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Access-Oriented Performance Measurement for Refundable Tax Credits: Issues and Options[1]

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Executive Summary

Two federal tax credits – The Earned Income Tax Credit (EITC) that supplements the wages of low-income workers, and the Child Tax Credit (CTC) that helps offset the costs of raising children – significantly reduce poverty. Together, the EITC and CTC lifted 10.6 million people above the poverty line (including 5.5 million children) and made 17.5 million people less poor (including 6.4 million children) in 2018.[2]

Yet, available evidence suggests that millions of eligible people – primarily those with very low incomes falling below the required federal tax filing threshold, or "non-filers" – are not receiving the EITC and CTC. Much remains unknown about the full scope of this problem, including precise estimates of households falling into the EITC and CTC "participation gaps," the demographic composition of these gaps, and the relative importance of the various reasons why eligible households may not claim tax benefits. It is also unclear which specific outreach and enrollment strategies can most effectively boost program uptake, or which improvements to both the tax filing process and procedures for processing tax returns (including audits) should be prioritized to improve program access. And lastly, while existing research suggests that some households (such as those with the lowest incomes) would experience *outsized* improvements to their short- and long-term financial, health, educational, and other outcomes through increased uptake of the EITC and CTC, this evidence base is not yet well-developed enough to inform decisions around how to finely target certain communities for program access improvements.

The Internal Revenue Service (IRS) reports annually and quarterly on the amount of "improper payments" (i.e., overclaimed amounts) of the EITC and CTC, the specific drivers of EITC and CTC error, and actions that are being taken to reduce those errors. But the IRS reports in far less detail on the billions of dollars in EITC and CTC benefits that go unclaimed by eligible households each year.

[2] Center on Budget and Policy Priorities, "Policy Basics: EITC", updated April 28, 2023, https://www.cbpp.org/research/federal-tax/the-earned-income-tax-credit.

This paper explores the potential benefits and challenges of the IRS designing and implementing a performance measurement framework focused on improving EITC and CTC uptake. Such a framework could drive activity to better understand the true size and composition of the EITC and CTC participation gaps, and guide program administrators, policymakers, and other stakeholders towards the most effective strategies for boosting uptake (both in terms of outreach and enrollment initiatives, program delivery improvements, and statutory changes). The four broad categories of performance measures that the IRS could develop and publicly report on a regular basis include:

1. **Improved descriptive statistics for program participation.** These measures would include more robust estimates on the EITC and CTC participation gap by number of filers and by dollars claimed, including disaggregation by key demographic characteristics. The IRS should also be more transparent about how it estimates the total population of households eligible for the EITC and CTC, which is a difficult population to measure because it includes "non-filer" households that are not captured in tax return data and other IRS administrative datasets.
    a. *Strengths:* The size and composition of the eligible non-claimant population are easily understandable summary statistics that can guide interventions.
    b. *Limitations:* Improvements in topline program participation rates may not necessarily translate into meaningful improvements in financial security and other outcomes for certain groups of tax filers. For example, significantly boosting the EITC's program participation rate by increasing the number of claimants eligible for low benefit amounts (i.e. those in the very beginning of the credit's phase-in region or at the very end of the credit's phase-out region) may not significantly improve some of those claimants' circumstances – and could even be counterproductive for some filers if the costs of filing a tax return exceed the tax benefits received.
2. **Measuring outcomes.** These measures would aim to address the limitations of the descriptive statistics referenced above and capture the extent to which increased uptake of the EITC and CTC is likely to translate into differential health, educational, financial, and other outcomes for various types of households.
    a. *Strengths:* Outcome-based measures would theoretically help the IRS drive resources, attention, and access towards filers for whom the benefits of receiving the EITC and CTC would be greatest.
    b. *Limitations:* Determining which tax filers would likely benefit most from accessing the EITC and CTC across a wide range of possible outcomes (and determining how to use this information to prioritize investments in outreach and enrollment strategies) requires more precise estimates of these outcomes, which requires a substantial improvement in the evidence base.
3. **Measures of "return-on-investment" (ROI) for outreach and enrollment strategies.** ROI refers to the number or dollar amounts of EITC and CTC claims generated from different interventions, relative to the costs of implementing those interventions.

   a. *Strengths:* These measures would allow the IRS to build the evidence base on "what works" for encouraging eligible households to claim the EITC and CTC and invest in strategies that have the highest impact.
   b. *Limitations:* There are some implementation challenges in the immediate term for having the IRS estimate ROI for outreach and enrollment interventions. Moreover, ROI should not be the sole criterion for determining whether to invest in certain strategies, as boosting uptake among some hard-to-reach communities could require more resource-intensive approaches. And lastly, while this is perhaps a limitation of outreach and enrollment interventions broadly rather than the design of ROI measures, it may be the case that even the most effective and cost-efficient strategies can only capture a very small share of the total eligible non-claimant population. This would indicate that systemwide changes to tax filing and IRS return processing procedures are needed to achieve significant gains in program uptake.
4. **Program delivery measures.** The purpose of these performance measures would be to monitor and improve, for each stage of the tax return submission process, those areas where eligible EITC and CTC claimants face barriers and fall out of the system. These performance measures would seek to capture key aspects of the tax filing, return processing, audit, and customer services practices that impact program access for EITC and CTC claimants.
   a. *Strengths:* These measures would help the IRS identify specific components of the tax filing process and procedures for tax return processing (including audits) that are most exclusionary and could therefore most directly spur administrative changes at the agency.
   b. *Limitations:* It may take time to understand which aspects of program delivery matter most for credit access, and so this list of measures may need to be especially flexible to new research to "measure what matters." The IRS may also face statutory limitations – including the policy design and delivery mechanisms for the EITC and CTC specified in the tax code – that prevent them from taking certain administrative actions that would improve program delivery.

There are a range of implementation options for an access-oriented performance measurement framework for the EITC and CTC. Lawmakers could enact legislation requiring the IRS to develop and report the measures described above, the President could require the IRS (and potentially other agencies) to act via Executive Order, or the IRS could act voluntarily. The IRS could use such frameworks, or components of them, to deliver on many of its existing commitments around advancing equity and improving taxpayer service, including those outlined in the Strategic Operating Plan (SOP) for implementation of the Inflation Reduction Act (IRA).

This report concludes by considering the feasibility and limitations of performance measurement frameworks more generally. As discussed above, existing performance measurement frameworks in the tax space focus on reporting EITC and CTC error. This "improper payments" reporting regime has indeed driven resources and attention to developing the evidence base around root causes of error – but has been insufficient to drive lawmakers to enact legislation needed to address the largest sources of error, and indeed may have fueled interventions that are not high-value and create substantial harm.

An access-oriented performance measurement framework may still deliver some benefits even if it is not by itself sufficient to deliver interventions that would best improve access. Better evidence on effective strategies for boosting program participation could help guide state, local, and civil society interventions and advocacy towards high-impact potential interventions rather than less promising ones. In the improper payments space, IRS research on sources of error has resulted in legislative proposals and advocacy focused on key problems, and while these proposals have not yet been successfully enacted, some lawmaker and civil society resources and attention have been responsive to the evidence base.

Finally, any performance measurement framework faces a tradeoff between accurate, comprehensive measurement of what matters, and being simple enough to drive sound decision making and accountability. Too many metrics can make it unclear how to prioritize activity and can allow policymakers to cherry-pick those that are most favorable. Indeed, the IRS already reports many metrics relevant to overall taxpayer experience across a wide range of both internal and public documents and has also released two different frameworks with many overlapping priorities around improving customer service over the past several years (for implementation of the Taxpayer First Act and the Inflation Reduction Act). It is unclear how the IRS prioritizes among these many existing metrics and frameworks as it makes decisions.

1 Background on the EITC

1.1 What is the EITC?

The Earned Income Tax Credit (EITC) is a federal tax credit for low- and moderate-income tax filers that is "refundable," or distributed as a refund when filers are eligible for a credit amount greater than their income tax liability. The size of the credit varies depending on a tax filer's income – it increases or "phases in" as income rises, plateaus at the maximum credit amount, and then gradually "phases out." The phase-in rate, phase-out rate, and maximum credit vary depending on filing status and family composition.[3] The EITC is available for tax filers without qualifying children that earn up to about $23,000, and for tax filers with children that earn up to about $50,000-$60,000, for tax year 2022.[4] Amounts are adjusted each year for inflation.

In response to the COVID-19 pandemic, the American Rescue Plan Act (ARP) temporarily expanded the EITC for tax filers without qualifying children in tax year 2021, by making the credit phase in faster and increasing the maximum credit from $543 to $1,502.[5] However, in tax year 2022, the EITC reverted to its pre-ARP levels and the maximum credit for tax filers without

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[3] Internal Revenue Service, "Earned Income and Earned Income Tax Credit (EITC) Tables," last updated March 8, 2023, https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/earned-income-and-earned-income-tax-credit-eitc-tables.

[4] *Ibid*.

[5] Margot Crandall-Hollick, "The "Childless" EITC: Temporary Expansion for 2021 Under the American Rescue Plan Act of 2021 (ARPA; P.L. 117-2)," Congressional Research Service, updated May 3, 2021, https://crsreports.congress.gov/product/pdf/IN/IN11610.

qualifying children is $560. The maximum credit is much larger for tax filers with children, ranging from $3,733 for those with one child to $6,935 for those with three or more children in tax year 2022.[6]

Children pass four "tests" under the EITC's "qualifying child" rules to be lawfully claimed by a tax filer.[7] The *age test* requires qualifying children to generally be age 18 or under, under 24 if they are a full-time student, or any age if they are permanently and totally disabled. The *relationship test* only allows tax filers to claim specified family members for the EITC– their children, stepchildren, grandchildren, siblings, nieces, and nephews. The *residency test* states that tax filers can only claim children if they lived together for more than six months of the previous year. And lastly, the *joint return test* prevents tax filers from claiming someone that can file a joint return (for example, with their husband or wife).

Eligibility for the credit is therefore based on several intersecting factors – income, marital and tax filing status, the number of qualifying children, and immigration status. Tax filers and all qualifying children claimed for the EITC on the tax return must have Social Security Numbers (SSNs).

Households claim the EITC by filing a federal income tax return and completing Schedule EIC. Because the tax system is based on "voluntary compliance," filers are generally not required to submit substantial documentation (such as proof that their child lives with them) to prove eligibility when claiming tax benefits like the EITC and other credits, deductions, and exemptions on their returns. This means that claiming tax benefits generally requires far less information to be furnished upfront than claiming other types of public benefits, which may be a key reason why estimated participation rates are higher in the EITC (and compliance and administration costs lower) than for many other programs. Instead, the IRS relies on other compliance strategies, including audits, and verifying the information reported on tax returns using data reported to the IRS by third parties such as employers and banks.

1.2 Measuring Program Participation

The participation rate for a government program is typically calculated by dividing the number of eligible people claiming the benefit by the total number of people that are eligible to do so. However, measuring the program participation rate of the EITC is difficult because, as economist Jacob Goldin has noted, "there is no good source of information about the universe of households" that are eligible for it.[8]

Data from tax returns alone is inadequate for several reasons. Importantly, those with the lowest incomes are not required to file federal tax returns. In 2022, those exempt included single people

[6] The Internal Revenue Service, *supra* note 3.

[7] The Internal Revenue Service, "Qualifying Child Rules," last updated March 1, 2023, https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/qualifying-child-rules.

[8] Jacob Goldin, "Tax Benefit Complexity and Take-Up: Lessons from the Earned Income Tax Credit," Tax Law Review, Vol. 72 No. 59, March 2018, https://law.stanford.edu/publications/tax-benefit-complexity-take-lessons-earned-income-tax-credit/.

earning under roughly $13,000 and married couples earning under roughly $25,000.[9] Consequently, the tax system does not have information on workers that might meet the eligibility criteria for the credit but have earnings below the filing threshold and choose not to file federal tax returns.[10] On the flip side, some people claim the EITC on their tax returns even though they are not eligible for it – either because they have misunderstood the eligibility criteria for the credit, their tax preparer made a mistake, or they have claimed the credit fraudulently.[11] There are also people with incomes above the federal tax filing threshold that do not file tax returns despite being required to do so (and as a result, miss out on the EITC and other tax benefits for which they are eligible).[12]

Imputing Eligibility for Tax Benefits

Researchers at the Census Bureau and the IRS have mitigated these challenges by matching tax return data to annual survey data from the Current Population Survey's Annual Social and Economic Supplement (CPS ASEC) for the national EITC program participation rate and the American Community Survey (ACS) for state-level program participation rates.[13] These agencies have not published an updated, comprehensive explanation of their methodology, but some details on the IRS-Census data matching process are available from older working papers on EITC program participation rates.[14] In short, the Census Bureau and the IRS impute "tax filing units" based on the household relationships, marital status, income, and other information captured in the survey data, apply the EITC's statutory criteria to estimate the total population eligible for the EITC, and then match the survey data to tax return data to estimate the share of the eligible population that actually claimed the credit.

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[9] Internal Revenue Service, "Publication 501: Dependents, Standard Deduction, and Filing Information," https://www.irs.gov/pub/irs-pdf/p501.pdf. Via W-2s, 1099s, and other "information returns," the IRS has some, but very limited, data on most filers, (for example, those forms do not contain information on children, rather, only on people's identities, addresses, and earnings) and so cannot be used to estimate eligibility for the EITC. For more, For more, see section 2.2.2.

[10] Goldin, *supra* note 8.

[11] *Ibid.*

[12] See the IRS's estimates of the "non-filing" gap: Melanie R. Krause, Barry W. Johnson, Peter J. Rose, and Mary-Helen Risler, "Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2014-2016," Internal Revenue Service, August 2022, https://www.irs.gov/pub/irs-pdf/p1415.pdf.

[13] The Internal Revenue Service, "EITC Participation Rate by States Tax Years 2012 through 2019," last updated November 16, 2022, https://www.eitc.irs.gov/eitc-central/participation-rate/eitc-participation-rate-by-states.

[14] Dean Plueger, "Earned Income Tax Credit Participation Rate for Tax Year 2005," Internal Revenue Service Research Bulletin, 2009, https://www.irs.gov/pub/irs-soi/09resconeitcpart.pdf; Maggie R. Jones, "Changes in EITC Eligibility and Participation, 2005—2009," Center for Administrative Records Research and Applications (CARRA) Working Paper Series, Working Paper #2014-04, July 11, 2014, https://www.census.gov/content/dam/Census/library/working-papers/2014/adrm/carra-wp-2014-04.pdf. For a brief discussion of the IRS's process for measuring EITC take-up, see pages 9-10 at: Goldin, *supra* note 8. See also, a discussion of the IRS and Census Bureau's "Exact Match" process on page 4: John Iselin, Taylor Mackay, and Matthew Unrath, "Measuring Take-up of the California EITC with State Administrative Data," California Policy Lab, Working Paper No. 2021-3, https://www.capolicylab.org/wp-content/uploads/2021/07/Measuring-Take-up-of-the-CalEITC-with-State-Administrative-Data.pdf.

This approach is subject to some uncertainty given the assumptions involved with imputing tax filing units and limitations in the underlying survey data. For example, imputing tax filing units from survey data can be challenging for multigenerational households, households with one or more cohabiting unmarried couples, and other complex family circumstances where it is ambiguous which adults are eligible to claim children or other adults as dependents.[15] A 2009 IRS working paper on EITC program participation acknowledged that the IRS-Census data match "predicted too many filing units in some households, and too few filing units in other households."[16]

Assigning children to tax filing units is especially difficult, given how often children are claimed in error for the EITC and other tax benefits. As discussed in section 3.1 of this report, families often misunderstand the "qualifying child" rules and misapply them to their personal circumstances. As a result, many children are claimed on tax returns by the "wrong" tax filer according to the EITC's statutory criteria. Further, children may be claimed properly by someone other than the person assumed in the Census model, either because more than one person is eligible to claim the child or because survey data are incomplete and lack full information about whom the child lived with for the majority of the relevant tax year, a requirement for a qualifying child.[17] For all these reasons, the imputations of tax filing units from the survey data might find that a child should be claimed by one tax filer, but tax return data may show that child was ultimately claimed by a different tax filer.

