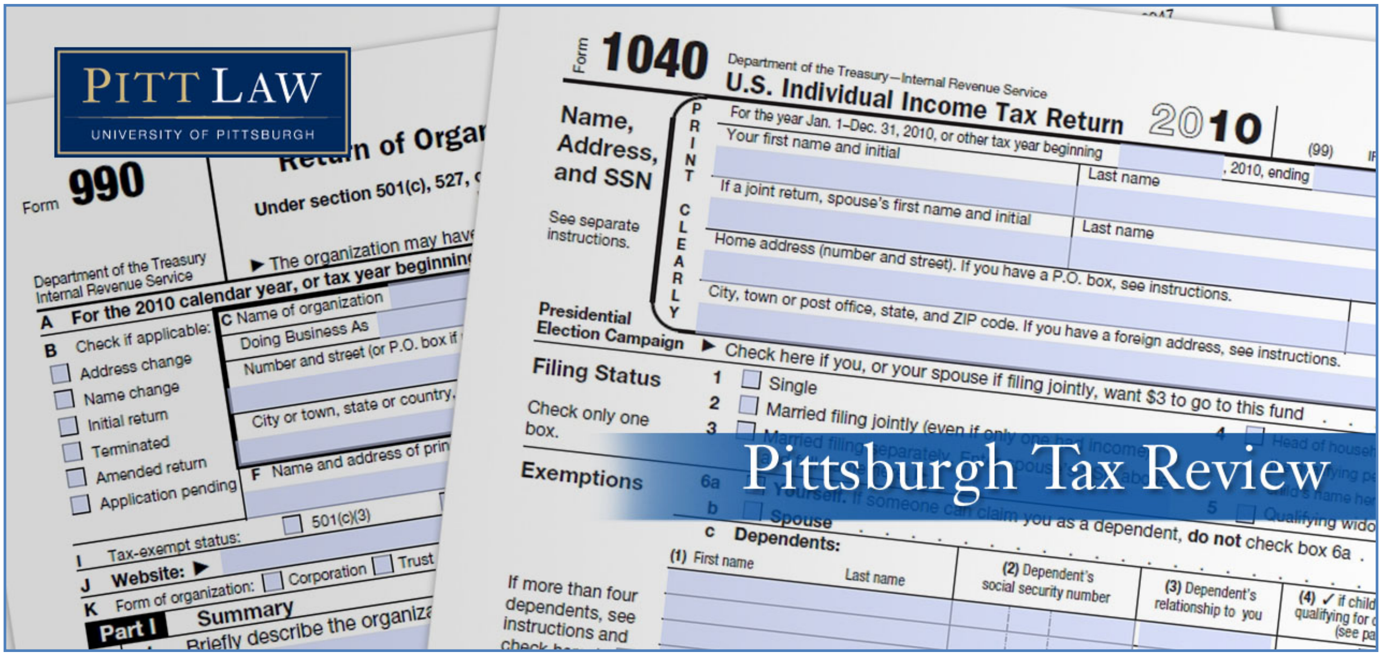

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IMPROVING REFUNDABLE TAX CREDITS BY MAKING THEM IMMIGRANT-INCLUSIVE

Marco Guzman and Emma Sifre

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IMPROVING REFUNDABLE TAX CREDITS BY MAKING THEM IMMIGRANT-INCLUSIVE

Marco Guzman[*] *and Emma Sifre*[**]

Tax policy is a powerful tool that can be used to improve lives by boosting economic security and helping alleviate poverty for adults and children across the country. In addition to providing revenue to fund government and other economic and social goals, tax codes are also effective vehicles for delivering poverty assistance to the working poor, low-income families, and children.

Many states have adopted their own versions of federal tax credits like the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC). These credits offset some of the taxes paid by low-paid workers and their families and increase well-being and economic security. In addition to mitigating the most extreme forms of poverty, well-designed state tax credits provide an important counterbalance to the deeply regressive nature of most state and local tax systems, which require a greater share of income from low- and middle-income families than of the wealthy.[1]

The federal EITC[2] and CTC[3] have helped move millions out of poverty and have proven vital to the households that receive them.[4] However, these

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[1] *See generally* Carl Davis et al., *Who Pays? A Distributional Analysis of the Tax Systems in All 50 States*, INST. ON TAX'N & ECON. POL'Y (7th ed. 2024), https://itep.org/whopays-7th-edition/.

[2] I.R.C. § 32.

[3] I.R.C. § 24.

