRM estimates that 200,000 to 700,000 taxpayers would become ineligible for the refundable part of the credits. However, these taxpayers almost by definition have children, so many more people would be affected by the loss of resources. An estimated 91.1 percent of infants and toddlers with at least one immigrant parent are U.S. citizens,³ so many young children who would lose resources under this proposed rule are likely to be citizens as well.

III. Lack of Resources Can Undermine Early Development

The proposed rule would have significant, long-term ramifications that undermine healthy development for American's youngest generation. Children's earliest years are marked by rapid brain development, which is significantly shaped by their environment. Development unfolds within the context of children's relationships with close caregivers, usually parents (including adoptive parents), and also requires adequate resources to meet children's basic needs. Meeting the basic needs of those caring for young children is equally important, as an unwell parent is likely to face significant challenges in providing young children the attentive, nurturing care they need. A reduction in financial resources due to restricting access to refundability provisions in all four tax credits can contribute to material hardship for families who struggle to make ends meet. The average family affected by these changes could lose over \$3,000 per year—funding that could otherwise go towards food, housing, transportation to work, and other household needs.⁴ This proposed change also could have a spillover effect with state tax credits when they are tied to the federal credits, resulting in even greater income reductions. For example, many states calculate their EITCs as a percentage of what a taxpayer receives under the federal credit.⁵ As a result, the negative impact on family's finances is likely to be amplified, with commensurate impacts on children's development.

The loss of such an amount would be a blow to families already struggling to feed, clothe, and house their children in the midst of rising costs. In families where every dollar counts, such a loss can set off a chain reaction of increased family stress, increased child emotional distress, and increased risk of developmental harm.⁶ Families may also struggle to meet basic needs, undermining the stability of caregiving and the household overall. The prospect of a drop in income is particularly important for infants and toddlers, where research consistently finds that inadequate income has a significant impact on foundational early development.⁷

This new rule could also deter even eligible families from accessing tax credits that could help improve family stability. For example, because of the complexities of determining immigration status, some families may be deterred from accessing these tax credits out of fear of making a mistake. This apprehension would not only undermine the integrity of these tax credits by reducing uptake among

³ Migration Policy Institute (n.d.). *Share of All Children in Immigrant vs. U.S.-Born Families, by State, 2000 and 2024*. <https://www.migrationpolicy.org/data-tool/children-immigrant-us-born-families>.

⁴ Davis, C. (2026). *Five Things to Know About the Trump Administration's New Effort to Deny Tax Credits to Lawfully Present Immigrants*. Institute on Taxation and Economic Policy. <https://itep.org/trump-administration-new-effort-to-deny-tax-credits-to-immigrants/>

⁵ Tax Policy Center (2026). *How do state earned income tax credits work?* <https://taxpolicycenter.org/briefing-book/how-do-state-earned-income-tax-credits-work>

⁶ Liu, S., Zalewski, M., et al. (2022). Material Hardship Level and Unpredictability in Relation to U.S. Households' Family Interactions and Emotional Well-Being: Insights From the COVID-19 Pandemic. *Social Science & Medicine*, 307, 115173.

⁷ Cooper, K. & Stewart, K. (2021). Does Household Income Affect children's Outcomes? A Systematic Review of the Evidence. *Child Indicators Research*, 14, 981–1005.



eligible taxpayers; it could also increase parental stress that can be transmitted to young children. The research is clear that the mental health of young children is inextricably tied to the well-being of their parents and primary caregivers.⁸ When a parent experiences feelings of distress, helplessness, or depression, it can impact the parent-child relationship and, in turn, the young child's development and ability to form the strong neural foundations that support all later learning.

IV. Children and Families Can Lose Opportunities in Life

The proposed changes to the AOTC and ATC, which relate to higher education and adoption, would have consequences for early development by also constricting opportunities in life. Lost resources from AOTC refundability could result in some parents or future parents dropping out of higher education or never seeking such education in the first place. Attaining higher education degrees can lead to higher income, positively affecting children's outcomes.⁹ If newly excluded immigrant groups cannot access higher education, their own earnings outlooks and therefore their children's prospects would be constricted.

The ATC exclusion could reduce the ability of some families to provide permanent loving homes to children, because of the high cost of processing adoptions. Stable, secure relationships with caring adults are essential in the early years for healthy growth. When young children do not have such a relationship with a parent or other caregiver who consistently meets their needs, they lose the ability to develop attachments that in turn provide the security needed for learning and exploration, undermining healthy development.¹⁰ As such, children who are in need of a permanent family benefit from adoption. Infants and toddlers who cannot be cared for by their parents particularly benefit because of the critical role that stable, secure relationships with a caring adult play in laying strong early foundations.