Researchers have approached this methodological problem under the IRS-Census data matching process in different ways. A 2014 Census Bureau working paper on EITC participation essentially assumed that all children were claimed correctly on tax returns when there was a conflict between the tax return data and survey data – "qualifying children who were modeled as being dependent on one adult, but were claimed by another in the tax data, were reassigned to the claimant."[18] A 2009 IRS working paper re-assigned some, but not all, children in their imputed tax filing units based on tax return data.[19] It is unclear how the IRS currently addresses this issue in its annual computations of the EITC program participation rate.

Marital status can also be reported differently in survey and tax data — for example, in the case of a couple that considers itself more-or-less married under common law, or is in the process of getting married, or is in the process of separating. Some married couples choose to file separate

[15] Katherine M. Michelmore and Natasha V. Pilkauskas, "The Earned Income Tax Credit, Family Complexity, and Children's Living Arrangements," The Russell Sage Foundation Journal of the Social Sciences, Vol. 8 No. 5, August 2022, https://www.rsfjournal.org/content/8/5/143.

[16] Plueger, *supra* note 14.

[17] For this reason, estimates often assume that all children automatically satisfy the "residency" test of living with their caregivers for more than 6 months out of the year.

[18] Jones, *supra* note 14.

[19] See pages 174-177 for discussion: Plueger, *supra* note 14.

returns instead of filing jointly, or even attempt to file as heads of household (although the tax code bars them from doing so).[20]

Another limitation of the IRS-Census data match process is that income is often misreported in survey data, which means that "estimates of EITC eligibility derived from that income measure are likely to exhibit substantial measurement error."[21] A 2014 Census Bureau working paper used income data from tax returns rather than income reported on the CPS ASEC to determine whether families were eligible for the EITC and to calculate a program participation rate. However, this paper still needed to use the CPS ASEC to obtain income information for non-filers.[22]

These methodological challenges collectively may mean that estimates frequently misidentify which tax filers are truly eligible for the EITC under the credit's statutory criteria, and thus may cause existing estimates of erroneous participation and of non-participation among eligible families to be too high.[23]

1.3 Program Participation and Dollar Claim Rates

The IRS estimated that in tax year 2019 (the most recent year available), about 79% of eligible people nationwide claimed the EITC.[24] The IRS also publishes state-level estimates each year, with Alaska having the lowest participation rate of 70% and Rhode Island having the highest participation rate of 84% in 2019.[25] These participation rates are for all EITC claimants. Previous research indicates participation rates tend to be higher for certain sub-groups (such as families with children) and significantly lower for others (such as workers without children). For more detail, see section 1.5 of this report.

The IRS does not publish the dollar claim rate, or the share of all potential EITC dollars claimed by eligible tax filers, annually. However, recent research from the Treasury Inspector General for Tax Administration (TIGTA) found the dollar claim rate was about 85% in tax year 2014.[26] The dollar claim rate is generally higher than the program participation rate because people that do not claim the credit are eligible for smaller EITC benefits on average. Since the EITC phases in and out, the program participation rate includes filers with very low incomes in the credit's

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[20] Katharine Edin, Laura Tach, and Sarah Halpern-Meekin, "Tax Code Knowledge and Behavioral Responses Among EITC Recipients: Policy Insights from Qualitative Data," Journal of Policy Analysis and Management, Vol. 33 No. 2, Spring 2014, https://onlinelibrary.wiley.com/doi/abs/10.1002/pam.21739.

[21] Goldin, *supra* note 8.

[22] Jones, *supra* note 14.

[23] See Table 19 and the quote "most of these limitations are likely to cause the participation estimate to be understated" from: Plueger, *supra* note 14.

[24] The Internal Revenue Service, "EITC Participation Rate by States Tax Years 2012 through 2019," last updated November 16, 2022, https://www.eitc.irs.gov/eitc-central/participation-rate/eitc-participation-rate-by-states.

[25] *Ibid*.

[26] Treasury Inspector General for Tax Administration, "The Internal Revenue Service Should Consider Modifying the Form 1040 to Increase Earned Income Tax Credit Participation by Eligible Tax Filers," Report Number 2018-IE-R004, April 2, 2018, https://www.tigta.gov/sites/default/files/reports/2022-02/2018IER004fr.pdf.

phase-in region and higher-income filers in the phase-out region – these types of filers are sometimes eligible for very low EITC amounts of $100 or less and may therefore have less incentive to claim the credit. For more information, see section 1.5 of this report.

1.4 Reasons for Non-Participation

Eligible non-claimants generally fall into two groups – people that do not file federal income tax returns, and people that do file tax returns but fail to claim the EITC on them.

1.4.1 Not Filing an Income Tax Return

Most eligible people fail to claim the EITC because they do not file federal income tax returns. Since the IRS does not require people earning up to about $13,000 or $25,000 in 2022 (depending on filing status, per section 1.2) to file tax returns, those with earnings below these thresholds may choose not to file and miss out on the credit. TIGTA estimated that in tax year 2014, about two-thirds of eligible people that did not claim the EITC were "non-filers," or about 3 million people.[27]

Many eligible non-filers do not receive the EITC because of the "administrative burdens" – or the learning, compliance, and psychological costs – associated with claiming it.[28] Some non-filers do not claim the EITC because they do not know the credit exists or misunderstand their eligibility. However, several academic studies evaluating specific EITC awareness campaigns, including six randomized control trial (RCT) experiments in California, found that informational outreach efforts alone had zero or modest effects on EITC-claiming among non- filers.

On the other hand, campaigns from the IRS and federal and state benefits agencies that use administrative data to target likely-eligible non-filers and campaigns that are paired with interventions or services that simplify the tax filing process have generally been more successful at boosting program participation.

Non-filers face other barriers to claiming the EITC that cannot be overcome by awareness campaigns alone, such as the financial and compliance costs of tax filing or psychological factors like stress and distrust of the federal government.

"Lack of Awareness" About The EITC

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[27] *Ibid*.

[28] According to Pamela Herd and Don Moynihan, "administrative burdens emerge in three subcategories: the learning costs of finding out about a program's existence and benefits, determining whether one is eligible for the program and what benefits one might receive, and understanding how to apply for and stay on programs; the compliance costs of filling out forms, documenting one's status, or responding to bureaucratic directives; and the psychological costs, including stress, frustrations, anxiety, loss of autonomy, or sense of stigma, that arise from interacting with these programs." See: Pamela Herd and Donald Moynihan, "How Administrative Burdens Can Harm Health," Health Affairs, October 2, 2020, https://www.healthaffairs.org/do/10.1377/hpb20200904.405159/. For an overview of how this framework applies to the tax system specifically, see: Leslie Book, T. Keith Fogg, and Nina E. Olson, "Reducing Administrative Burdens to Protect Taxpayer Rights, Oklahoma Law Review, Vol. 74 No. 2, 2022, https://digitalcommons.law.ou.edu/olr/vol74/iss4/3/.

Non-filers might fail to claim the EITC because they have never heard of the credit, do not understand its eligibility rules, or do not know how to claim it. Indeed, previous research finds about 40% of eligible people do not know about the EITC and about 30% incorrectly believe they are ineligible.[29]

One reason that raising awareness about the EITC can be challenging is that there is significant turnover, or "churn," in the population that is eligible for the credit each year. In 2018, the IRS stated that approximately one-third of EITC applicants change annually which "creates challenges in the IRS's education, outreach, and enforcement efforts."[30] IRS data for tax year 2013 also found that 17.4% of EITC returns were from new claimants. Tax filers may move in and out of eligibility for the EITC over the years if they experience significant fluctuations in income, if children move into or out of their home, or if they have other changes in circumstances.

Outreach Campaigns – Discerning What's Effective

To address this problem, the federal government, state governments, and nonprofit partners spend millions of dollars each year on outreach efforts designed to increase awareness of what the EITC is, how it is claimed, and (sometimes) the resources that exist for free or low-cost tax preparation.[31] These campaigns often take the form of "nudge" interventions like distributing fliers and letters, sending text messages, or social media outreach.

However, it is important to note that with the prevalence of assisted tax preparation methods like online software, people do not need to fully understand the EITC's eligibility rules or even know that the credit exists to benefit from it.[32] Many tax filers that already receive the EITC do not know what it is or how it works. Surveys of low-income tax filers have found that "while most associate filing taxes with a refund, only about half are aware of the EITC itself" and only "a

[29] Justin Schweitzer, "How To Address the Administrative Burdens of Accessing the Safety Net," Center for American Progress, May 5, 2022, https://www.americanprogress.org/article/how-to-address-the-administrative-burdens-of-accessing-the-safety-net/. See also: Katherin Ross Phillips, "Who Knows about the Earned Income Tax Credit?", The Urban Institute, January 2001, https://www.urban.org/sites/default/files/publication/61066/310035-Who-Knows-about-the-Earned-Income-Tax-Credit-.PDF; Elaine Maag, "Disparities in Knowledge of the EITC," Tax Policy Center, March 14, 2005, https://www.taxpolicycenter.org/publications/disparities-knowledge-eitc.

[30] U.S. Treasury Department, "Agency Financial Report: Fiscal Year 2018," November 15, 2018, https://home.treasury.gov/system/files/236/AFR_Full%20111518_clean_508_FINAL.pdf.

[31] Goldin, *supra* note 8.

[32] *Ibid*. Assisted tax preparation methods such as online software remove most of the "computational complexity" of the EITC's eligibility criteria and benefits schedule, by automatically calculating the appropriate credit amount based on information reported on tax returns.

minority are able to identify the mechanisms as to why they are receiving a refund or the benefit structure itself."[33]

This suggests that it may not be necessary to raise awareness directly about the EITC and its eligibility rules to boost uptake. In fact, research finds that informational campaigns about the availability of free or low-cost tax filing resources can modestly boost EITC uptake even when outreach materials do not explicitly mention the EITC.[34]

Furthermore, several academic studies show that EITC awareness campaigns have "zero or small effects on EITC claiming" among non-filers.[35] Code for America's review of the research literature concluded that "broad outreach alone is insufficient to convert non-filers into filers" – however, outreach campaigns that are "targeted, informed by data, and paired with high quality, accessible services" can have a larger impact on EITC uptake.[36]

In one study, six field experiments that tested a range of outreach messages via letters and text messages on roughly a million low-income households in California ultimately had no effect on households' likelihood of filing a tax return or claiming the EITC.[37] These field experiments did not include any interventions directly simplifying the tax filing process – instead, these letters and text messages simply provided tax filers with information about the EITC (average benefit size, clarifying the need to file a tax return in order to claim, etc.).[38]

California has had a lower program participation rate than the national average for several years (74.5% vs. 79.3% in tax year 2019), so the state has relatively more non-participants that could

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[33] Elizabeth Linos, Allen Prohofsky, Aparna Ramesh, Jesse Rothstein, and Matt Unrath, "Can Nudges Increase Take-up of the EITC? Evidence from Multiple Field Experiments," California Policy Lab, November 2020, https://www.capolicylab.org/wp-content/uploads/2020/11/Increasing-Take-Up-of-the-Earned-Income-Tax-Credit.pdf.

[34] Jacob Goldin, Tatiana Homonoff, Rizwan Javaid, and Brenda Schafer, "Tax Filing and Take-Up: Experimental Evidence on Tax Preparation Outreach and Benefit Claiming," Journal of Public Economics, Vol. 206 Issue C, 2022, https://econpapers.repec.org/article/eeepubeco/v_3a206_3ay_3a2022_3ai_3ac_3as0047272721001869.htm.

[35] *Ibid*.

[36] Code for America, "Non-filer Learnings and Recommendations," April 15, 2021, https://files.codeforamerica.org/2021/06/16174016/filer-learnings-and-recommendations-april-2021.pdf. See also this report, which concluded "lack of awareness is simply not the principal barrier to filing:" Gabriel Zucker, Cassandra Robertson, and Nina E. Olson, "The IRS as a Benefits Administrator: An Agenda to Transform the Delivery of EIP, EITC, and CTC," New America, March 2021, https://d1y8sb8igg2f8e.cloudfront.net/documents/The_IRS_as_a_Benefits_Administrator.pdf.

[37] Linos et al., *supra* note 33. There was some effort at targeting non-filers that were likely eligible for the EITC in the CA study – 3 out of 6 RCTs were based on a general database of low-income households from the marketing firm TargetSmart, but the other 3 were targeted more carefully (one used a "fuzzy merge" of tax data with the TargetSmart data, and the other two used SNAP admin data to estimate a population of likely eligible non-filers).

[38] Several of the letters and text messages included information about free tax preparation resources, including the location, hours, and contact info for the nearest VITA site and links to free tax filing websites but most of them did not. It is unclear why even these messages did not break through with California's non-filers, given previous research that *did* find effects on tax filing and EITC claiming from informational campaigns featuring tax preparation resources. See: Goldin, Homonoff, Javaid, and Schafer, *supra* note 34.

have theoretically been picked up by outreach efforts. But it is also possible that the barriers to claiming the EITC in California may be more difficult to address with awareness interventions alone. For example, California has a significantly higher share of Hispanic residents than the national average, and research points to language and other barriers contributing to lower take-up rates within that community (see section 1.5 for more).[39]

Another study found that state and local laws in California, Louisiana, Maryland, New Jersey, Philadelphia, Texas, and Virginia requiring employers to notify their employees about the EITC also had no effect on filing or claiming behavior.[40]

Outreach campaigns that are paired with interventions simplifying the tax filing process, and that more carefully target non-filers based on administrative data, have generally been more successful at increasing rates of tax filing and in turn, EITC participation. In two RCTs, researchers used IRS and Social Security Administration (SSA) administrative data to identify non-filers that appeared to be eligible for the EITC and mailed informational materials to a sample of those non-filers. Tax filing rates were about 0.5-1% higher in the "treatment group" that received outreach letters relative to the control group.[41] Furthermore, another academic study focusing on California found that informational campaigns (via recorded voice messages and emails) about the Advance Child Tax Credit that directed people to the simplified tax filing software "GetCTC" (see section 2.2.1 of this report for more information) and that were targeting non-filers using data from state benefits agencies "significantly increased the submission of returns from likely non-filers."[42] Other similar outreach efforts that directed people to GetCTC and that were conducted by a wide range of stakeholders helped increase uptake of the Advance CTC among non-filers – for more, see sections 2.2.2 and 2.2.3 of this report.

To be clear, the studies described above analyze the extent to which specific awareness campaigns and outreach efforts can increase EITC uptake *on the margin*, relative to baseline levels of program awareness and participation that have been reached following several decades of many outreach initiatives and policy changes. This means that the research cited above does

[39] California also has higher tax filing thresholds at the state level than the federal government does, so that could theoretically create confusion and discourage tax filing (and in turn, EITC claiming). See: State of California Franchise Tax Board, "Do you need to file?". updated December 1, 2022, https://www.ftb.ca.gov/file/personal/residency-status/index.html.

[40] Taylor Cranor, Jacob Goldin, and Sarah Kotb, "Does Informing Employees About Tax Benefits Increase Take-Up? Evidence from EITC Notification Laws," National Tax Journal, Vol. 72 No. 2, June 2019, https://www.journals.uchicago.edu/doi/abs/10.17310/ntj.2019.2.04.

[41] John Guyton, Dayanand S. Manoli, Brenda Schafer, and Michael Sebastiani, "Reminders & Recidivism: Evidence from Tax Filing & EITC Participation Among Low-Income Nonfilers," NBER Working Paper 21904, January 2016, https://www.nber.org/system/files/working_papers/w21904/w21904.pdf.