[4] *See, e.g.*, I.R.S., Earned Income Tax Credit & Other Refundable Credits, https://www.eitc.irs.gov/partner-toolkit/basic-marketing-communication-materials/eitc-fast-facts/eitc-fast-facts#:~:text=The%20EITC%20and%20CTC%20greatly,million%20other%20people%20less%20poor (stating "[t]hese working-family tax credits lifted 5.6 million people out of poverty in 2018, including 3 million children, and made 17.5 million other people less poor").

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credits have room for improvement, and an increasing number of states are designing credits that help make up for the federal credits' shortcomings.

Undocumented immigrants, for instance, who work and pay taxes but do not have a valid Social Security number for either themselves or their children, are excluded from federal EITC and CTC benefits.[5] This inequity at the federal level is then often adopted at the state level because lawmakers often use the federal design of these antipoverty tax credits as the basis for the credits in their home state.

Fortunately, several states have stepped in to ensure undocumented immigrants are not left behind by the gaps in the federal EITC and CTC. A growing list of states allow undocumented taxpayers access to their respective EITC and CTC programs if they have an Individual Taxpayer Identification Number (ITIN)—the Internal Revenue Service-issued number that serves as a substitute to a Social Security number and aids in compliance with U.S. tax laws. Ten states and the District of Columbia have expanded their EITCs to reach ITIN filers, and eleven states have done the same for their CTCs.[6]

States are making tremendous progress in this area, but more can be done. State lawmakers should continue to ensure that immigrants who are otherwise eligible for these tax credits receive them. However, the biggest impact could be realized at the federal level. Expanding the federal EITC and CTC to undocumented taxpayers would boost the incomes of, and help create greater economic stability for, the largest number of families and children. Our original analysis presented here finds that up to 3.7 million

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[5] *Who Qualifies for the Earned Income Tax Credit (EITC)*, IRS.GOV, https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/who-qualifies-for-the-earned-income-tax-credit-eitc (last updated Feb. 14, 2024); *Child Tax Credit 4*, IRS.GOV, https://www.irs.gov/faqs/childcare-credit-other-credits/child-tax-credit/child-tax-credit-4 (last updated Oct. 17, 2023).

[6] *See* Aidan Davis & Neva Butkus, *Boosting Incomes, Improving Equity: State Earned Income Tax Credits in 2023*, INST. ON TAX'N & ECON. POL'Y (Sept. 12, 2023), https://itep.org/boosting-incomes-improving-equity-state-earned-income-tax-credits-in-2023/ [hereinafter *Boosting Incomes*]; Aidan Davis & Neva Butkus, *States are Boosting Economic Security with Child Tax Credits in 2023*, INST. ON TAX'N & ECON. POL'Y (Sept. 12, 2023), https://itep.org/states-are-boosting-economic-security-with-child-tax-credits-in-2023/ [hereinafter *States are Boosting*].

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undocumented households[7] could benefit from access to the federal EITC and CTC.[8]

I. Tax Credits Help Fight Poverty

A. Federal and State Earned Income Tax Credits

The EITC has roots dating back to the 1960s when policymakers began debating ways to reform the Aid to Families and Dependent Children (AFDC) program, which was commonly known as "welfare" at the time. The program allocated federal funding to states to support programs for, and provide cash assistance to, families primarily headed by single mothers to allow them to stay home and focus on childrearing.[9] While the AFDC would ultimately be replaced by the Temporary Assistance for Needy Families (TANF) block grant in the late 1990s, the discussions of the 1970s heralded a policy shift from direct payments with limited conditions to a program that sought to provide a work bonus.[10] And thus, in 1975, the EITC was created.

Though it has undergone several changes since its creation, the federal EITC is a refundable tax credit targeted to eligible workers earning relatively low wages. The credit is based on a filer's earned income and calculated using a formula that varies depending on filing status and number of children in the household. The average credit received nationwide was over $2,000, with approximately $64 billion of benefits sent to 31 million workers and households for their 2021 tax returns.[11] In 2021, the American Rescue Plan

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[7] Throughout this Essay, we use the term "households" for ease when referring to tax units. These are distinct concepts that we discuss in more detail in the "Data" section below.

[8] For this report, we use EITC and CTC benefit levels 2021, which included the expanded amounts authorized by the American Rescue Plan Act of 2021. Pub. L. No. 117-2, 135 Stat. 4. More details on those policy changes can be found below.

[9] Gene Falk, Cong. Rsch. Serv., R44668, The Temporary Assistance for Needy Families (TANF) Block Grant: A Legislative History 2 (2023).