The proposed rule would thus undermine the strong foundation that some of the most at-risk children need. The ATC was created to help offset the often-prohibitive fees associated with the initial adoption process. These fees can be a particular barrier to families with lower incomes who are eager to provide a home for a child and who tend to adopt more children from foster care, who often have a harder time finding permanent homes. Detering or delaying adoptions because families cannot afford fees thus adversely impacts young children, especially those who are left waiting in the foster care system. In view of this fact, just last year, Congress established some refundability for the ATC in Public Law (P.L.) 119-21 to make "the credit more usable for all families, opening up more homes to the joys of adoption and championing the sanctity of life."¹¹ While P.L. 119-21 added significant restrictions to immigrants' access to other programs, Congress did not include such language in the ATC provision, nor did they include any language signaling legislative understanding or intent that such groups were excluded under PRWORA. As such, restricting access to ATC refundability for certain immigrant families seems contrary to

⁸ Farewell, C. V., Melnick, E., & Leiferman, J. (2021). Maternal Mental Health and Early Childhood Development: Exploring Critical Periods and Unique Sources of Support. *Infant Mental Health Journal*, 42(4), 603–615.

⁹ Douglas-Hall, A. & Chau, M. (2007). *Parents' Low Education Leads to Low Income, Despite Full-Time Employment*. National Center for Children in Poverty. <https://www.nccp.org/publication/parents-low-education-leads-to-low-income-despite-full-time-employment/>.

¹⁰ Spieker, S. J., Oxford, M. L., & Fleming C. B. (2014). Permanency Outcomes for Toddlers in Child Welfare Two Years After a Randomized Trial of a Parenting Intervention. *Children and Youth Services Review*, 44, 201–206.

¹¹ U.S. House of Representatives, Committee on Ways and Means (2025). *The One Big Beautiful Bill Champions Life and Puts American Families First*. <https://waysandmeans.house.gov/wp-content/uploads/2025/07/Champions-Life-and-Families.pdf>.



Congress's very recent intent of making adoption more feasible for all families and could deprive children of a loving permanent home.

V. Additional Considerations of Implementing this Reinterpretation of Tax Law

In addition to concerns about adhering to Congressional intent and the impact on child well-being, the proposed rule raises administrative concerns. There will be increased administrative burden on both the IRS and taxpayers as they seek to determine who qualifies, given the complexities of immigration law. Tax filers and even tax preparers are unlikely to know the intricacies of how different groups of immigrants are considered under PRWORA, and so may be unsure if they are eligible. As a result, taxpayers may struggle to accurately fill out their tax returns, mistakenly claiming or failing to claim the tax credit. As noted above, many filers who are eligible would in fact be deterred from filing for credits, undermining the intent of these programs to support costs associated with children, adoption, and educational or workforce attainment, potentially depriving even U.S. citizen children of badly needed financial stability at home. In addition, proposed changes to IRS Form 1040 asking about citizenship or immigration status could deter some individuals from filing altogether, which could result in a substantial loss in Treasury receipts. For example, in 2022, undocumented immigrants paid almost \$60 billion into the U.S. Treasury and much more in the form of state and local taxes.¹² As a result, this rule could have negative economic consequences beyond the directly impacted families.

VI. Conclusion

This NPRM creates a novel interpretation of tax law related to four refundable credits—the ACTC, EITC, AOTC, and ATC—that disregards clear Congressional intent under PRWORA, statute authorizing these tax credits, and the interpretation of these provisions since PRWORA's passage. Nothing in legislative history indicates Congress has ever considered the refundable portion of these credits as a federal public benefit under PRWORA. In contrast, these credits all point to an intent to adjust the tax code in recognition of working families' need for resources to care for children or better their economic outlook, including in households with immigrant tax filers, an intent that the NPRM would undermine. In fact, in direct opposition to Congressional intent, the reduction in financial resources could undermine the well-being of infants, toddlers, and other young children, many of whom are U.S. citizens, in the affected families. Infants and toddlers, whose rapid early development makes them vulnerable to inadequate resources, would be particularly harmed.

To support the economic well-being of families raising young children—and, accordingly, the healthy development of these children—we urge the Department to withdraw this NPRM and maintain these essential incentives for work, skilled labor, and families' ability to give America's youngest generation the safe, stable, financially secure homes they need to thrive.

¹² Davis, C., Guzman, M., & Sifre, E. (2024). *Tax Payments by Undocumented Immigrants*. Institute on Taxation and Economic Policy. <https://itep.org/undocumented-immigrants-taxes-2024/>.