[42] Jessica Lasky-Fink, Elizabeth Linos, Aparna Ramesh, and Jesse Rothstien, "Increasing Stimulus Payment Take-up in California: Results from a Phone and Email Campaign," California Policy Lab and the People Lab, December 2022, https://www.capolicylab.org/wp-content/uploads/2023/01/Increasing-Stimulus-Payment-Take-up-in-California.pdf.

not address the extent to which the existing array of outreach campaigns from the federal government and nonprofit organizations have helped achieve and maintain the EITC's current participation rate of about 80 percent.[43]

Previous research suggests that some legislative expansions of the EITC have increased total claims not only by extending eligibility to new tax filers, but also by inducing more tax filers, who were already eligible, to newly claim (and that outreach campaigns have historically played a role in achieving that outcome). One study found that following an EITC expansion in 1990, the number of eligible families increased by 3.5% but the number receiving the credit rose by 8%.[44] The study concluded that outreach campaigns led by the Center on Budget and Policy Priorities (CBPP) and promotional efforts from commercial tax preparers were "significant factors" that boosted program uptake during that time period.[45] However, it is worth noting that some EITC expansions have likely *decreased* topline program participation rates, by extending eligibility to tax filers that are harder to reach. Research finds that program participation rates *fell* after the EITC was expanded to include workers without qualifying children, because that population is generally less likely to file tax returns and claim tax benefits.[46]

Additional research finds that outreach initiatives (combined with interventions simplifying relevant IRS forms) can significantly boost program participation among tax filers that have not claimed the EITC on their returns – for more, see section 1.4.2 of this report.[47]

Financial and Compliance Costs of Tax Filing

[43] There is no research that attempts to model how the absence of existing outreach efforts communicating key information about the EITC – such as what it is, how large benefits can be, and how to claim it – would affect EITC participation rates. One study attempted to replicate, through a simulation, a 2004 EITC "certification" pilot in Hartford, Connecticut (which required EITC filers to provide additional documentation proving their eligibility at the point of tax filing) and modeled the effects of *removing* certain informational nudges (several rounds of IRS letters and other interventions informing tax filers about the certification requirements) on tax filing and EITC claiming behavior. The simulation found that removing the IRS's second "reminder" notice about the certification requirements would have suppressed EITC claiming. See: Kathleen M. Carley (Prepared for the Taxpayer Advocate Service), Simulating EITC Filing Behaviors: Validating Agent Based Simulation for IRS Analyses: The 2004 Hartford Case Study," Carnegie Mellon University, September 1, 2007, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/11/simulating_eitc_filing_behaviors_dec2007.pdf.

[44] Steve Holt, "Ten Years of the EITC Movement: Making Work Pay Then and Now," Brookings Institution, April 2011, https://assets.aecf.org/m/resourcedoc/AECF-TenYearsOfTheEITCMovement-2011.pdf.

[45] *Ibid*.

[46] *Ibid*.

[47] Saurabh Bhargava and Dayanand Manoli, "Frictions and the Incomplete Take-Up of Social Benefits: Evidence from an IRS Field Experiment," American Economic Review, Vol. 105 No. 11, 2015, https://www.cmu.edu/dietrich/sds/docs/bhargava/Bhargava_Takeup%20AER%202015.pdf; Dayanand S. Manoli and Nicholas Turner, "Nudges and Learning: Evidence from Informational Interventions for Low-Income Taxpayers," NBER Working Paper 20718, November 2014, https://www.nber.org/system/files/working_papers/w20718/w20718.pdf.

One reason why the tested EITC outreach methods may have had a limited effect on program participation among non-filers is because of barriers to claiming the credit, even when filers are aware of it.[48]

When they file taxes, about half of EITC claimants rely on paid tax preparers to submit their returns for them.[49] An informal survey of major tax preparation firms in Baltimore and Washington, DC found that low-income workers were spending about $400 on average for tax filing services, representing 13-22 percent of their EITC refunds.[50] The National Society of Accountants estimated that the average fee for completing federal and state income tax returns with the standard deduction was $220 in 2021.[51] Self-employed workers, such as those working for Uber, Lyft, and other companies in the "gig" economy, paid an additional $192 fee on average, and tax filers claiming the EITC paid an additional $65 fee on average.[52]

Part of the appeal of using paid tax preparers is the availability of Refund Anticipation Checks (RACs), which enable tax filers without bank accounts to receive their refunds more quickly and to file their returns without paying fees up front. The IRS often takes several weeks longer to distribute checks via mail than via direct deposit.[53] Paid tax preparers offering RACs will open temporary bank accounts where the IRS can directly deposit tax refunds, and then once the refunds are deposited, preparers will deduct their fees before refunds are distributed to tax filers. RACs cost between $25-$60 for federal refunds on average, and $10 for state refunds.[54]

Beyond paid preparers, the other most common tax preparation method for EITC claimants is self-preparation with commercial online software, including offerings from H&R Block, Intuit, TurboTax, and others. These providers sometimes offer "free" basic versions of their software, but also charge fees that vary depending on the complexity of the tax return. Lastly, a very small

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[48] Authors of a study on six outreach field experiments speculated that the "real compliance costs faced by our target population may simply be too high for our messages to overcome."

[49] Robert Greenstein, John Wancheck, and Chuck Marr, "Reducing Overpayments in the Earned Income Tax Credit," Center on Budget and Policy Priorities, January 31, 2019, https://www.cbpp.org/research/federal-tax/reducing-overpayments-in-the-earned-income-tax-credit.

[50] Paul Weinstein Jr. and Bethany Patten, "The Price of Paying Taxes II: How paid tax preparer fees are diminishing the EITC," Progressive Policy Institute, April 2016, https://www.progressivepolicy.org/wp-content/uploads/2016/04/2016.04-Weinstein_Patten_The-Price-of-Paying-Takes-II.pdf.

[51] National Society of Accountants, "2020-2021 Income and Fees of Accountants and Tax Preparers in Public Practice Survey Report," https://higherlogicdownload.s3.amazonaws.com/NSACCT/725010a8-142f-4092-8b5d-077c2618c728/UploadedImages/Membership/IncomeandFeeSurvey/NSA2020-2021_IncomeandFees_FullStudy.pdf.

[52] *Ibid*.

[53] Consumer Financial Protection Bureau, "Tax refund tips: Understanding refund advance loans and checks," February 13, 2018, https://www.consumerfinance.gov/about-us/blog/tax-refund-tips-understanding-refund-advance-loans-and-checks/.

[54] Get It Back Campaign, "Refund Anticipation Loans and Checks," https://www.taxoutreach.org/tax-filing/rals/.

share of EITC claimants prepare their own tax returns and "paper file" – or submit a paper copy of their tax return via mail – instead of filing electronically or "e-filing."

Free, in-person tax preparation services are available for those earning under about $60,000 per year through the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) program. These programs are funded and overseen by the IRS, but each site is run by non-profit partners and staffed by volunteers. Code for America also runs a "virtual VITA" tool called GetYourRefund that connects low-income people to VITA volunteers through an online portal (and some VITA sites have their own virtual offerings, as well).

The IRS has also partnered with a nonprofit coalition of tax software companies to create the "Free File Alliance," which allows people with low incomes to file taxes themselves using online software for free. Each provider is allowed to set different eligibility rules, so filers need to determine for themselves whether they are eligible. For example, ezTaxReturn.com allows anyone with earnings below $73,000 to file for free but does not offer free state tax filing, while OnLineTaxes.com only allows those earning between $16,000 and $73,000 to file for free but does include free state tax filing.[55]

However, only about 3% of low-income tax filers use VITA or TCE, and a recent GAO study found that only about 3% of eligible tax filers use Free File Alliance providers.[56]

The filing process does not only have financial costs for those opting to use paid preparers or certain commercial tax preparation software – it can also have substantial compliance costs. While online software and professional assistance make the process of filing easier, they do not eliminate the "informational complexity" of filing.[57] All tax filers need to supply various IRS forms or "information returns" – such as W-2s, 1099s, 1095, and 1098-E – that capture their sources of income, receipt of advance premium tax credits, student loan interest payments, and other information needed to complete their returns and ensure they are receiving all deductions and credits for which they are eligible (for more on "information returns," see section 2.2.2).[58] The filing process can be especially complex for "gig" and other self-employed workers, who often need to keep track of more information than wage earners and fill out additional schedules on their tax returns.[59]

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[55] IRS Free File Online: https://apps.irs.gov/app/freeFile/browse-all-offers/.

[56] Tax Policy Center, "Why do low-income families use tax preparers?", updated May 2020, https://www.taxpolicycenter.org/briefing-book/why-do-low-income-families-use-tax-preparers; Government Accountability Office, "IRS Free File Program: IRS Should Develop Additional Options for Taxpayers to File for Free," GAO-22-105236, Apr 28, 2022, https://www.gao.gov/products/gao-22-105236.

[57] Goldin, *supra* note 8.

[58] Janet Berry-Johnson and Rose Wheeler, "Tax Prep Checklist: Everything You Need to File Your 2022 Taxes," Forbes, October 27, 2022, https://www.forbes.com/advisor/taxes/tax-prep-checklist/.

[59] Gabriel Zucker and Lindsey Wagner, "Talking to Non-Filers: Evidence from Qualitative Research with Families Who Don't Regularly File Taxes," New America, July 16, 2021, https://www.newamerica.org/new-practice-

Even the process of seeking help with tax filing can be confusing, given the "choice overload" that prospective tax filers may face when deciding between tax preparation options.[60] Tax filers opting to use online software through the IRS's Free File program need to assess their own eligibility and select from an array of providers, or review their many options from paid or commercial preparers (who all charge different rates for different services). The array of options for tax filing can be difficult to navigate, and currently, there is no centralized screening tool that provides tax filers with their full range of options or directs them to the appropriate level of assistance.[61]

Distrust, Stress, and Stigma

Qualitative survey research finds matters related to "community connections and trust" can be a "major barrier to EITC uptake."[62] People with low incomes are often exposed to scams promising them free cash or services, and it can be difficult to distinguish between those scams and legitimate outreach messages about the EITC. Others may know that the EITC is not a scam but may not file and claim it because they fear (sometimes correctly) that they will owe taxes when they file.[63]

This concern is especially salient for self-employed tax filers, who need to pay a 15.3% self-employment tax on top of their income taxes and may owe additional penalties if they did not make adequate quarterly estimated payments during the year. Tax filers also might not claim the EITC because they are afraid of making a mistake on their returns that could lead to audit penalties (as discussed in section 1.4.2 of this report), or because they may have experienced an onerous audit previously.[64]

Researchers have explained how the process of filing a return also imposes a "cognitive burden"[65] on people with low incomes, who already experience higher levels of stress than

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lab/blog/talking-to-non-filers/; Get It Back Campaign, "How Do Rideshare (Uber and Lyft) Drivers Pay Taxes?", https://www.taxoutreach.org/rideshare/how-do-rideshare-uber-and-lyft-drivers-pay-taxes-2/.

[60] Gabriel Zucker and Anu Murthy, "A Prototype for Free, Trustworthy Tax Filing," Code for America, February 8, 2023, https://codeforamerica.org/news/federal-tax-direct-file-prototype/.

[61] See recommendations about the need for "triaging" and "getting people to the right door" in: Cassandra Robertson and Samarth Gupta, "Improving Public Programs for Low-Income Tax Filers," New America, April 18, 2022, https://www.newamerica.org/new-practice-lab/reports/improving-public-assistance-for-low-income-tax-filers.

[62] Steve Holt and Dara Duratinsky, "The Earned Income Tax Credit Participation Gap: How VITA Programs can Use Data and their Own Knowledge of their Communities to Close the Gap," Prosperity Now, September 2021, https://prosperitynow.org/sites/default/files/resources/The-Earned-Income-Tax-Credit-Participation-Gap.pdf.

[63] Goldin, *supra* note 8.

[64] Holt and Duratinsky, *supra* note 62.

[65] Leslie Book, David Williams, and T. Keith Fogg, "Insights from Behavioral Economics Can Improve Administration of the EITC," SSRN, November 8, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3030050; Jaden Warren, "Claimin' True: Optimizing Eligible Take-Up of the EITC," Georgetown Journal on Poverty Law and Policy Volume XXVIII, Number 2, Winter 2021,

affluent people.[66] Lastly, while research suggests that the EITC generally carries less stigma than other public benefits, and that the process of claiming it can in fact increase feelings of inclusion in civic and public life,[67] nevertheless researchers have speculated that at least some share of "eligible taxpayers may decline the credit out of stigma or ideological opposition," but this has not been research tested to date among non-filers.[68]

1.4.2 Filing a Tax Return, But Failing to Claim

TIGTA estimated that in tax year 2014, about a third of eligible non-claimants – about 2 million people – filed federal income tax returns.[69] Filers might not claim the EITC on their returns because they or their tax preparers made a mistake, they are unaware of the credit, or the complexity of IRS forms and worksheets deters them from claiming. Additionally, some eligible filers may initially claim the EITC on their returns but stop doing so in the aftermath of IRS audits.

Tax Preparation Methods

Some filers attempt to complete their tax returns on their own without return preparation software or professional assistance. A study from 2005 concluded that filers who prepared their taxes independently were more likely to miss out on the EITC than those who received help with their returns.[70] However, only about 4% of tax filers fall in this category today, as most filers now rely on "assisted preparation methods" (APMs) like professional tax preparers or online software to submit their returns.[71] Research shows that EITC take-up among tax filers using APMs is about 92%, which is significantly higher than the topline program participation rate.[72]

Furthermore, most EITC claimants rely on the types of paid preparers that are most likely to make errors on their tax returns – "unenrolled preparers," a term used to refer to anyone that is

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https://www.law.georgetown.edu/poverty-journal/wp-content/uploads/sites/25/2021/07/243-Warren-Claimin-True.pdf.

[66] Kaitlynn Ely, "High Stress Levels Among Low-Income Populations, Minorities Lead to Health Disparities," AJMC, Jan 11, 2018, https://www.ajmc.com/view/apa-report-high-stress-levels-among-lowincome-populations-minorities-lead-to-health-disparities.

[67] Jennifer Sykes, Katrin Križ, Kathryn Edin, and Sarah Halpern-Meekin, "Dignity and Dreams: What the Earned Income Tax Credit (EITC) Means to Low-Income Families," American Sociological Review, Vol. 80, No. 2, October 10, 2014, https://journals.sagepub.com/doi/abs/10.1177/0003122414551552?journalCode=asra.

[68] Goldin, *supra* note 8.

[69] Treasury Inspector General for Tax Administration, "The Internal Revenue Service Should Consider Modifying the Form 1040 to Increase Earned Income Tax Credit Participation by Eligible Tax Filers," Report Number 2018-IE-R004, April 2, 2018, https://www.tigta.gov/sites/default/files/reports/2022-02/2018IER004fr.pdf.

[70] Elaine Maag, "Paying the Price? Low-Income Parents and the Use of Paid Tax Preparers," The Urban Institute, February 2005, http://webarchive.urban.org/publications/411145.html.

[71] Goldin, *supra* note 8.

[72] *Ibid.*

not an attorney, an accountant, or otherwise credentialed by the IRS.[73] While most research on usage of unenrolled tax preparers focuses on *overclaims* of the EITC (see section 3.1 of this report for more detail), researchers have speculated that these agents can also make errors that result in EITC *underclaims* or tax filers missing out on the credit altogether.[74]

Confusion over Eligibility and Complexity of IRS Forms

Some filers might not claim the EITC on their returns because they misunderstand the eligibility rules, do not realize how large EITC benefits can be, or are deterred by the complexity of relevant IRS forms.

Currently, the IRS attempts to reach tax filers that did not claim the EITC on their returns despite appearing eligible for it, by sending reminder notices via mail (the "CP09" for filers with dependents and the "CP27" for those without).[75] These notices include worksheets that tax filers can fill out and return to the IRS, to lodge a claim for the EITC retroactively. These forms are overall quite successful at reaching eligible filers, with roughly half of those receiving CP mailings responding and attempting to claim the EITC. [76] However, that still leaves out about half of eligible tax filers that receive CP mailings and do not respond. Some may not respond because the CP09 and CP27 forms and associated worksheets are collectively several pages long and can be hard to understand, especially for tax filers with low levels of financial or functional literacy. These forms have also historically contained errors that conveyed misinformation about the EITC's eligibility rules.[77]

One study experimentally sent follow-up notices to a group of tax filers that received CP09 or CP27 mailings but failed to respond to them, and tested a range of modifications to the original notices to better understand the reasons behind non-response.[78] Broadly, the follow-up notices significantly increased EITC take-up, suggesting that repeated outreach attempts could help boost program participation among those filing tax returns.[79] Follow-up notices and worksheets that were modified to be more complex than the original forms generated lower response rates, while follow-up notices that emphasized the size of EITC benefits generated higher response rates (relative to the control group, which received a simplified version of the CP09/CP27 as a

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[73] John Wancheck, "IRS Needs Authority to Regulate Tax Return Preparers," Center on Budget and Policy Priorities, May 5, 2021, https://www.cbpp.org/blog/irs-needs-authority-to-regulate-tax-return-preparers.

[74] See footnote 105 at: Goldin, *supra* note 8.