[10] Margot L. Crandall-Hollick, Cong. Rsch. Serv., R45124, The Earned Income Tax Credit (EITC): A Brief Legislative History 2 (2018).

[11] *Statistics for Tax Returns with the Earned Income Tax Credit (EITC)*, IRS.Gov, https://www.eitc.irs.gov/eitc-central/statistics-for-tax-returns-with-eitc/statistics-for-tax-returns-with-the-earned-income (last updated Jan. 8, 2024).

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Act (ARPA) temporarily increased the EITC for low-paid workers without children in the home, and age and income limits were expanded to reach a broader group of recipients.[12] These provisions, however—along with expansions of the federal CTC—expired at the start of 2022.[13] Under current law, the credit for workers without children in the home is small and not widely available.

Over time, many states have adopted a version of the EITC in their own tax codes. These credits, notably, aid families in affording necessities like health care, childcare, housing, and food.[14] Today, thirty-one states plus the District of Columbia and Puerto Rico provide state-level EITCs.[15] Filers in most states calculate their state credit by simply taking a percentage of the federal credit.

While the approach is straightforward, some design characteristics vary across state EITCs. Four states (Missouri, South Carolina, Ohio, and Utah) offer nonrefundable credits.[16] Refundability is key to ensuring workers and their families receive the full benefit of the credit. It does not depend on the amount of income taxes paid, so eligible filers with little to no income tax liability receive the excess amount back as a refund, whereas a nonrefundable credit only allows the tax liability to be reduced to zero. Refundable credits therefore offset regressive state sales and property taxes, which make up the bulk of state and local taxes paid by lower-income families.

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[12] Steve Wamhoff, *Estimates of Cash Payment and Tax Credit Provisions in American Rescue Plan*, INST. ON TAX'N & ECON. POL'Y (Mar. 7, 2021), https://itep.org/estimates-on-senate-and-house-reconciliation-bills-cash-payment-and-tax-credit-provisions/.

[13] Ashley Burnside, *American Rescue Plan: One Year of Bold Tax Credit Expansions for Families, Young People*, CTR. FOR L. & SOC. POL'Y (Mar. 10, 2022), https://www.clasp.org/blog/american-rescue-plan-one-year-bold-tax-credit-expansions-families-young-people/.

[14] *See* Davis et al., *supra* note 1, at 32, 34.

[15] Davis & Butkus, *supra* note 6.

[16] *Id.*

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B. Federal and State Child Tax Credits

Established as a part of the Taxpayer Relief Act of 1997, the federal CTC is a partially refundable tax credit available to families with children.[17] The credit differs from its counterpart—the Dependent Exemption—in that the exemption only reduces a filer's taxable income and limits the monetary impact on those with low incomes, as they often do not owe federal income tax.[18] Lawmakers recognized this limitation and instead opted for a credit to better target economic assistance to those low-income families who stood to benefit the most.[19]

The federal CTC provides a credit of up to $2,000 for each child under seventeen and phases out for individuals and couples with incomes over $200,000 and $400,000, respectively.[20] The CTC was temporarily expanded during the height of the pandemic under the ARPA. The 2021 changes included making the credit fully refundable, meaning that regardless of their level of earnings or personal income tax liability, families could receive the full credit; increasing the credit amount to $3,600 for children under six and $3,000 for older children; expanding eligibility to include seventeen-year-olds; and allowing the credit to be distributed in monthly payments.[21]

The expanded CTC cut child poverty dramatically in 2021, reducing the rate by 46%[22] and pulling 3.7 million children out of poverty.[23] That rate more than doubled in 2022—jumping from 5.2% in 2021 to 12.4%—after

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[17] Taxpayer Relief Act of 1997, Pub. L. No. 105-34, § 101, 111 Stat. 788, 796 (codified as amended at I.R.C. § 24).

[18] *See* I.R.C. § 151.

[19] CRANDALL-HOLLICK, *supra* note 10, at 2–3.

[20] I.R.C. § 24(h).

[21] I.R.C. § 24(i)–(j).

[22] JOHN CREAMER ET AL., U.S. CENSUS BUREAU, P60-277, POVERTY IN THE UNITED STATES: 2021, at 7 (2022).