[75] Cassandra Robertson, Gabriel Zucker, and Nina E. Olson, "Strategies for Increasing Uptake of the Earned Income Tax Credit," New America, November 12th, 2020, https://www.newamerica.org/pit/reports/strategies-increasing-uptake-earned-income-tax-credit/.

[76] Bhargava and Manoli, *supra* note 47.

[77] Zucker, Robertson, and Olson, *supra* note 36.

[78] Bhargava and Manoli, *supra* note 47.

[79] See also, recommendations in: Zucker, Robertson, and Olson, *supra* note 36.

reminder notice).[80] These findings suggest that the complexity of IRS forms and lack of awareness about the EITC's program rules (and specifically, the size of EITC benefits) may prevent eligible tax filers from claiming the EITC on their returns. Other research validates that awareness interventions and simplification of relevant IRS forms can substantially increase program participation among those already filing tax returns.[81]

IRS Audits

Some eligible people may initially claim the EITC on their tax returns but have their claim denied simply because they struggle to navigate the IRS's audit process or choose not to claim the credit because they were audited in previous years and are concerned about being audited again.

Each year, the IRS audits about 1% of returns with EITC claims (affecting roughly 300,000 tax filers) as part of its operational audit program.[82] Tax returns are selected for operational audits when the IRS detects potential tax non-compliance through a "wide variety of processes," including by assigning model-estimated "risk scores" based on confidential criteria.

The vast majority of EITC audits are "correspondence audits," which are conducted almost entirely via mail. Low-income filers face many barriers throughout correspondence audits. IRS forms and letters are often long, technical, and difficult to understand; documents verifying eligibility can be onerous to track down; and IRS phone lines are often too clogged for tax filers who seek assistance.[83] For these reasons, the majority of EITC claimants undergoing correspondence audits either do not respond at all or respond insufficiently to IRS inquiries, and have the credit denied automatically.[84] There is suggestive evidence that a potentially significant share of those with the credit denied are indeed eligible for it but do not have the time or resources to complete the audit process.

Research also finds that relative to non-audited tax filers, tax filers that undergo audits are less likely to claim the EITC or file tax returns in the years after being audited, even when they are

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[80] Messages addressing the transaction costs of claiming the EITC (like penalties for errors) or stigma around receipt of public benefits did not increase response rates relative to the control group, suggesting those concerns are less salient for tax filers.

[81] Manoli and Turner, *supra* note 47.

[82] Margot Crandall-Hollick, "Audits of EITC Returns: By the Numbers," Congressional Research Service, June 13, 2022, https://crsreports.congress.gov/product/pdf/IN/IN11952/1/.

[83] Kathleen Bryant, Chye-Ching Huang, Leslie Book , T. Keith Fogg , and Nina E. Olson, "Exclusionary Effects of the IRS Correspondence Audit Process Warrant Further Study," The Tax Law Center at NYU Law, February 18, 2022, https://www.law.nyu.edu/sites/default/files/TLC%20CTR%20Memo%20on%20Need%20for%20EITC%20Audit%20Study_TLC%20Site.pdf.

[84] Dayanand Manoli, John Guyton, Kara Leibel, Ankur Patel, Mark Payne, and Brenda Schafer, "The Effects of EITC Correspondence Audits on Low-Income Earners," SSRN. June 15, 2022, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4137352. See also: Taxpayer Advocate Service, "Low-Income Taxpayers Encounter Communication Barriers That Hinder Audit Resolution, Leading to Increased Burdens and Downstream Consequences for Taxpayers, the IRS, TAS, and the Tax Court," Annual Report to Congress 2021, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_MSP_09_Correspondence.pdf.

likely eligible for the credit on the basis of information held by the IRS.[85] This behavior may reflect a fear of being audited again, or of the additional paperwork imposed on tax filers in the aftermath of audits. Anyone that previously had their EITC claim denied or reduced during audits is required to fill out an additional form (Form 8862) if they claim the credit in the future. Tax filers may be unaware of this requirement, but, nonetheless, the IRS will reject the claim until the completed form is submitted.

Recent research suggests that certain groups of tax filers are more likely to have their EITC claims audited than others, and therefore may be more likely to lose access to tax benefits because of the IRS's burdensome correspondence audit process. Although the IRS's audit selection processes are ostensibly "race-blind," a study published by Stanford RegLab found that Black tax filers are 2.9 to 4.7 times as likely to be audited by the IRS as non-Black tax filers.[86] Nearly 80% of this overall disparity is driven by differences *within* the population of tax filers claiming the EITC, as Black EITC claimants are 2.9 to 4.4 times as likely to be audited as non-Black EITC claimants.[87] In May 2023, IRS Commissioner Werfel shared that the agency's independent analysis confirmed the existence of racial disparities in audit selection between Black and non-Black tax filers, and pledged to identify and implement changes to audit algorithms before the beginning of the 2024 tax filing season.[88]

1.5 Disparities in Program Participation

According to the IRS, the following demographic characteristics are associated with lower take-up of the EITC:[89]

- Living in rural areas
- Being self-employed
- Receiving certain disability pensions or having children with disabilities
- Not having a qualifying child
- Not being proficient in English
- Being a grandparent raising grandchildren
- Recently getting divorced, losing a job, or experiencing other changes to marital, financial, or parental status

The IRS does not specify the relative importance of these factors, nor do they publish a demographic breakdown of EITC non-participants alongside their annual reports of federal and

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[85] Manoli, Guyton, Leibel, Patel, Payne, and Schafer, *supra* note 84. Jason DeBacker, Bradley T. Heim, Anh Tran, and Alexander Yuskavage, "The Effects of IRS Audits on EITC Claimants," National Tax Journal, Vol. 71 No. 3, September 2018, https://www.journals.uchicago.edu/doi/abs/10.17310/ntj.2018.3.02.

[86] Hadi Elzayn, Evelyn Smith, Thomas Hertz, Arun Ramesh, Robin Fisher, Daniel Ho, and Jacob Goldin, "Measuring and Mitigating Racial Disparities in Tax Audits," Stanford Institute for Economic and Policy Research, January 30, 2023, https://dho.stanford.edu/wp-content/uploads/IRS_Disparities.pdf.

[87] *Ibid*.

[88] Commissioner Daniel Werfel, Letter to Senator Ron Wyden, Internal Revenue Service, May 15, 2023, https://www.finance.senate.gov/imo/media/doc/werfel_letter_to_sen_wyden.pdf.

[89] Internal Revenue Service, "Benefits of the EITC," https://www.eitc.irs.gov/.

state-level program participation rates, or details of their methods estimating the size of the relevant eligible populations. However, previous research has shed additional light on this question.

Researchers have also documented substantial disparities in program participation based on where people's incomes fall on the credit's phase-in and phase-out ranges and the amount of EITC for which they are eligible. One study found that from 2005-2009, about 68% of eligible households with incomes in the phase-in region claimed the credit, compared to 81% of filers in the plateau region and 84% of filers in the phase-out regions.[90] Within the phase-in region, households eligible for very low EITC amounts have much lower participation rates. Only about 40% of low-income single filers eligible for EITC amounts of $100 or less claimed the credit.[91] Households in the phase-in region, especially those eligible for very low EITC amounts, often have incomes below the tax filing threshold and may fail to claim the credit because they do not file a return.

Households with qualifying children have higher program participation rates than those without children – this is consistent with the findings above, given that filers with children are eligible for much higher EITC payments. From 2005-2009, 85% of eligible households with a child claimed the EITC, compared to just 65% of those without a child.[92] However, these figures do not necessarily mean that most non-participants are childless adults. Other research has previously found that households with children make up the majority – about 60% – of non-participants.[93]

Disparities in program participation based on the number of qualifying children are magnified when marital status and gender are factored in. One study found that in tax year 2005, single women with one or two qualifying children and married filers with two or more children had program participation rates higher than the national average of 75%, while single, male taxpayers with no children had a very low participation rate of just 48%.[94]

Research has also documented interactions between the number of qualifying children and age. Among those claiming children, householders aged 55 or older have historically been less likely to claim the EITC.[95] However, there are not significant differences in uptake by age among those without children.

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[90] Jones, *supra* note 14. See also: Plueger, *supra* note 14.

[91] *Ibid*.

[92] *Ibid*. See similar findings for FY2018 on the relationship between the number of children claimed and program participation in the following TAS report (Figure A.7): National Taxpayer Advocate, "Earned Income Tax Credit: Making the EITC Work for Taxpayers And The Government," Objectives Report 2020, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/JRC20_Volume3.pdf.

[93] Plueger, *supra* note 14.

[94] *Ibid*.

[95] *Ibid*. Tax filers without qualifying children can only claim the EITC if they are under age 65. See: https://www.irs.gov/taxtopics/tc601.

There are also potential racial and ethnic disparities in program participation. Historically, Hispanic people have had lower levels of program awareness and lower program participation rates than non-Hispanic people and other racial and ethnic groups. [96] These disparities remain even after controlling for differences in immigration status, which affects eligibility for the EITC.[97] Research finds they are less likely to know about the EITC than other groups,[98] and that language barriers likely drive these disparities.[99] While there is no academic research that specifically focuses on EITC uptake among Asian Americans, first or second-generation Asian immigrants may face similar barriers to claiming the credit. [100]

States in the "West" (California, Washington, Oregon, Idaho, Nevada, Alaska, Hawaii) have historically lagged other states in EITC participation.[101] This is still largely true today, as most states in the West have lower participation rates than the national average.[102] Research has also shown that states with their own EITC programs tend to have higher participation in the federal EITC.[103]

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[96] See table 7 in: Jones, *supra* note 14. See also: Xiaohan Zhang and Jason Saving, "Greater Hispanic outreach can improve take-up of earned income tax credit," Federal Reserve Bank of Dallas, March 21, 2022, https://www.dallasfed.org/cd/communities/2022/0321#:~:text=We%20find%20EITC%20take%2Dup,differences%20of%20county%20or%20year.

[97] Dana Thomson, Yiyu Chen, Lisa A. Gennetian, and Luis E. Basurto, "Earned Income Tax Credit Receipt By Hispanic Families With Children: State Outreach And Demographic Factors," Health Affairs, Vol. 41 No. 12, December 2022, https://www.healthaffairs.org/doi/10.1377/hlthaff.2022.00725; Katherin Ross Phillips, "Who Knows about the Earned Income Tax Credit?", The Urban Institute, January 2001, https://www.urban.org/sites/default/files/publication/61066/310035-Who-Knows-about-the-Earned-Income-Tax-Credit-.PDF.

[98] Elaine Maag, "Paying the Price? Low-Income Parents and the Use of Paid Tax Preparers," The Urban Institute, February 2005, http://webarchive.urban.org/publications/411145.html.

[99] Xiaohan Zhang and Jason Saving, "Greater Hispanic outreach can improve take-up of earned income tax credit," Federal Reserve Bank of Dallas, March 21, 2022, https://www.dallasfed.org/cd/communities/2022/0321#:~:text=We%20find%20EITC%20take%2Dup,differences%20of%20county%20or%20year; Dana Thomson, Yiyu Chen, Lisa A. Gennetian, and Luis E. Basurto, "Earned Income Tax Credit Receipt By Hispanic Families With Children: State Outreach And Demographic Factors," Health Affairs, Vol. 41 No. 12, December 2022, https://www.healthaffairs.org/doi/10.1377/hlthaff.2022.00725; Katherin Ross Phillips, "Who Knows about the Earned Income Tax Credit?", The Urban Institute, January 2001, https://www.urban.org/sites/default/files/publication/61066/310035-Who-Knows-about-the-Earned-Income-Tax-Credit-.PDF.

[100] Yifan Powers, "Why don't more eligible Asian Americans benefit from the earned income tax credit?", The Urban Institute, June 8, 2017, https://www.urban.org/urban-wire/why-dont-more-eligible-asian-americans-benefit-earned-income-tax-credit.

[101] Plueger, *supra* note 14.

[102] The Internal Revenue Service, "EITC Participation Rate by States Tax Years 2012 through 2019," last updated November 16, 2022, https://www.eitc.irs.gov/eitc-central/participation-rate/eitc-participation-rate-by-states.

[103] David Neumark and Katherine E. Williams, "Do State Earned Income Tax Credits Increase Participation in the Federal EITC?", Public Finance Review, Vol. 48 No. 5, October 20, 2020, https://journals.sagepub.com/doi/abs/10.1177/1091142120945336.

2 Background on the Child Tax Credit

2.1 What is the Child Tax Credit?

The Child Tax Credit (CTC) is a refundable tax credit for filers with qualifying children that, like the EITC, varies with income - it phases in as income (and income tax liability) rises, plateaus at the maximum credit amount, and then phases out. Unlike the EITC, the CTC is only *partially* refundable – while the maximum credit is $2,000 per child in tax year 2022, tax filers can only receive 15% of their earnings above $2,500, up to a maximum of $1,500 per child for tax year 2022, as a tax refund when their CTC is greater than any income tax liabilities owed. The CTC is also available to a much wider range of tax filers with children than the EITC, as the credit starts phasing out for unmarried filers earning at least $200,000 and married filers earning at least $400,000.

Children must have an SSN to be eligible for the CTC, but their parents or guardians claiming them on tax returns are not required to have one.[104] Undocumented immigrants and other immigrants without SSNs are required to have an Individual Taxpayer Identification Number (ITIN) to file federal income tax returns and claim children for the CTC.[105]

In response to the COVID-19 pandemic, the ARP temporarily expanded the CTC for tax year 2021. For unmarried filers earning under $112,500 and married filers earning under $150,000, the maximum CTC was increased to $3,600 per child age 0-5 and $3,000 per child age 6-17. The earnings threshold and phase-in were eliminated, meaning that for the first time those with zero or very low earnings were eligible for the maximum CTC, sometimes called "full refundability." The ARP's benefit expansion gradually phased out, such that CTC benefits were equivalent to the pre-ARP credit for unmarried filers earning at least $144,500 ($182,000 for married filers).[106]

The distribution mechanism of the CTC also changed under the ARP. Half of the credit was distributed as monthly, advance payments from July to December 2021 (the "Advance CTC"), while the other half was claimed at tax time in 2022. Tax filers eligible for any CTC amount, including those with higher incomes whose CTC benefits did not change under ARP, were able to receive half of their expected 2021 credit amount as advance payments.[107]

In tax year 2022 and beyond, the CTC reverted back to its pre-ARP structure.

2.2 Program Participation Lessons from the Advance CTC and Economic Impact Payments

Prior to the enactment of the ARP, there was no academic research available that specifically focused on CTC take-up. The IRS does not publish federal or state-level program participation

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[104] Ashley Burnside, "The Child Tax Credit and Mixed Immigration-Status Families," CLASP, updated March 2022, https://www.clasp.org/publications/fact-sheet/child-tax-credit-and-mixed-immigration-status-families/.

[105] *Ibid*.

[106] Margot L. Crandall-Hollick, "The Child Tax Credit: Temporary Expansion for 2021 Under the American Rescue Plan Act of 2021," Congressional Research Service, May 12, 2021, https://crsreports.congress.gov/product/pdf/IN/IN11613.

[107] *Ibid*.

rates for the CTC. As a result, it is unclear from the research literature whether the population of eligible non-claimants for the CTC is substantially different from the population of eligible non-claimants for the EITC. However, it is likely that eligible people fail to claim the CTC for similar reasons as the EITC – see section 1.4 of this report for more detail.

The issue of CTC take-up received more attention after the passage of the American Rescue Plan Act, when millions of families with very low or zero earnings became newly eligible for the CTC or received a larger credit amount than ever before. Many of these families were also eligible for Economic Impact Payments (EIPs), i.e., stimulus payments distributed by the IRS to nearly all U.S. citizens during the COVID-19 pandemic. While the expanded CTC and EIPs have since expired, several enrollment and outreach strategies that were employed for both programs remain instructive for boosting uptake of refundable credits among non-filers.

2.2.1 Automatic Payments and Simplified Filing

In early April 2020, the IRS automatically distributed the first EIP to all eligible people that had filed tax returns in 2018 or 2019, either via direct deposit or paper checks.[108] A few weeks later, the IRS automatically distributed payments to all eligible people already receiving Supplemental Security Income (SSI), Social Security, or Veterans Affairs (VA) benefits.[109]

To reach the remaining eligible population, the IRS created a "non-filer tool" where eligible people with incomes below the federal tax filing threshold could register for EIPs without manually reporting their income and without completing a full tax return. Around 8 million non-filers ultimately used the portal to claim EIPs.[110]

After the ARP was enacted in early 2021, the IRS automatically distributed Advance CTC payments to eligible families that had filed 2019 or 2020 tax returns through traditional means and to those that had used the non-filer tool to claim EIPs for their dependents. In June, the IRS updated the initial non-filer tool so that non-filers could submit their information for Advance CTC payments.[111] And a few months later, the White House and the Treasury Department ("Treasury") partnered with Code for America to launch a bilingual and more user-friendly simplified tax filing tool called "GetCTC." As of the beginning of December 2021, the IRS's

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[108] Margot L. Crandall-Hollick, "COVID-19 and Direct Payments to Individuals: Summary of the 2020 Recovery Rebates/Economic Impact Payments in the CARES Act," Congressional Research Service, April 17, 2020, https://crsreports.congress.gov/product/pdf/IN/IN11282.

[109] *Ibid*.

[110] Kris Cox, Samantha Jacoby, and Chuck Marr, "Stimulus Payments, Child Tax Credit Expansion Were Critical Parts of Successful COVID-19 Policy Response," Center on Budget and Policy Priorities, June 22, 2022, https://www.cbpp.org/research/federal-tax/stimulus-payments-child-tax-credit-expansion-were-critical-parts-of-successful.

[111] Internal Revenue Service, "IRS and community partners team up to provide free tax help for families to get advance Child Tax Credit payments and Economic Impact Payments," June 23, 2021, https://www.irs.gov/newsroom/irs-and-community-partners-team-up-to-provide-free-tax-help-for-families-to-get-advance-child-tax-credit-payments-and-economic-impact-payments.

non-filer tool and Code for America's GetCTC tool had accepted more than 390,000 simplified tax returns throughout 2021.[112]

Even though monthly payments stopped at the end of 2021, the IRS re-authorized simplified filing in 2022 so that people could use GetCTC to claim any outstanding benefits from the previous year without needing to file a full tax return.[113]

Filers also had the option to unenroll from the Advance CTC payments and instead receive their entire 2021 credit amount when they filed taxes. The IRS made a Child Tax Credit Update Portal available for this purpose (as well as to allow taxpayers to update their personal information, such as their mailing address).

2.2.2 Measuring Program Participation Using IRS Administrative Data and Other Datasets

Estimates from the IRS's Statistics of Income (SOI) and the CPS ASEC

Most eligible households that missed out on Advance CTC payments were "non-filers" who did not file tax returns in 2019 or 2020 through traditional means and did not previously use the non-filer tool to claim EIPs for their dependents, given the automated distribution mechanism for payments. An unknown number of eligible tax filers would have also missed out on advance payments if a new child joined their household in 2021 (through birth, adoption, etc.).[114] Eligible households that missed out on advance payments throughout 2021 were able to claim benefits retroactively if they filed a 2021 tax return or used GetCTC for simplified filing in 2022.

The IRS has not produced an official estimate of program participation for the Advance CTC using the same methodology (IRS-Census data match) that is used for the EITC's program participation rate. However, a participation rate can be very roughly calculated using publicly available data. IRS-SOI data showed that Advance CTC payments were sent to about 62 million children by December 2021, the final month that payments were distributed.[115]

Estimates for the total number of children eligible for the CTC in 2021 (including those eligible for the ARP's expansion and higher-income children only eligible for the baseline CTC) vary. A Census Bureau working paper imputed tax filing units from households captured in the 2022 CPS ASEC and estimated that a total of 68.6 million children were eligible for the CTC that

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[112] Treasury Inspector General for Tax Administration, "American Rescue Plan Act: Assessment of the Child Tax Credit Update Portal's Capabilities and Related Processes," Report Number 2022-47-042, https://www.tigta.gov/sites/default/files/reports/2022-08/202247042fr.pdf

[113] Gabriel Zucker and David Newville, "Helping Families Get the Tax Benefits They Deserve in the 2022 Filing Season," Code for America, March 31, 2022, https://codeforamerica.org/news/helping-families-tax-benefits-2022-filing-season/.

[114] The IRS had initially planned to allow tax filers to adjust their number of dependents for 2021 in the Child Tax Credit Update Portal, but this feature was never rolled out. See: Margot L. Crandall-Hollick, "The Expanded Child Tax Credit for 2021: Frequently Asked Questions (FAQs)," Congressional Research Service, updated June 14, 2022, https://crsreports.congress.gov/product/pdf/R/R46900.

[115] Internal Revenue Service, "SOI Tax Stats – Advance Child Tax Credit Payments in 2021," June 15, 2022, https://www.irs.gov/statistics/soi-tax-stats-advance-child-tax-credit-payments-in-2021.

year.[116] Columbia University's Center on Poverty and Social Policy (CPSP) arrived at a lower estimate of 67 million children using the 2019 CPS ASEC.[117] CBPP used the 2017-2019 ACS rather than the CPS ASEC (so that they could also produce state-level estimates), and estimated that 70.8 million children were eligible for the CTC in 2021.[118]

The Census Bureau, CPSP, and CBPP figures cited above do not appear to subtract undocumented children, who are ineligible for the CTC, from their topline estimates of CTC-eligible children due to methodological limitations. Pew Research Center estimates that there are 675,000 undocumented children living in the United States.[119] Reducing the Census Bureau's, CPSP's, and CBPP's figures by that amount would change the estimates of the total CTC-eligible population in 2021 to 67.9 million children, 66.3 million children, and 70.1 million children respectively.

Dividing the number of children that received Advance CTC payments from the IRS-SOI by the estimates of the total eligible population described above translates to program participation rates that range roughly from 88 to 94% for the Advance CTC. These figures imply that 4.3 to 8.1 million eligible children did not receive monthly payments. However, some share of those 4.3 to 8.1 million children were in families that chose to unenroll from the advance payments, and some would have received an amount equivalent to their Advance CTC retroactively if their caregivers filed a 2021 tax return or used GetCTC for simplified filing in 2022. These exact numbers are unknown. A TIGTA report indicates that 2.1 million taxpayers unenrolled from the advance payments, but taxpayers were required to unenroll individually, so this figure counts spouses separately and it is unclear how many children these taxpayers would have claimed.[120]

Estimates of the total number of children eligible for the CTC in 2021 likely vary for several reasons. Some of the variation can potentially be explained by differences in the microdata used. For example, the Census Bureau's working paper was published most recently and was therefore

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[116] C. Adam Bee, Charles Hokayem, and Daniel C. Lin, "Modeling the 2021 Child Tax Credit in the CPS ASEC," U.S. Census Bureau, SEHSD Working Paper FY-2022-17, September 13, 2022, https://www.census.gov/content/dam/Census/library/working-papers/2022/demo/sehsd-wp2022-17.pdf.

[117] Zachary Parolina, Sophie Collyera, Megan A. Curran, and Christopher Wimer, "Monthly Poverty Rates among Children after the Expansion of the Child Tax Credit," Poverty & Social Policy Brief, Vol. 5 No. 4, August 20, 2021,https://static1.squarespace.com/static/610831a16c95260dbd68934a/t/6125831bb2d0cb07e98375b9/1629848348974/Monthly-Poverty-with-CTC-July-CPSP-2021.pdf. See: "Our own estimates, based solely on simulations of eligibility within the Current Population Survey Annual Social and Economic Supplement (CPS ASEC), suggest that up to 67 million children could live in tax units that are eligible for the CTC, but we do not know with certainty the true number of currently eligible children"

[118] Center on Budget and Policy Priorities, "Program Participation Data Dashboard," last updated December 1, 2022, https://apps.cbpp.org/program_participation/#table/369/ctc---estimated-characteristics-of-children-in-tax-units-eligible-for-american-rescue-plan-ctc.

[119] Jeffrey S. Passel and D'Vera Cohn, "U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade," Pew Research Center, November 27, 2018, https://www.pewresearch.org/hispanic/2018/11/27/u-s-unauthorized-immigrant-total-dips-to-lowest-level-in-a-decade/.

[120] Treasury Inspector General for Tax Administration, "American Rescue Plan Act: Assessment of the Child Tax Credit Update Portal's Capabilities and Related Processes," Report Number 2022-47-042, https://www.tigta.gov/sites/default/files/reports/2022-08/202247042fr.pdf.

able to use the 2022 CPS ASEC, while the rest of the papers were published earlier and had to rely on older microdata. However, there are also likely real methodological differences in the assumptions used to impute tax filing units from the households captured in the CPS ASEC and to estimate eligibility for tax benefits. These differences in topline estimates may seem insignificant, but they produce a fairly wide range of estimates for the Advance CTC participation gap – 4.3 to 8.1 million children. This is a sizeable percentage difference in estimates of the participation gap, and such discrepancies may make it potentially difficult to disaggregate the demographic characteristics of eligible non-claimants with any accuracy.

Estimates from Information Returns

Throughout 2020 and 2021, advocates wanted more information on the number and characteristics of non-filer households and children so that they could appropriately target outreach and enrollment efforts.

For both EIPs and the Advance CTC, Treasury used administrative data from information returns to estimate the number of non-filers and children that appeared eligible for payments but either would not receive them automatically or had not yet received them. Information returns are forms that third parties such as employers, banks, and insurance companies use to report potentially taxable payments to the IRS and to the people receiving payments. For example, employers report wage and salary income paid to employees on W-2 forms, and businesses report income paid to independent contractors (including workers in the "gig" economy) on 1099 forms. Because third parties submit information returns to the IRS even for people without tax filing obligations, they (along with tax returns) cover about 99% of U.S. adults and are an important source of administrative data on non-filers.[121]

In September 2020, Treasury used data from W-2s, 1099s, and other information returns to identify 9 million people who appeared eligible for stimulus payments but had not received them.[122] Treasury aggregated this dataset at the zip code level and publicly released it.[123] This dataset was not intended to capture the entire universe of non-filer households eligible for EIPs, as it only included those who had not already used the non-filer tool to claim EIPs or received automatic payments from SSA and the VA.

In June 2021, Treasury released another zip-code level dataset capturing 2.3 million children that would not automatically receive monthly payments of the Advance CTC in July through

[121] Zucker, Robertson, and Olson, *supra* note 36; James Cilke, "The Case of the Missing Strangers: What we Know and Don't Know About Non-Filers," National Tax Association, 107th Annual Conference Proceedings, 2014, https://www.ntanet.org/wp-content/uploads/proceedings/2014/029-cilke-case-missing-strangers-know-don.pdf.

[122] Internal Revenue Service, "IRS releases state-by-state breakdown of nearly 9 million non-filers who will be mailed letters about Economic Impact Payments," updated May 31, 2022, https://www.irs.gov/newsroom/irs-releases-state-by-state-breakdown-of-nearly-9-million-non-filers-who-will-be-mailed-letters-about-economic-impact-payments.

[123] However, the IRS did not publish zip code level counts for most zip codes with populations below 10,000 people. People living in those zip codes were captured in state-level counts instead. See: Gabriel Zucker, "Opportunities and limitations of using data to reach non-filers with the CTC," New America, August 20, 2021, https://www.newamerica.org/new-practice-lab/blog/data-and-non-filers/.

December, because they had not been claimed on 2019 or 2020 tax returns.[124] However, these estimates were subject to more uncertainty than the non-filer counts for EIPs, because they were based on a different source of administrative data. The IRS could not use W-2s, 1099s, and most other information returns to estimate Advance CTC participation because these forms do not capture where children live, or which adults are eligible to claim them. The only IRS form with any information on non-filer children is Form 1095, which tracks health insurance coverage.[125] Therefore, the IRS used information from Form 1095 to assemble its dataset of children in households with marketplace coverage that had not filed a tax return. However, this meant that the IRS's dataset was missing uninsured children, who may be more likely to be in non-filing households than the general population.[126]

Researchers looked for geographic and demographic trends in the number of non-filers and their children by linking the IRS's zip-code level data to public, zip-code level data from the ACS.[127] Zip codes with higher rates of poverty and more Black and Latino people had more non-filers. However, research did not identify significant geographic patterns, which suggests that non-filers and unclaimed children are not generally clustered in certain regions – instead, they are a "small group scattered across the country."[128]

The Household Pulse Survey

The Census Bureau's Household Pulse Survey is another source of data on eligible children and households that did not claim the Advance CTC. This survey asked a sample of 82,000 households if they received Advance CTC payments during 2021 and if so, how they spent the money. The Pulse survey's estimate of the total number of children in households that received Advance CTC payments – 47 million children – is much lower than the IRS-SOI's

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[124] U.S. Treasury Department, "By ZIP Code: Number of Children under Age 18 with a Social Security Number Who Are Not Found on a Tax Year 2019 or 2020 Tax Return but who Appear on a Tax Year 2019 Form 1095 and Associated Number of Policy Holders," June 2021, https://home.treasury.gov/system/files/131/Estimated-Counts-of-Children-Unclaimed-for-CTC-by-ZIP-Code-2019.pdf; Zucker, *supra* note 123; New America, August 20, 2021, https://www.newamerica.org/new-practice-lab/blog/data-and-non-filers/. In August 2021, the Center on Budget and Policy Priorities combined the 2.3 million children in non-filer households from Treasury's dataset with the 1.6 million children that were estimated to be born in 2021 with Medicaid coverage and concluded that at least 4 million children were at risk of missing out on the Advance CTC because they would not receive automatic payments from the IRS. See: Kris Cox, Roxy Caines, Arloc Sherman, and Dottie Rosenbaum, "State and Local Child Tax Credit Outreach Needed to Help Lift Hardest-to-Reach Children Out of Poverty," Center on Budget and Policy Priorities, August 5, 2021, https://www.cbpp.org/research/federal-tax/state-and-local-child-tax-credit-outreach-needed-to-help-lift-hardest-to-reach.

[125] Gabriel Zucker, "Opportunities and limitations of using data to reach non-filers with the CTC," New America, August 20, 2021, https://www.newamerica.org/new-practice-lab/blog/data-and-non-filers/.

[126] This limitation also introduced geographic bias into the data, given that some states have enacted measures to reduce the costs of health insurance premiums and therefore lower the rate of uninsured households, while others have not.

[127] *Ibid*.

[128] *Ibid*.

administrative totals because public benefits tend to be significantly underreported in surveys.[129] However, the Pulse survey offers insight on the demographic characteristics of households that reported missing out on Advance CTC payments. Reported rates of receipt were "lowest among Hispanic/Latinx adults; adults who are AIAN, NHPI, or more than one race; and adults with household incomes below $25,000."[130]

2.2.3 Direct IRS Outreach and All-Hands-On-Deck Outreach Efforts

Treasury and the IRS did not only publish aggregate statistics on the number of non-filer households and children – they also conducted direct outreach by pulling names and addresses from information returns and sending letters to households that appeared eligible for EIPs and the Advance CTC but had not already claimed them. As noted above, in September 2020, the IRS sent outreach letters to 9 million people encouraging them to claim EIPs. And in 2021, the IRS sent letters to "likely several million non-filers" to encourage them to claim the Advance CTC.[131] Code for America reported that these letters "drove huge volumes of non-filers to the IRS Non-Filer Tool" and more broadly, estimated that "well-targeted letter[s] from the IRS can probably generate well over 100,000 accepted returns."[132]

The Social Security Administration also mailed a notice about the Advance CTC to 8.7 million SSI recipients and directed them to the IRS Non-Filer Tool, as GetCTC was not available yet. SSA noted that "many of these SSI recipients likely filed their claim with the IRS after receiving the notice" and Code for America's on-the-ground partners "reported that the letter appeared to have an impact, with beneficiaries referencing it or showing it to their case managers."[133] After distributing those letters, SSA also embarked on a multifaceted outreach campaign, which included emailing 25 million Social Security account holders and advertising via radio, social media, Google/Microsoft search ads, and other mediums. Code for America estimated that SSA's outreach campaign (not including the original round of letters to SSI recipients) was responsible for nearly 14% of all returns accepted via GetCTC.