[23] Zachary Parolin et al., Colum. U. Ctr. on Poverty & Soc. Pol'y, *Absence of Monthly Child Tax Credit Leads to 3.7 Million More Children in Poverty in January 2022*, 6 POVERTY & SOC. POL'Y BRIEF 2 (Feb. 17, 2022), https://static1.squarespace.com/static/610831a16c95260dbd68934a/t/620ec869096c78179c7c4d3c/1645135978087/Monthly-poverty-January-CPSP-2022.pdf.

the expanded CTC provisions and other pandemic aid expired.[24] But despite the return to a less robust policy, the combination of the federal EITC and CTC still helped lift roughly 6.4 million people out of poverty in 2022.[25]

Unlike the EITC, most state CTCs are not directly tied to the federal credit—save for the New York and Oklahoma credits—and of the fourteen states with a CTC in 2024, eleven are refundable,[26] while credits in Utah, Idaho, and Oklahoma are not.[27] Decoupling from the federal credit is a wise policy choice, as the federal CTC has significant limitations (which we will cover more in the next section) that hinder the credit's effectiveness, especially for undocumented immigrant filers.

II. The Importance of Inclusive State Tax Codes

The impact undocumented immigrants have on the economy is often misunderstood. They contribute in important ways with high labor force participation, and they pay billions of dollars each year in state and local taxes, per ITEP estimates.[28] For all their contributions, however, they are largely excluded from our nation's most effective antipoverty tax credits, including the EITC and CTC.

The federal EITC prohibits ITIN filers from claiming the credit, while the CTC only allows ITIN filers to claim children with Social Security numbers.[29] The CTC limitation is recent, coming after the enactment of the Tax Cuts and Jobs Act of 2017; before that, eligible parents were able to

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[24] *Id.*

[25] Davis & Butkus, *supra* note 6.

[26] New York's Empire State Child Tax Credit is coupled to an older version of the federal CTC and therefore only partially refundable. *See Empire State Child Credit*, N.Y. STATE DEP'T OF TAX'N & FIN., https://www.tax.ny.gov/pit/credits/empire_state_child_credit.htm (last updated Nov. 27, 2023).

[27] *States are Boosting*, *supra* note 6.

[28] Lisa Christensen Gee et al., *Undocumented Immigrants' State & Local Tax Contributions*, INST. ON TAX'N & ECON. POL'Y 8–11 (2017), https://itep.sfo2.digitaloceanspaces.com/ITEP-2017-Undocumented-Immigrants-State-and-Local-Contributions.pdf; *Labor Force Characteristics of Foreign-born Workers Summary*, U.S. BUREAU OF LAB. STAT. (May 18, 2023, 10:00 AM), https://www.bls.gov/news.release/forbrn.nr0.htm.

[29] *Who Qualifies for the Earned Income Tax Credit (EITC)*, IRS.GOV, https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/who-qualifies-for-the-earned-income-tax-credit-eitc (last updated Feb. 14, 2024); *Child Tax Credit 4*, *supra* note 5.

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claim all children regardless of citizenship status.[30] The 2017 law also temporarily removed the Dependent Exemption and included a new nonrefundable $500 "family credit" for all children and other dependents ineligible for the CTC.[31] But due to its nonrefundable nature, most low- and moderate-income families earn too little to make use of this new credit.

States are increasingly stepping in to fill these gaps and do more for their residents. Ten states (and the District of Columbia) that offer EITCs have expanded their credits to include ITIN filers.[32] Washington, D.C., for example, offers a refundable credit to residents—including ITIN filers—that is 70% of the federal credit; that amount will increase to 100% of the federal credit in 2026.[33] Meanwhile, ten states plus the District of Columbia with these CTCs allow ITIN filers to claim these credits for the benefit of their household by offering a more expansive definition of eligibility than allowed under the federal definition.[34] Most state CTCs also avoid the phase-in provision of the federal CTC, which denies our nation's poorest children the maximum credit due to the earnings and employment status of their parents.

While states have made and continue to make good progress addressing some of these inequities, more can be done to reach ITIN filers and their children. Immigrant-inclusive federal policy would provide the broadest, most effective strategy for boosting incomes and reducing poverty. Below is an analysis highlighting the potential state-by-state impact of extending federal EITC and CTC eligibility to immigrant ITIN filers. The analysis assumes the expanded 2021 versions of the federal EITC and CTC and shows how expanding availability of these credits to undocumented immigrants can boost the incomes of, and help create greater economic stability for, many families and children.[35]

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[30] Marco Guzman, *Inclusive Child Tax Credit Reform Would Restore Benefit to 1 Million Young "Dreamers,"* INST. ON TAX'N & ECON. POL'Y (Apr. 27, 2021), https://itep.org/inclusive-child-tax-credit-reform-would-restore-benefit-to-1-million-young-dreamers/.

[31] I.R.C. §§ 24(h) and 151(d)(5).

[32] *See Boosting Incomes*, *supra* note 6.