State and local benefits agencies and nonprofit organizations from across the country engaged in a wide range of outreach efforts to inform families about the Advance CTC. Code for America evaluated the effectiveness of outreach campaigns directing non-filers to GetCTC, by using unique URLs to trace how users arrived at the website. They concluded that beyond direct outreach from the IRS, messages from benefits agencies to their clients "were the single easiest

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[129] Michael Karpman, Elaine Maag, Genevieve M. Kenney, and Douglas A. Wissoker, "Who Has Received Advance Child Tax Credit Payments, and How Were the Payments Used?," Urban-Brookings Tax Policy Center, November 2021, https://www.urban.org/sites/default/files/publication/105023/who-has-received-advance-ctc-payments-and-how-were-the-payments-used.pdf.

[130] *Ibid*.

[131] Code for America, "Lessons from Simplified Filing in 2021," January 24, 2022, https://files.codeforamerica.org/2022/03/15163515/lessons-from-simplified-filing-in-2021-getctc-analytics-report-march-2022.pdf?_ga=2.76214037.1243740776.1663260363-1376304209.1657633240.

[132] *Ibid*.

[133] *Ibid*.

way to efficiently reach new non-filers and successfully get them to claim their tax benefits."[134] Campaigns that sent messages via text rather than emails or robocalls, made multiple outreach attempts, and included a single link with a clear call to action were most effective at driving returns.[135]

Evidence on the effectiveness of Advance CTC outreach efforts from community-based organizations and other trusted institutions like schools, hospitals, and other service providers is more mixed. Because the population of eligible non-filers was so small and dispersed, community groups reported "needing to talk to 100 people just to find 2-3 non-filer families who could use GetCTC." For example, outreach efforts spearheaded by four bilingual and biracial community leads, who were hired by the Hawaii Children's Action Network and the Hawaii Coalition for Immigrant Rights, ultimately reached an estimated 22,315 individuals through social media and in-person engagement. However, only 216 of those individuals received any additional assistance claiming tax benefits and even fewer of those people were eligible to file a simplified return via GetCTC.

Other approaches from community-based organizations and service providers were reportedly more successful at boosting Advance CTC uptake. For example, outreach efforts in congregate settings like prisons and homeless shelters were significantly more effective at generating simplified returns.[136] Qualitative research based on interviews with government officials, nonprofit stakeholders, and immigrant families in Boston found that "outreach strategies succeeded most when they […] involved trusted messengers" such as "the Boston Medical Center and other hospitals, school districts and teachers, immigrant advocacy groups, and social service agencies."[137] Code for America concluded that "some approaches" to on-the ground engagement "worked," and that "experimentation can further refine the model." [138]

3 Background on Existing Program Performance Measurement and Reporting Regimes Relevant to Refundable Tax Credits

Beyond the IRS's annual publication of the EITC's program participation rate, Treasury and the IRS do not currently have a singular, holistic framework for measuring and publicly reporting on the state of EITC and CTC program access. The IRS has developed some performance measures evaluating customer service more broadly as part of implementation of the Taxpayer First Act, and some relevant measures related to taxpayer experience and service delivery are scattered across Taxpayer Advocate Service (TAS) publications, the IRS Data Book, IRS budget documents, and other sources. However, most of these existing measures focus on taxpayers in

[134] *Ibid*.

[135] *Ibid*.

[136] *Ibid*.

[137] Luisa Godinez-Puig, Aravind Boddupalli, and Livia Mucciolo, "Lessons Learned from Expanded Child Tax Credit Outreach to Immigrant Communities in Boston," The Urban Institute, October 2022, https://www.taxpolicycenter.org/sites/default/files/publication/164300/lessons_learned_from_expanded_child_tax_credit_outreach_to_immigrant_communities_in_boston_1.pdf.

[138] Code for America, *supra* note 131.

general, rather than the specific experiences of EITC and CTC claimants, and they are not organized under a broader framework capturing program accessibility.

While Treasury and the IRS do not report consistently and in detail on EITC and CTC program access, they *do* report annually on the amount of "improper payments" issued under each program, the root causes of such payments, and actions being taken to address them. Treasury and the IRS are required to report on "improper payments" under the Office and Management and Budget's interpretation of the Payment Integrity Information Act, which is described in more detail in section 3.1 below.

The IRS plans to undertake several new initiatives and projects related to boosting EITC and CTC uptake as part of implementation of the Inflation Reduction Act (IRA). The IRS's Strategic Operating Plan for IRA implementation does not contain specific performance measures (and suggests that these will be identified later), but does include several examples of broad, high-level "indicators" that may be used to evaluate the overall success of IRA implementation. Some of these indicators could be translated into specific performance measures that would quantify the state of EITC and CTC program access.

3.1 Measuring "Improper Payments" under the Payment Integrity Information Act

The Office of Management and Budget (OMB) has classified the EITC and CTC[139] as "high-priority" programs under the Payment Integrity Information Act (PIIA), because both tax credits lose more than $100 million each year from "improper payments."[140] The PIIA was enacted in 2019 and replaced several other statutory regimes for reporting on "improper payments," including the Improper Payments Information Act (IPIA) of 2002, the Improper Payments Elimination and Recovery Act (IPERA) of 2010, and the Improper Payments Elimination and Recovery Audit Improvement Act (IPERIA) of 2012.[141]

Improper payments are "payment[s] that should not have been made or that [were] made in the wrong amount" under the EITC and CTC's eligibility criteria.[142] OMB requires Treasury to report annual estimates for the rate and dollar amount of improper payments for the EITC, CTC, and several other refundable tax credits. Treasury is also required to publish an annual analysis of the root causes of program error, actions that have been taken to reduce overpayments, and any limitations on Treasury's ability to reduce improper payments.[143] Additionally, OMB requires Treasury to submit quarterly scorecards documenting Treasury's progress on various

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[139] Technically only the "Additional Child Tax Credit," or the refundable portion of the CTC.

[140] Office of Management and Budget, "High-Priority Programs and Programs over $100M in Monetary Loss," accessed June 10, 2021, https://www.paymentaccuracy.gov/payment-accuracy-high-priority-programs/.

[141] Garrett Hatch, "Improper Payments in High-Priority Programs: In Brief," Congressional Research Service, July 16, 2018, https://crsreports.congress.gov/product/pdf/R/R45257.

[142] The White House, "Updated Data on Improper Payments," December 30, 2021, https://www.whitehouse.gov/omb/briefing-room/2021/12/30/updated-data-on-improper-payments/#:~:text=An%20improper%20payment%20is%20a,the%20relevant%20statute%20or%20regulation.

[143] The Tax Law Center at NYU Law, "Rebalancing Reporting on Sources of the Tax Gap," May 3, 2022, https://www.law.nyu.edu/sites/default/files/Improper%20Payments%20Refundables%20vs.%20Other%20Tax%20Gap%20Sources.pdf.

program integrity initiatives. More detail on Treasury's reporting obligations can be found in Appendix C of OMB Circular A-123.[144]

Measuring Improper Payments

In tax year 2020, nearly 32% of all EITC claims ($18.2 billion out of $57.5 billion) and nearly 16% of all CTC claims ($5.2 billion out of $32.8 billion) were improper payments. These figures should be interpreted with caution because they have significant limitations. The improper payment rate for each tax credit is calculated by adding together "overpayments" and "underpayments," and dividing that sum by the total amount of claims. However, "underpayments" are defined very narrowly – they represent "the amount of EITC [or CTC] disallowed by the IRS in processing that should have been allowed" and only increase the EITC's improper payment rate by less than 0.05 percentage points.[145]

Importantly, "underpayments" do not include *unclaimed* EITC and CTC amounts, such as those from eligible non-filers and eligible filers that did not claim tax benefits on their returns.[146] This means that the improper payment rate almost exclusively highlights overpayments, and completely ignores underclaims that are caused by imperfect program uptake among eligible households. Furthermore, overpayments that were ultimately recovered by the IRS due to compliance activity are no longer subtracted from the improper payment rate, because of OMB's rigid requirements about how the rate should be calculated.[147]

The improper payment rate is not calculated using data from correspondence audits under the IRS's operational audit program (previously described in section 1.4.2). Instead, the rate is calculated using data from the IRS's National Research Program (NRP), which conducts audits on a smaller, randomly selected group of tax filers for research purposes. NRP audits generally provide more personalized support to tax filers undergoing audits than the correspondence audits administered under the IRS's operational program. NRP audits "often involve (possibly repeated) personal contact between a tax auditor and taxpayer via phone calls or in-person meetings." However, the NRP process can still be time-consuming and burdensome to complete, and some people decline to participate. The IRS assumes, for the purposes of calculating the improper payment rate, that tax filers who do not participate in NRP audits are eligible for the EITC at the same rate as those who did participate.[148]

Sources of EITC and CTC Error

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[144] Office of Management and Budget Circular A-123, March 5, 2021, https://www.whitehouse.gov/wp-content/uploads/2021/03/M-21-19.pdf.

[145] Taxpayer Advocate Service, "Measures the IRS Takes to Reduce Improper Earned Income Tax Credit Payments Are Not Sufficiently Proactive and May Unnecessarily Burden Taxpayers," 2018 Annual Report to Congress, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/07/ARC18_Volume1_MSP_06_ImproperEarnedIncome.pdf.

[146] *Ibid*.

[147] *Ibid*.

[148] *Ibid* (see footnote 49).

The current PIIA regime is ill-suited for reporting on refundable credit error because the law was intended to capture weaknesses in federal agencies' internal control systems for payment accuracy (such as, for example, computer algorithms erroneously making payments to deceased people or those found guilty of prior federal tax fraud). However, Treasury has repeatedly stated that internal control failures are not the root cause of overpayments for the EITC, CTC, and other refundable tax credits. Instead, improper payments of the refundable credits are caused by "factors beyond [Treasury and IRS's] control, such as the statutory design of the [refundable tax credits], the complexity of the eligibility requirements, the reliance on taxpayers' self-certification of the accuracy of their returns, and the lack of third-party data for verification."[149]

The largest source of EITC (and likely, CTC) error (in terms of dollars erroneously claimed) is claiming a child who does not satisfy the complex statutory definition of a "qualifying child.[150] As explained in section 1.1, a child must pass four "tests" to be claimed by a tax filer for the EITC. Two of these tests, about the child's age and whether they are married or can file a joint return, are relatively straightforward. However, each year 3.4 million children are claimed in error under the residency test, the relationship test, or the affiliated "tie-breaker rules," and their caregivers subsequently have tax benefits denied. This amounts to about 11% of children claimed for tax benefits.[151]

For families with complex circumstances – including divorced parents who live apart but share custody of their children, unmarried cohabitating parents, or multigenerational households with multiple workers who file taxes separately – it can be ambiguous which tax filer should claim children for tax benefits. In situations where more than one tax filer fulfills the "relationship" and "residency" tests, families cannot decide amongst themselves which adult will claim a child for tax benefits. Instead, a series of complex "tie-breaker" rules dictate which tax filer must claim the child on their returns – preference is given to custodial parents, but if there is no parent in the household, the family member with the highest earnings is required to claim them. These rules can be overly prescriptive and confusing to families. If the "wrong" person (according to the tie-breaker rules) mistakenly tries to claim the child, the IRS will deny the family's claim altogether.[152]

The "qualifying child" rules pose the greatest risks of EITC and CTC error (and in turn, create the largest barriers to accessing tax benefits) for Black, Latino, and low-income families.

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[149] U.S. Treasury Department, Agency Financial Report Fiscal Year 2021, https://home.treasury.gov/system/files/266/Treasury-FY-2021-AFR.pdf.

[150] Kara Leibel, "Taxpayer Compliance and Sources of Error for the Earned Income Tax Credit Claimed on 2006-2008 Returns," Publication 5161, Internal Revenue Service, August 2014, https://www.irs.gov/pub/irs-soi/15rpeitctaxpayercompliancetechpaper.pdf.

[151] Kara Leibel, Emily Y. Lin, and Janet McCubbin, "Social Welfare Considerations of EITC Qualifying Child Noncompliance," Office of Tax Analysis, Working Paper 120, January 2020, https://home.treasury.gov/system/files/131/WP-120.pdf.

[152] There are several design elements of the EITC that may lead the "wrong" tax filer to try to claim a child for the EITC. For example, 23% of parents whose children were claimed incorrectly by another tax filer were already receiving the EITC for the maximum number of qualifying children (3), and therefore would not benefit from claiming additional children. See: Leibel et al., *supra* note 151.

Because of many structural factors, from housing affordability challenges to employment barriers to mass incarceration, Black and Latino children are more likely than white children to have non-custodial parents, live in multigenerational households, or have other complex living arrangements that create ambiguity in child-claiming.[153] Low-income families are also more likely to have these types of complex family circumstances than the general population. About 60% of low-income children live in households with some form of tax filing ambiguity.[154]

The other leading causes of EITC error are "married taxpayers improperly claiming the EITC without filing a joint return," and tax filers with self-employment income either over- or under-reporting their income to maximize the amount of EITC they can receive.[155] The IRS often does not receive third-party reporting on self-employment income through information returns, which makes identifying non-compliance especially difficult.

Another significant cause of EITC and CTC error is the prevalence of unenrolled paid preparers. As discussed in section 1.4.2, about half of tax returns with EITC claims are filed via paid preparers and nearly 80% of those paid preparers are "unenrolled," meaning they "are not subject to the same level of training and certification requirements as other tax professionals and have higher error rates for EITC returns than taxpayers who prepare their own returns or who hire enrolled return preparers."[156] In tax year 2020, unenrolled paid preparers were responsible for nearly 90% of prepared tax returns with EITC claims selected for audits.[157] The IRS does not have statutory authority to regulate paid preparers, so the agency cannot impose minimum standards such as requiring tax preparers to pass basic competency tests or to enroll in classes to keep up-to-date with changes in tax law.[158]

To comply with PIIA's and OMB's reporting requirements, federal agencies are required to reduce improper payment rates to 10% or less. Because so many of the factors driving high improper payment rates among refundable tax credits are outside of Treasury's control, and are instead driven by statutory constraints on program design and delivery, OMB recently granted Treasury an exception to the general requirement that federal agencies report annual "reduction

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[153] Michelmore and Pilkauskas, *supra* note 15. See also: Elaine Maag, H. Elizabeth Peters, and Sara Edelstein, "Increasing Family Complexity and Volatility: The Difficulty in Determining Child Tax Benefits," Urban-Brookings Tax Policy Center, March 3, 2016, https://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/2000641-increasing-family-complexity-and-volatility-the-difficulty-in-determining-child-tax-benefits.pdf.

[154] *Ibid*.

[155] Internal Revenue Service, "Handling the Most Common Errors," updated February 14, 2023, https://www.eitc.irs.gov/tax-preparer-toolkit/tools-and-tips/handling-the-most-common-errors/handling-the-most-common-errors.

[156] U.S. Treasury Department, Agency Financial Report Fiscal Year 2022, https://home.treasury.gov/system/files/266/Treasury-FY-2022-AFR.pdf.

[157] Taxpayer Advocate Service, "Taxpayers Are Harmed by the Absence of Minimum Competency Standards for Return Preparers," Annual Report to Congress 2022, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_08_RtnPrepOversight.pdf.

[158] Wancheck, *supra* note 73.

targets" towards the 10% standard.[159] The IRS estimated in a FY 2020 study that it would need "additional or reallocated resources of $2.5 billion to audit 4.2 million additional refundable tax credit returns" to reach improper payment rates of 10% for refundable tax credits.[160] However, meeting this standard would lead to a "substantial loss in enforcement revenue, estimated at $6.4 billion" because the IRS would have to divert enforcement resources away from larger sources of tax non-compliance than low-income tax filers claiming the EITC.[161]

Imbalance of Scrutiny and Enforcement

The PIIA has subjected the EITC, CTC, and other refundable credits to more scrutiny than the high-income tax filers and businesses that contribute more to the "tax gap," or the difference between taxes owed under law and taxes paid to the IRS. The highest-income 1% of tax filers are responsible for roughly 28% of the individual income tax under-reporting tax gap, while the EITC makes up about 10% of it and other refundable tax credits make up about 5% of it.[162] And yet, because of the PIIA, Treasury and IRS report more frequently and in more detail on compliance issues for refundable tax credits than on the contributions of high-income filers and businesses to the tax gap. The PIIA requires the IRS and Treasury to publish detailed annual reports and quarterly scorecards on refundable tax credit errors and program integrity efforts. But there is no comparable statutory requirement to report on other components of the tax gap, and as a result, the IRS only voluntarily publishes tax gap reports once every 2-3 years.