[33] *District of Columbia (DC) Earned Income Tax Credit Frequently Asked Questions (FAQs)*, DC.GOV, https://eitc.dc.gov/page/frequently-asked-questions-10 (last visited Feb. 23, 2024).

[34] Davis & Butkus, *supra* note 6.

[35] *Id.*

III. Analysis

Our analysis finds that inclusive EITC and CTCs could benefit millions of households, although the total impact is largely dependent on assumptions around tax filing and take-up rates for undocumented households. We present estimates of both credits under the 2021 ARPA expansion under two sets of assumptions: one in which 100% of undocumented households file, and another more realistic set, where undocumented households file at their current estimated rate of 60%. Under both scenarios, we assume undocumented households claim the federal EITC and CTC at the same rate as SSN filers, which we discuss in more detail below.

A. Earned Income Tax Credit

A federal EITC that expands eligibility to ITIN filers could reach between 1.8 million and 3 million additional households with an estimated annual benefit between $5.5 billion and $9.2 billion. Because the undocumented population skews much younger than the citizen population, such an expansion would benefit as much as 40% of all undocumented households.[36] We estimate the additional benefit provided by expanding the EITC to undocumented households would make up anywhere from 5% to 9% of the total cost of the federal EITC under the 2021 expansion.[37]

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[36] For a discussion of demographic trends see Jeffrey S. Passel & D'vera Cohn, Pew Rsch. Ctr., U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade (2022). Estimates on the size of the undocumented population and the impact of expanded EITC and CTCs on undocumented tax units are based on authors' independent analysis of the Census Bureau's American Community Survey (ACS) 2015–2019 Public Use Microdata Sample (PUMS). A detailed explanation of the methodology is outlined in the Data section at the end of this Essay. For more information on the ACS and links to download and access the PUMS files, see https://www.census.gov/programs-surveys/acs/microdata.html.

[37] Estimates on the size of the undocumented population and the impact of expanded EITC and CTCs on undocumented tax units are based on authors' independent analysis of the Census Bureau's American Community Survey (ACS) 2015–2019 Public Use Microdata Sample (PUMS). A detailed explanation of the methodology is outlined in the Data section at the end of this paper. For more information on the ACS and links to download and access the PUMS files, see https://www.census.gov/programs-surveys/acs/microdata.html.

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Table 1. Impact of Federal EITC ITIN Inclusion, Assuming Enhanced 2021 EITC[38]

	Overall Benefit (in thousands)	*Total Newly Eligible ITIN Households*
Scenario 1	$9,208,000	3,010,000
Scenario 2	$5,525,000	1,806,000

Table 2 shows the distribution of the total benefit of ITIN inclusion across the fifty states and D.C., assuming the 60% filing rate under Scenario 2.

Table 2. Impact of Federal EITC ITIN Inclusion, Assuming Enhanced 2021 EITC, by State[39]

	Overall Benefit (in thousands)	Total Newly Eligible ITIN Households
Alabama	36,000	11,000
Alaska	3,000	1,000
Arizona	131,000	43,000
Arkansas	43,000	12,000
California	1,031,000	354,000
Colorado	103,000	29,000
Connecticut	53,000	19,000
Delaware	12,000	4,000
D.C.	6,000	2,000
Florida	387,000	137,000
Georgia	208,000	62,000
Hawaii	20,000	7,000

[38] *Id.*

[39] *Id.*

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	Overall Benefit (in thousands)	Total Newly Eligible ITIN Households
Idaho	22,000	6,000
Illinois	251,000	77,000
Indiana	67,000	19,000
Iowa	30,000	9,000
Kansas	46,000	13,000
Kentucky	30,000	10,000
Louisiana	32,000	11,000
Maine	2,000	1,000
Maryland	107,000	35,000
Massachusetts	61,000	24,000
Michigan	53,000	19,000
Minnesota	55,000	16,000
Mississippi	13,000	4,000
Missouri	32,000	10,000
Montana	*	*
Nebraska	31,000	9,000
Nevada	94,000	29,000
New Hampshire	6,000	2,000
New Jersey	204,000	73,000
New Mexico	29,000	10,000
New York	339,000	126,000
North Carolina	190,000	58,000
North Dakota	3,000	1,000
Ohio	50,000	17,000
Oklahoma	57,000	16,000
Oregon	61,000	18,000
Pennsylvania	85,000	29,000
Rhode Island	12,000	4,000
South Carolina	50,000	16,000
South Dakota	4,000	1,000
Tennessee	80,000	24,000
Texas	979,000	308,000
Utah	58,000	17,000
Vermont	*	*
Virginia	133,000	43,000

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	Overall Benefit (in thousands)	Total Newly Eligible ITIN Households
Washington	122,000	38,000
West Virginia	2,000	1,000
Wisconsin	44,000	13,000
Wyoming	4,000	1,000
TOTAL, United States	$5,525,000	1,806,000

**Not reported. Indicates fewer than 1,000 tax units*.

B. Child Tax Credit

Unlike the EITC, where everyone in a household must have an SSN to be eligible, the CTC is available to households where the primary filer or their spouse files taxes with an ITIN, but qualifying children must have an SSN.[40]

Table 3 shows the estimated impact of expanding the 2021 CTC to children with ITINs under both sets of assumptions. We estimate that 60 million children with SSNs would benefit from the Child Tax Credit under the 2021 expansion, and if households with undocumented children participate at the same rate as currently eligible households, over 900,000 additional children would benefit.[41] In all, by including undocumented children in the CTC expansion, the overall benefit would be an annual $2.9 billion, just 1.3% of the total estimated cost of the 2021 expansion with ITIN inclusion.[42]

Under the second set of assumptions that assumes a 60% filing rate, we estimate that about 411,000 households with 550,000 children would benefit, and the overall annual benefit would be $1.7 billion.[43] The median income

[40] *Child Tax Credit 4*, *supra* note 5.

[41] *Id.*

[42] *Id.*

[43] Estimates are based on author's independent analysis of The Census Bureau's American Community Survey (ACS) 2015–2019 Public Use Microdata Sample (PUMS). A detailed explanation of the methodology is outlined in the Data section at the end of this paper. For more information on the ACS

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for those newly eligible households is $55,000 to $10,000 lower than the median household income for those with children who have SSNs only.[44]

Table 3. Impact of Federal CTC ITIN Inclusion, Assuming Enhanced 2021 CTC[45]

	Overall Benefit (in thousands)	Total Newly Eligible ITIN Households	Total Newly Eligible ITIN Children
Scenario 1	$2,859,000	685,000	917,000
Scenario 2	$1,715,000	411,000	550,000

Like Table 2, Table 4 shows how this benefit is distributed across the fifty states and D.C., assuming the 60% filing rate in Scenario 2.

Table 4. Impact of Federal CTC ITIN Inclusion, Assuming Enhanced 2021 CTC, by State[46]

	Overall Benefit (in thousands)	Total Newly Eligible ITIN Households	Total Newly Eligible ITIN Children
Alabama	10,000	3,000	3,000
Alaska	*	*	*
Arizona	38,000	9,000	12,000
Arkansas	13,000	3,000	4,000

and links to download and access the PUMS files, see https://www.census.gov/programs-surveys/acs/microdata.html.

[44] *Id.*

[45] *Id.*

[46] *Id.*

	Overall Benefit (in thousands)	Total Newly Eligible ITIN Households	Total Newly Eligible ITIN Children
California	242,000	61,000	79,000
Colorado	26,000	6,000	8,000
Connecticut	20,000	5,000	7,000
Delaware	4,000	1,000	1,000
D.C.	3,000	1,000	1,000
Florida	164,000	38,000	52,000
Georgia	62,000	15,000	20,000
Hawaii	8,000	2,000	3,000
Idaho	5,000	1,000	1,000
Illinois	41,000	10,000	13,000
Indiana	22,000	5,000	7,000
Iowa	10,000	2,000	3,000
Kansas	14,000	3,000	4,000
Kentucky	12,000	3,000	4,000
Louisiana	13,000	3,000	4,000
Maine	*	*	*
Maryland	42,000	10,000	14,000
Massachusetts	38,000	9,000	12,000

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	Overall Benefit (in thousands)	Total Newly Eligible ITIN Households	Total Newly Eligible ITIN Children
Michigan	34,000	8,000	11,000
Minnesota	19,000	5,000	6,000
Mississippi	5,000	1,000	2,000
Missouri	13,000	3,000	4,000
Montana	*	*	*
Nebraska	9,000	2,000	3,000
Nevada	22,000	5,000	7,000
New Hampshire	5,000	1,000	1,000
New Jersey	86,000	21,000	28,000
New Mexico	9,000	2,000	3,000
New York	106,000	27,000	34,000
North Carolina	49,000	12,000	15,000
North Dakota	*	*	*
Ohio	29,000	7,000	9,000
Oklahoma	15,000	3,000	5,000
Oregon	11,000	3,000	4,000
Pennsylvania	41,000	10,000	13,000
Rhode Island	6,000	1,000	2,000