In short, the PIIA's reporting requirements exert pressure on the IRS to focus more on reducing refundable tax credit error than on addressing other sources of tax non-compliance. The extent to which the PIIA has directly influenced the IRS's audit selection processes and algorithms is unknown, but the regime certainly reinforces the IRS's imbalanced tax enforcement priorities.

EITC claimants are currently about twice as likely to be audited as tax filers without EITC claims.[163] Audit rates have declined across the board relative to 2010 levels, but audit rates on millionaires and the largest corporations have decreased more (by about 50% and 80%

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[159] U.S. Treasury Department Office of Inspector General, "Audit of Treasury's Compliance With the PIIA Requirements for Fiscal Year 2020," May 28, 2021, https://oig.treasury.gov/sites/oig/files/2021-07/OIG-21-028.pdf; Treasury Inspector General for Tax Administration, "Programs Susceptible to Improper Payments Are Not Adequately Assessed and Reported," Report Number: 2022-40-037, May 6, 2022, https://www.oversight.gov/sites/default/files/oig-reports/TIGTA/202240037fr.pdf.

[160] U.S. Treasury Department, Agency Financial Report Fiscal Year 2022, https://home.treasury.gov/system/files/266/Treasury-FY-2022-AFR.pdf.

[161] *Ibid*.

[162] Melanie R. Krause, Barry W. Johnson, Peter J. Rose, and Mary-Helen Risler, "Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2014-2016," Internal Revenue Service, August 2022, https://www.irs.gov/pub/irs-pdf/p1415.pdf; Andrew Johns and Joel Slemrod, "The Distribution of Income Tax Non-Compliance," National Tax Journal, Vol. 63 No. 3, September 2010, https://webuser.bus.umich.edu/jslemrod/Article%2001-Slemrod.pdf; Jason DeBacker, Bradley Heim, Anh Tran, and Alexander Yuskavage, "Tax Noncompliance and Measures of Income Inequality," Tax Notes, February 17, 2020, https://www.taxnotes.com/tax-notes-federal/compliance/tax-noncompliance-and-measures-income-inequality/2020/02/17/2c3y5.

[163] Margot L. Crandall-Hollick, "Audits of EITC Returns: By the Numbers," Congressional Research Service, June 13, 2022, https://crsreports.congress.gov/product/pdf/IN/IN11952/1.

respectively) than audit rates on EITC filers. Recent data shows that EITC claimants are audited at roughly the same rate (about 1 out of every 100 filers) as the highest-income 1% of tax filers – even though the latter group is responsible for a much higher share of the tax gap as discussed above.[164]

Agencywide budget cuts have also likely caused the IRS to audit EITC claimants at disproportionate rates. After adjusting for inflation, the IRS's budget was cut by about 20% between 2010 and 2021, and the enforcement division was cut by about 23% over the same period.[165] Audits on large businesses and affluent filers are more expensive to conduct than audits on EITC claimants, because they are more time-consuming and require the expertise of highly trained revenue agents that can handle complex returns.

It is also important to note that while the PIIA requires the IRS to take action to reduce improper payments, the statute does not require the IRS to do so *specifically through audits*. Research conducted by the Taxpayer Advocate Service shows that it is possible to improve voluntary tax compliance and reduce improper payments through non-punitive approaches like distributing informational letters to tax filers that have previously made mistakes when claiming the EITC on their tax returns.[166]

3.2 Performance Measures Monitoring Implementation of the Taxpayer First Act

Enacted in 2019, the Taxpayer First Act (TFA) required the IRS to develop a "comprehensive customer service strategy" that "identified metrics and benchmarks for quantitatively measuring the progress of the Internal Revenue Service in implementing such strategy."[167] The TFA also created a new office within the agency, the Taxpayer Experience Office (TXO), to "focus on continuously improving the taxpayer experience across all interactions with the IRS."

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[164] Center on Budget and Policy Priorities, "Chart Book: The Need to Rebuild the Depleted IRS," revised December 16, 2022, https://www.cbpp.org/eitc-recipients-now-audited-at-roughly-same-rate-as-top-1-0.

[165] Chuck Marr, Samantha Jacoby, and Jabari Cook, "Success of the IRS Rebuilding and Tax Gap Reduction Effort Depends on Sufficient Funding Through Annual Appropriations," Center on Budget and Policy Priorities, revised December 7, 2022, https://www.cbpp.org/research/federal-tax/success-of-the-irs-rebuilding-and-tax-gap-reduction-effort-depends-on.

[166] The Taxpayer Advocate Service found that distributing educational letters to filers that broke Dependent Database (DDb) rules, but were not selected for audits, improved compliance in subsequent years. See: National Taxpayer Advocate, "Study of Subsequent Filing Behavior of Taxpayers Who Claimed Earned Income Tax Credits (EITC) Apparently in Error and Were Sent an Educational Letter From the National Taxpayer Advocate," Annual Report to Congress 2016, https://www.taxpayeradvocate.irs.gov/wpcontent/uploads/2020/10/ARC16_Volume2_02_StudySubsequent.pdf; National Taxpayer Advocate, "Study of Subsequent Filing Behavior of Taxpayers Who Claimed Earned Income Tax Credits (EITC) Apparently In Error and Were Not Audited But Were Sent an Educational Letter From the Taxpayer Advocate Service, Part 2: Validation of Prior Findings and the Effect of an Extra Help Phone Number and a Reminder of Childless-Worker EITC," Annual Report to Congress 2017, https://www.taxpayeradvocate.irs.gov/wpcontent/uploads/2020/10/ARC17_Volume2_02_StudySubsequent.pdf.

[167] Taxpayer Advocate Service, "Taxpayer Rights and Service Assessment: IRS Performance Measures and Data Relating to Taxpayer Rights and Service," Annual Report to Congress 2022, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_Pro_TPR-Assessment.pdf.

Improving customer service at the IRS is an important component of improving EITC and CTC program access. Most tax filers, including EITC and CTC claimants, have their returns quickly accepted by the IRS and their refunds issued automatically. But some EITC and CTC claimants have complex issues they need to resolve with the IRS before their refunds can be issued. For example, their e-filed tax returns might be initially rejected because of identity verification issues or duplicate claims of children (see section 8 for more detail), or they may be selected for audits. When issues arise, it is important for EITC and CTC claimants to be able to quickly and easily interface with the IRS so that they can receive the tax benefits they are owed.[168] Functional and user-friendly digital tools for managing correspondence, well-staffed telephone lines with reasonable wait times, plain-language documents and self-assistance resources, and other service delivery tools are critical levers for boosting EITC and CTC uptake.

In 2021, the IRS published its TFA Report to Congress, which described the performance measures and targets that will be used to monitor progress on implementing its customer service strategy.[169] These measures do not explicitly focus on EITC and CTC delivery, but as explained above, improvements in customer service across a variety of IRS processes and functions would likely improve program access among EITC and CTC filers. There are topline measures for estimating overall success of the TFA's customer service strategy, and additional measures tied to 6 specific areas of focus.

Note that it is unclear which of these measures and targets will ultimately be used to monitor implementation of the TFA, given the enactment of the Inflation Reduction Act (IRA) in 2022 and the IRS's recent publication of its strategy for IRA implementation (see section 3.4 for more detail). The IRA and TFA have many overlapping goals, and it is currently unclear which elements of TFA implementation will be incorporated into or subsumed by IRA implementation.

The performance measures outlined in the TFA Report to Congress are described below.[170] Many of these measures are either vague (in terms of what is included in them, or how exactly they are calculated) or are still in development by the IRS:

- <u>Topline measures gauging overall taxpayer experience</u>:
    - Percentage of tax filers reporting: "I trust the IRS to help me understand my tax obligations"
        - Data source: Comprehensive Taxpayer Attitude Survey (CTAS)
        - FY2019 baseline: 70%
        - Target: 72% by FY2022

[168] Of course, improving IRS phone lines and other methods of reaching the IRS should not be the only solutions pursued to address the various issues tax filers may face when submitting a tax return and claiming the EITC. The IRS should also improve its downstream procedures for processing tax returns so that questions are less likely to arise in the first place. For example, the IRS should make it possible for tax filers to e-file competing claims for children, rather than being required to submit a paper return. See section 8.2 of this report for a more extensive discussion of this issue and others.

[169] Internal Revenue Service, "Taxpayer First Act Report to Congress," January 2021, https://www.irs.gov/pub/irs-pdf/p5426.pdf.

[170] *Ibid*.

- Percentage of taxpayers satisfied with their personal interactions with the IRS
    - Data source: CTAS
    - FY2019 baseline: 77%
    - Target: 79% by FY2022
  - Percentage of tax filers satisfied with the time it took to resolve issues
    - Data source: Taxpayer Experience Survey (TES):
    - FY2019 baseline: 73%
    - Target: 75% by FY2022
- Focus Area #1: Expanded digital service
  - *Goal*: "…improve online experience for all taxpayers and authorized tax professionals. This includes enhancing the IRS's online accounts for individual taxpayers and expanding this service to tax professionals and businesses."
  - *Measures*:
    - Percent of taxpayer interaction types that have a digital alternative
      - FY2019 baseline: 39% or 18 interaction types
      - Target: 75% or 35 interaction types by FY2024
    - Number of taxpayers with an active secure online profile
      - FY2019 baseline: 6.51 million
      - Target: Increase by 5% annually though FY2024
    - Percent of taxpayer interactions accomplished through self-help tools (Enterprise Self Assistance Participation Rate (ESAPR))
      - FY2019 baseline: 79%
      - Target: 82% FY2021 and FY2022
    - Volume of interactions completed through self-help options; Hours saved
      - FY2019 baseline: Interactions volume of 581,374,970; Time savings will need to be designed, developed and tested
      - Target: TBD
- Focus Area #2: Seamless experience
  - *Goal*: "…provide taxpayers with their preferred channel of service (website, telephone, in person, etc.) and integrate those channels to seamlessly guide them to the help they need throughout the taxpayer lifecycle."
  - *Measures*:
    - Enterprise level-of-service (response rate for certain IRS telephone lines)[171]

[171] The Taxpayer Advocate Service has long raised concerns about how the IRS measures "level of service" (LOS) on phone lines. The IRS "divides the number of taxpayers who reach a live assistor by the number of calls the IRS system routes to live assistors," which means that "calls routed for automated assistance and callers who hang up before they are placed in a queue are excluded from the IRS's denominator." However, TAS assumes that "callers generally want to speak with a live assistor and would not hang up if the IRS provided prompt service," and therefore argues those callers should be included in the LOS's denominator. See: National Taxpayer Advocate, "Legislative Recommendation 2: Revamp the IRS Budget Structure and Provide Sufficient Funding to Improve the Taxpayer Experience and Modernize the IRS's Information Technology Systems," 2021 Purple Book, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20_PurpleBook_01_StrengthRights_2.pdf;

            - FY 2019 baseline: 56.63%
            - Target: TBD
        - Access to an IRS assistor when needed
            - FY2019 baseline: 25.8 million assistor calls answered in FY2019
            - Target: TBD
- Focus Area #3: Proactive outreach and education
    - *Goal*: "…use various means to reach taxpayers at the right time through the right format," including through "deliver[ing] information and personalized messages to taxpayers using social media, simplified correspondence translated into multiple languages, customized digital options and community outreach through trusted partners."
    - *Measures*: The report does not identify any specific measures for this focus area, but instead, states that the IRS will "conduct 3 - 5 studies to assess how improved and increased social media presence impact taxpayer behavior."
- Focus Area #4: Community of partners:
    - *Goal*: "…build on existing relationships and develop new partnerships to create an integrated delivery network of trusted partners across the tax community," including by "leveraging community outreach best practices," "co-locating federal government services," and pursing data sharing opportunities between government agencies.
    - *Measures:*
        - Number of new partnership forums conducted each year
        - Participation in partnership forums
        - Level of satisfaction with service received through partnerships
- Focus Area #5: Focused strategies for underserved communities:
    - *Goal*: "…build on existing successes and establish specific strategies to engage with underserved communities to address issues of communication, education, transparency, trust, and access to quality products and services."
    - *Measures*: There are no concrete measures that can be immediately implemented for this area. Instead, several measures are proposed to evaluate the effectiveness of hypothetical strategies used to reach underserved communities:
        - Number of products and services implemented as a result of an "underserved strategy"
        - Number of taxpayers by underserved community that use new product or service
        - Level of satisfaction with new product or service
- Focus Area #6: Enterprise data management and advanced analytics

National Taxpayer Advocate, "Measuring the Taxpayer Experience – The IRS's Level of Service Measure Fails to Adequately Show the Experience of Taxpayers Seeking Assistance Over the Phone," updated February 6, 2023, https://www.taxpayeradvocate.irs.gov/news/ntablog-measuring-the-taxpayer-experience-the-irss-level-of-service-measure-fails-to-adequately-show-the-experience-of-taxpayers-seeking-assistance-over-the-phone-part-1-of-2/.

- *Goal*: "…develop a secure data management strategy that includes an agency-wide understanding of administrative data; the ability to integrate operational, employee, and customer feedback data; and analysis of the data to pinpoint specific improvements to reduce costs and improve the taxpayer experience."
- *Measures*:
  - Amount of electronic, paper, and other data assets used for anomaly detection, case selection, and other customer service initiatives
    - FY2019 baseline: 245,000 data elements captured in central data repository
    - Target: Increase percentage of data elements within centralized data repository by 5% by FY2023
  - Amount of taxpayer data available for downstream business processes in a machine-readable format
    - FY2019 baseline: 3,000 data tables available within the data repository for business analytics
    - Target: Increase percentage of data tables within the data repository by 10% by FY2023
  - Percent of individual taxpayers with repeat non-compliance two years after the initial tax year for filing, payment, or compliance

3.3 Other Relevant Program Performance Measures Reported Publicly

Beyond the TFA, the IRS calculates and publishes various other performance measures that are relevant to customer experience and program delivery. These measures are pulled from a wide range of internal reports[172] and databases, as well as customer experience surveys,[173] that the IRS manages. They are scattered across multiple public reports, with significant overlap across reports in the types of measures captured. These reports include (but are not limited to):

- *Congressional Justification (CJ):* Each year, the President's budget request is accompanied by CJs from every agency, which explain the goals and objectives of the forthcoming fiscal year. The IRS's CJ includes an "Annual Performance Plan" that includes several performance measures focused on customer experience and specifies targets for improving those measures.[174] The "Performance Validation and Verification

[172] For example, each operating division of the IRS conducts "Business Performance Reviews" (BPRs) which are "quarterly reviews conducted by the IRS for each business unit that review a variety of topics including organizational performance, key initiatives, risks, budget, staffing and other considerations as applicable." These reports include a range of performance goals, measures, and numeric targets. These reports are not made available to the public, but some measures have been pulled from them and published publicly in some reports from the Taxpayer Advocate Service and others. See: https://www.irs.gov/irm/part1/irm_01-005-001.

[173] Internal Revenue Service, "IRS Surveys," updated March 6, 2023, https://www.irs.gov/privacy-disclosure/irs-surveys.

[174] Internal Revenue Service, "Fiscal Year 2024 Congressional Justification and Annual Performance Report and Plan," https://home.treasury.gov/system/files/266/IRS-FY-2024-CJ.pdf.

Appendix" includes more detail on each measure's "definitions, data sources, data collection methodologies, assessments of reliability, and reporting frequency."[175]

- *IRS Data Book:* The IRS Data Book is released annually and "contains statistical tables and organizational information on a fiscal year basis."[176]
- *Taxpayer Advocate Service (TAS) Reports:* TAS is an independent organization within the IRS that offers online information and direct personal assistance to filers that need help resolving issues with their tax returns. TAS also publishes reports about systemic problems within the tax system and issues recommendations to lawmakers and the IRS. Several of their reports publish measures relevant to service delivery using data from a wide range of internal IRS reports and databases. One relevant report is TAS's Annual Report to Congress, although the specific measures covered tend to change from year to year as the "most serious problems" highlighted in that report can vary. TAS's Taxpayer Rights and Service Assessment is another specific document that includes relevant measures.[177]
- Other documents, including the IRS's Strategic Plan,[178] the IRS's instructions for the 1040 form (federal income tax returns), and more.