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	Overall Benefit (in thousands)	Total Newly Eligible ITIN Households	Total Newly Eligible ITIN Children
South Carolina	18,000	4,000	6,000
South Dakota	*	*	*
Tennessee	28,000	6,000	9,000
Texas	285,000	66,000	91,000
Utah	16,000	4,000	5,000
Vermont	*	*	*
Virginia	58,000	13,000	18,000
Washington	37,000	10,000	13,000
West Virginia	*	*	*
Wisconsin	13,000	3,000	4,000
Wyoming	*	*	*
TOTAL,			
United States	$1,715,000	411,000	550,000

**Not reported. Indicates fewer than 1,000 tax units.*

IV. DATA

Data for this analysis comes from the 2015–2019 American Community Survey (ACS), a mandatory-response survey administered by the Census Bureau that provides detailed data on the non-institutionalized civilian population of the United States.[47] This includes all residents, regardless of citizenship or legal status.

Using the ACS to inform this analysis requires first identifying the population of individuals who are undocumented and would therefore require an ITIN to file taxes. We accomplish this by using a series of "logical edits" to isolate individuals whose demographic, social, and economic characteristics indicate that they are likely undocumented immigrants.[48] We estimate a universe of 11.86 million undocumented individuals living in the United States, of which about 1 million are children.[49]

To better estimate credit eligibility, we determine the tax filing relationships that exist within larger households. While a Census household consists of any individuals residing together, a tax unit is a much narrower subset of people: a primary filer and their spouse, plus any dependents. A Census household comprised of four unrelated roommates, for example, would be considered four separate tax units. Out of about 120.7 million households in the ACS data, we construct over 160 million tax units.[50] Of

[47] *See American Community Survey 2015–2019 5-Year Data Release*, U.S. CENSUS BUREAU (Dec. 10, 2020), https://www.census.gov/newsroom/press-kits/2020/acs-5-year.html. The ACS collects information on United States territories and other areas, but this analysis focuses only on fifty states and the District of Columbia. The civilian non-institutionalized population includes all persons who are not residing in institutions or group homes (e.g., penal and medical facilities, homes for the aged, etc.), and who are not on active duty in the Armed Forces.

[48] The U.S. Census Bureau asks participants for their citizenship status, but research shows that due to high non-response rates to this question, reliance on this question alone as an indication of citizenship status is insufficient and risks undercounting the non-citizen population. *See* William P. O'Hare, *Citizenship Question Nonresponse: A Demographic Profile of People Who Do Not Answer the American Community Survey Citizenship Question*, GEO. L. CTR. ON POVERTY & INEQ. (Sept. 2018), https://www.georgetownpoverty.org/wp-content/uploads/2018/09/GCPI-ESOI-Demographic-Profile-of-People-Who-Do-Not-Respond-to-the-Citizenship-Question-20180906.pdf.

[49] The 2015–2019 American Community Survey represents 324.7 million individuals. The logical edits' described in the text identify 313.9 million individuals who are either citizens of the United States, or immigrants with legal status. The difference between these two populations is assumed to be the undocumented population in the United States. 324.7 - 313.9 = 10.78 million. This residual estimate is then adjusted up by 10% to account for Census undercounts due to survey non-response.10.78*1.10 = 11.86.

[50] *See U.S. Census Bureau Table DP04: Selected Housing Characteristics*, for Total Occupied Housing Units, https://data.census.gov/table/ACSDP5Y2019.DP04?g=010XX00US&y=2019&d=ACS%205-Year%20Estimates%20Data%20Profiles. ITEP's algorithm for determining tax filing relationships within Census households is similar to those described in *Compendium of Tax Research: 1987: The Individual Income Tax Simulation Model*, Cilke and Wyscarver, https://home.treasury.gov/system/files/131/Report-Compendium-1987-Part2.pdf and *The Urban-Brookings Tax Policy Center*

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these new tax units, 7.76 million contain at least one member who we have identified as likely undocumented.[51] (As mentioned earlier, we use "households" as shorthand for "tax units" throughout, except in this Data section.)

Overall, these undocumented tax units make up just under 5% of all tax units in the United States, but the proportion of undocumented tax units varies widely across states.[52] Undocumented tax units make up the largest percentage of tax units in Texas at about 9%, followed closely by states like California, Nevada, New Jersey, and New York. In other states, this percentage is near zero.

Table 5. Snapshot: Undocumented Households, by State[53]

	Total Households	Households with one or more undocumented individual	Proportion of Undocumented Households
Texas	12,926,000	1,185,000	9.2%
California	19,240,000	1,658,000	8.6%
Nevada	1,507,000	124,000	8.2%
New Jersey	4,449,000	346,000	7.8%
New York	10,283,000	630,000	6.1%

Microsimulation Model: Documentation and Methodology for Version 0304, Rohaly et al., https://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/411136-The-Urban-Brookings-Tax-Policy-Center-Microsimulation-Model.PDF.

[51] Estimates are based on author's independent analysis of The Census Bureau's American Community Survey (ACS) 2015–2019 Public Use Microdata Sample (PUMS). A detailed explanation of the methodology is outlined in this Data section. For more information on the ACS and links to download and access the PUMS files, see https://www.census.gov/programs-surveys/acs/microdata.html.

[52] *Id.*

[53] *Id.*

Given that we have income profiles for each member of the household and information about their relationship to one another, we then use these data, combined with newly imputed filing statuses to estimate which households are eligible for the federal Earned Income Tax Credit and Child Tax Credit and determine the total cost of these credits.

A. Tax Credits and Take-up Rates

We model participation rates for these credits under two different sets of assumptions; the first reflects a take-up rate equal to that of the federal credit for tax filers with Social Security Numbers (SSNs).[54] These estimates represent an upper bound in this analysis, where undocumented households face no additional barriers or systematic differences in filing rates when compared to filers with SSNs.

However, there is a large body of research that suggests that the undocumented population does not interact with the tax system in the same way as U.S. citizens or immigrants with legal status.[55] Administrative barriers, claiming complexity, inadequate outreach, the political climate, and fear of immigration enforcement may all have a chilling effect on participation.[56] But research also shows that when agencies reduce barriers and expand eligibility for powerful anti-poverty tax credits, tax compliance among undocumented populations improves and participation in the U.S. tax system increases.[57]

[54] The IRS publishes participation rates for the Federal EITC. *See EITC Participation Rate by States Tax Years 2013 Through 2020*, IRS.GOV, https://www.eitc.irs.gov/eitc-central/participation-rate-by-state/eitc-participation-rate-by-states (last updated Jan. 26, 2024). Nationally, take-up is around 79%, but ranges from as low as 70% in some states to as high as 84% in others. *Id.* It does not publish similar participation rates for the CTC, but research estimates that the CTC reaches 90% of eligible children. We use this 90% figure as a starting point for CTC participation and adjust each state's CTC participation to reflect differences from the national average that we observe in EITC participation.

[55] LUISA GODINEZ-PUIG ET AL., LESSONS LEARNED FROM EXPANDED CHILD TAX CREDIT OUTREACH TO IMMIGRANT COMMUNITIES IN BOSTON 4 (2022).

[56] *Id.* at 1, 4.

[57] *See* Jacqueline L. Flanagan, *Reframing Taxigration in the Search for Tax Justice*, 100 TAX NOTES STATE 703 (May 17, 2021).

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Current data about tax filing rates of undocumented taxpayers is scarce, but the best evidence finds that anywhere from 50%–75% file, either by using an ITIN or by using an SSN that does not belong to them.[58]

We attempt to capture these differences in participation under a second set of assumptions, by modeling a 60% tax filing rate among undocumented households, and then assuming a credit take-up rate equal to that of the SSN population within that smaller universe of filers. This represents a much more realistic picture of take-up amongst ITIN filers.[59]

V. Summary

Federal antipoverty programs help improve the lives of millions of struggling households in the United States. Many undocumented immigrant workers and families, however, are left out due to gaps in the federal tax code despite contributing to an economy that relies on their labor. These gaps are policy choices, and fortunately, states have stepped in to fill in where they can. But more can and should be done to ensure the goal of reducing poverty in America is fully realized for all its residents.

[58] Cong. of the U.S. Cong. Budget Off., The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments 6 (Dec. 2007), https://www.cbo.gov/sites/default/files/110th-congress-2007-2008/reports/12-6-immigration.pdf.

[59] Our calculations assume that 60% of undocumented tax units eligible for these credits would file income tax returns, and those who file would claim these credits at a rate equivalent to citizen tax filers. In previous research, ITEP concluded that it is likely that 50% of undocumented tax units file income tax returns in any given year. Tax credit expansion, however, would make tax filing more attractive and likely lead to increases in the share of tax units that file. Furthermore, a comparison of our figures with those produced by agencies in California, Colorado, and Oregon reveals that a 60% filing assumption allows us to come close to replicating those other entities' estimates of the number of tax credit beneficiaries with ITINs.

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