Most of the IRS's performance measures focus on taxpayer experience in general, rather than on the specific experiences of EITC and CTC claimants. Below is a non-exhaustive list of the types of customer experience and program delivery measures that are already published by the IRS:

- Tax filing
    - Total number of tax returns paper filed, e-filed, and e-filed through Free File consortium (TAS)[179]
    - Total number of EITC and CTC refunds issued (IRS Data Book Table 7)[180]
    - Estimated average taxpayer burden, for nonbusiness and business tax returns:[181]

[175] FY 2021 Treasury Performance Validation and Verification Appendix,https://home.treasury.gov/system/files/206/FY-2021-Treasury-Performance-Validation-and-Verification-Appendix.pdf.

[176] Broadly, there are more tables in the IRS Data Book reporting performance measures capturing compliance activities than tables reporting on customer service issues affecting individual tax filers (rather than businesses, trusts, tax-exempt organizations, etc.). There are 8 tables focusing on compliance and enforcement, making up about 20 total pages of the Data Book. In contrast, there are only 3 tables focusing on customer service – Table 9 through 11 – that only make up about 4 pages of the Data Book. This has historically been the case – see, for example: Nina E. Olson, "Some Reflections on the IRS Restructuring and Reform Act Twenty-Five Years Later," Pittsburgh Tax Review, Vol. 22, 2022, https://taxreview.law.pitt.edu/ojs/taxreview/article/view/174.

[177] Taxpayer Advocate Service, "Taxpayer Rights and Service Assessment: IRS Performance Measures and Data Relating to Taxpayer Rights and Service," Annual Report to Congress 2022, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_Pro_TPR-Assessment.pdf.

[178] Internal Revenue Service, Strategic Plan FY 2022-2026, https://www.irs.gov/about-irs/irs-strategic-plan/.

[179] Taxpayer Advocate Service, "Taxpayer Rights and Service Assessment: IRS Performance Measures and Data Relating to Taxpayer Rights and Service," Annual Report to Congress 2022, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_Pro_TPR-Assessment.pdf.

[180] IRS Data Book Table 7, https://www.irs.gov/statistics/returns-filed-taxes-collected-and-refunds-issued/.

[181] See page 107: https://www.irs.gov/pub/irs-pdf/i1040gi.pdf#page=107.

        - Average hours spent record-keeping
        - Average hours spent tax planning
        - Average hours spent completing and submitting forms
        - Total time spent
        - Average cost for preparing a return
    - Number of EITC tax returns and tax returns without EITC claims filed through paid tax preparers:[182]
        - Certified public accountants (CPAs)
        - Enrolled agents
        - Attorneys
        - Enrolled actuaries
        - Enrolled retirement plan agents (ERPAs)
        - Unenrolled preparers
- <u>Audit/compliance</u>
    - Total number and share of all math errors related to EITC and CTC issues (IRS Data Book Table 23)[183]
    - Audit rate for returns with EITC claims (IRS Data Book Table 20)[184]
    - For tax filers with incomes below $50,000, incomes between 50,000 and $10 million, and incomes above $10 million:[185]
        - Audit outcomes:
            - No-change rate (the share of audits that conclude with no change in taxes owed)
            - Agreed rate
            - Taxpayer non-response rate
        - Average days to audit completion
        - Average total exam time (hours) - Correspondence audits
        - Average total exam time (hours) - Field exams
        - Percent of all audits conducted via correspondence audits
- <u>Customer service: Phones</u>
    - Total calls:[186]

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[182] Taxpayer Advocate Service, "Taxpayers Are Harmed by the Absence of Minimum Competency Standards for Return Preparers," Annual Report to Congress 2022, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_08_RtnPrepOversight.pdf.

[183] Math error authority allows the IRS to make automatic adjustments to tax liabilities or refund amounts and provides limited opportunities for taxpayers to contest those adjustments. IRS Data Book Table 23, https://www.irs.gov/statistics/compliance-presence.

[184] IRS Data Book Table 20, https://www.irs.gov/statistics/compliance-presence.

[185] Taxpayer Advocate Service, "Taxpayer Rights and Service Assessment: IRS Performance Measures and Data Relating to Taxpayer Rights and Service," Annual Report to Congress 2022, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_Pro_TPR-Assessment.pdf.

[186] Taxpayer Advocate Service, "Taxpayers Continue to Experience Difficulties and Frustration Obtaining Telephone and Face-to-Face Assistance to Resolve Their Tax Issues and Questions," Annual Report to Congress 2022, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_04_Telephone.pdf.

        - Attempted
        - Answered
        - Answered by a live assistor
    - Call volumes for several of the most highly trafficked IRS telephone lines, including:[187]
        - Individual income tax
        - Refund hotline – automated only
        - Practitioner priority service
        - Etc.
    - Customer accuracy on tax law phone lines (i.e., the percentage of correct answers given by a live assistor on toll-free tax law inquiries).[188]
    - Customer accuracy on customer accounts phone lines (the percentage of correct answers given by a live assistor on Toll-free account inquiries).[189]
- Customer service: In-person/direct assistance
    - Number and share of Taxpayer Advocate Service (TAS) cases received where the EITC was the primary issue (IRS Data Book Table 11)[190]
    - Taxpayer Assistance Centers (TACs)[191]
        - Number of TACs ("Walk-In")
        - Number of face-to-face TAC contacts
        - Number of calls to the TAC appointment line that did not result in a scheduled appointment
    - VITA/TCE (IRS Data Book Table 9)
        - Total number of returns prepared through VITA/TCE
        - Total number of VITA/TCE volunteers
        - Total number of VITA/TCE sites
        - Accuracy rate of VITA/TCE sites
- Customer service: Online and digital services
    - IRS website statistics
        - Total number of page views, downloads, and visits
        - Total number and breakdown of different types of online transactions
    - Number of transactions for various IRS digital applications, including:[192]

[187] *Ibid*.

[188] Internal Revenue Service, Congressional Budget Justification & Annual Performance Report and Plan FY 2023, https://www.irs.gov/pub/irs-pdf/p4450.pdf.

[189] *Ibid*.

[190] IRS Data Book Table 11, https://www.irs.gov/statistics/service-to-taxpayers.

[191] Taxpayer Advocate Service, "Taxpayer Rights and Service Assessment: IRS Performance Measures and Data Relating to Taxpayer Rights and Service," Annual Report to Congress 2022, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_Pro_TPR-Assessment.pdf.

[192] Taxpayer Advocate Service, "Inadequate Digital Services Impede Efficient Case Resolution and Force Millions of Taxpayers to Call or Send Correspondence to the IRS," Annual Report to Congress 2022, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_05_Online-Access.pdf.

        - Online account
        - Where's my refund?
        - Where's my amended return?
        - Online payment agreements
        - ID verify
- Customer service: Correspondence
    - For individual and business correspondence: average cycle time (number of days to process correspondence)

As TAS has pointed out, many of the measures detailed above, such as "no-change rates" for audits and "cycle time" for processing correspondence, are primarily focused on the IRS's "efficiency" and "productivity" rather than on the quality of taxpayers' interactions with the IRS.[193] TAS has called for the "development of new taxpayer-centric metrics" as part of the IRS's work to implement the Taxpayer First Act.

3.4 Performance Measures Monitoring Implementation of the Inflation Reduction Act

The Inflation Reduction Act (IRA) of 2022 included an $80 billion investment in the IRS over ten years.[194] About half of that funding will be spent on tax enforcement activities, including hiring more revenue agents to increase audit rates on the highest-income tax filers and large corporations. However, about 10 percent of the funding will be dedicated to improving taxpayer service (including phone service and in-person assistance) and business systems modernization (including digital capabilities) – two areas with clear implications for EITC and CTC access, for all the reasons described in sections 3.2-3.3 of this report.

In April 2023, the IRS released its Strategic Operating Plan (SOP)[195] for implementation of the IRA. The SOP includes five "transformation objectives" that will guide the IRS's efforts to improve taxpayer service and increase compliance among the wealthiest tax filers and businesses:

- *Objective 1*: "Dramatically improve services to help taxpayers meet their obligations and receive the tax incentives for which they are eligible."
- *Objective 2*: "Quickly resolve taxpayer issues when they arise."

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[193] *Ibid*. See also: Taxpayer Advocate Service, "IRS Performance Measures Provide Incentives that May Undermine the IRS Mission," 2010 Annual Report to Congress, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/MSP3_IRS-Measures.pdf.

[194] This funding was cut by $21.39 billion under the deal to avoid US default by suspending the debt limit. The Biden administration has signaled that they will continue to spend the IRA money as they had been originally planning before the deal – however, the cuts mean that the funding will run out sooner (likely partway through 2030 rather than at the end of 2031). See: Chye-Ching Huang, Thalia Spinrad, and Kathleen Bryant, "Debt Ceiling Deal's Cuts to IRS Funding Bring the IRS Funding Cliff Closer: Appropriators Should Not Compound Harm," The Tax Law Center at NYU Law, June 28, 2023, https://www.law.nyu.edu/sites/default/files/Debt%20Ceiling%20Deal%E2%80%99s%20Cuts%20to%20IRS%20Funding%20Bring%20the%20IRS%20Funding%20Cliff%20Closer-%20Appropriators%20Should%20Not%20Compound%20Harm.pdf.

[195] Internal Revenue Service, "Inflation Reduction Act Strategic Operating Plan FY2023 – 2031," April 6th, 2023, https://www.irs.gov/about-irs/irs-inflation-reduction-act-strategic-operating-plan.

- *Objective 3*: "Focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance to address the tax gap."
- *Objective 4*: "Deliver cutting-edge technology, data, and analytics to operate more effectively."
- *Objective 5*: "Attract, retain, and empower a highly skilled, diverse workforce and develop a culture that is better equipped to deliver results for taxpayers."

Within these five objectives, the SOP details 42 different "initiatives" and many more specific "projects" that the IRS is planning to pursue. Many of these initiatives and projects are directly related to increasing refundable tax credit uptake and improving program delivery, while others have implications for program access even if that connection is not explicitly made in the SOP.[196]

For example, Initiative 1.9 is clearly relevant, and explicitly states that the IRS intends to "help taxpayers understand and claim appropriate credits and deductions." This initiative includes refundable tax credits (and the EITC is specifically mentioned), as well as a range of other credits and deductions. The IRS mentions several "key projects" under this initiative, including efforts to (1) "review and revise policies and processes to make the process for taxpayers to claim credits and deductions more efficient;" (2) "incorporate a 'credits and deductions' search function in Online Accounts and improve relevant content on IRS.gov; (3) "enhance and cultivate community-based relationships and improve direct outreach to taxpayers, including small businesses," and more.

Other initiatives may not directly reference EITC and CTC uptake but would have implications for program access. For example, Initiative 1.4 states that the IRS will "improve self-service options" by improving the agency's online account functionality, which would make it easier for EITC and CTC claimants under audit to communicate with the IRS, submit documents digitally, and monitor the status of their audit. Such changes could increase the likelihood that EITC and CTC filers are able to successfully defend their claims during IRS audits.

In her directive requiring the IRS to develop an operational plan for IRA implementation, Treasury Secretary Yellen stated that the plan should include "metrics for areas of focus and targets over the course of the coming years that the agency will strive to achieve."[197] The SOP does not include specific performance metrics, and states that the agency "will define detailed performance metrics for initiatives" at a later stage of implementation. However, the SOP does include examples of some high-level "indicators" that may be used to quantify the extent to which the agency is successful at fulfilling each of the SOP's five objectives.

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[196] The Center for Taxpayer Rights collaborated with the Low Income Taxpayer Clinic (LITC) community to submit a comment to IRS Commissioner Werfel on the SOP, and offered recommendations on how the agency can use IRA resources to improve taxpayer experience. See: Center for Taxpayer Rights, Letter Re: Internal Revenue Service 2023-2031 Strategic Operating Plan, June 21, 2023.

[197] Janet Yellen, Memorandum for Commissioner Rettig, IRS Operational Plan, August 17, 2022, https://www.taxcontroversy360.com/wp-content/uploads/2022/08/2022-27034_TNT_Docs_treasury.pdf.

Some language in the SOP suggests that the IRS may use EITC and CTC participation rates as broad indicators for evaluating the success of IRA implementation. For example, one indicator that is named for Objective 1 is a "decreased difference between credits and deductions available versus those claimed." And one indicator for Objective 2 is an "increased share of credits and deductions claimed by those who are eligible."

Other possible indicators mentioned in the SOP are not explicitly tied to EITC or CTC uptake but could theoretically translate into performance metrics that evaluate the state of EITC and CTC access and program delivery. For example, proposed indicators including "[phone, digital, and other] service levels," "[the number of] taxpayer service options and increased access to, and accessibility of, those options," "notice response rate[s]," and others could be translated into performance measures that capture the experiences of EITC and CTC claimants specifically, rather than tax filers as a whole.

4 Overview of Goals and Types of Measures for an Access-Oriented Performance Measurement Framework

At a high level, the goals of developing a framework and reporting regime for access-oriented performance measures would be to drive tax system resources and attention towards tracking, understanding, and improving access to refundable tax credits, and as a presumed result, increase program participation.

Performance measures would, ideally, help achieve these goals by:

- **Driving the development of a robust evidence base on refundable tax credit eligibility and opportunities for boosting program uptake.** The background sections of this paper show that there is considerable uncertainty around the total size and demographic composition of the EITC and CTC participation gaps. More evidence is also needed on the most cost-effective outreach and enrollment strategies for boosting uptake, and on which elements of the tax filing process and IRS procedures for processing tax returns and conducting audits are the greatest barriers to access.
- **Forming a basis for resource allocation and administrative decisions.** Performance measures could make it easier for the IRS to identify and prioritize the highest-impact interventions for increasing program participation. For example, performance measures could provide insight into whether it is broadly more important to invest in outreach and enrollment interventions, interventions simplifying the tax filing process, or improvements of downstream systems for tax return processing and compliance. Within those categories, performance measures could help policymakers prioritize the specific strategies with the highest and most cost-effective impact on program access.
- **Driving accountability, oversight, and policy change.** Publishing performance measures could allow lawmakers, advocates, and relevant oversight bodies to hold the IRS accountable for taking administrative actions that increase EITC and CTC program access. They may also motivate lawmakers to enact statutory changes to refundable tax credits that increase program access if performance measures indicate that certain design and delivery elements make the EITC and CTC unnecessarily difficult for eligible tax filers to claim. However, evidence from the PIIA regime suggests that access-oriented

performance measures may have a limited effect on spurring legislative changes that are responsive to those measures – for a more extended discussion, see section 9 of this report.

In short, the goal of establishing an access-oriented performance measurement framework would not be measurement for measurement's sake. Well-designed performance measures would allow the IRS, lawmakers, advocates, and other stakeholders to better understand the true size and composition of the EITC and CTC participation gaps and help them to identify and implement the administrative and legislative changes to refundable tax credit design and delivery that are most needed to boost program uptake.

Sections 5 through 8 of this report discuss in more detail four broad categories of performance measures that the Administration could estimate and publish:

1. **Improved descriptive statistics for program participation.** These measures would include more robust estimates on the EITC and CTC participation gap by number of filers and by dollars claimed, including disaggregation by key demographic characteristics. The IRS should also be more transparent about how it estimates the total population of households eligible for the EITC and CTC, which is a difficult population to measure because it includes "non-filer" households that are not captured in tax return data and other IRS administrative datasets.
    a. *Strengths:* The size and composition of the eligible non-claimant population are easily understandable summary statistics that can guide interventions.
    b. *Limitations:* Improvements in topline program participation rates may not necessarily translate into meaningful improvements in financial security and other outcomes for certain groups of tax filers. For example, significantly boosting the EITC's program participation rate by increasing the number of claimants eligible for low benefit amounts (i.e. those in the very beginning of the credit's phase-in region or the very end of the credit's phase-out region) may not significantly improve some of those claimants' circumstances – and could even be counterproductive for some filers if the costs of filing a tax return exceeded the tax benefits received.
2. **Measuring outcomes.** These measures would aim to address the limitations of the descriptive statistics referenced above and capture the extent to which increased uptake of the EITC and CTC is likely to translate into differential health, educational, financial, and other outcomes for various types of households.
    a. *Strengths:* Outcome-based measures would theoretically help the IRS drive resources, attention, and access towards filers for whom the benefits of receiving the EITC and CTC would be greatest.
    b. *Limitations:* Determining which tax filers would likely benefit most from accessing the EITC and CTC across a wide range of possible outcomes (and determining how to use this information to prioritize investments in outreach and enrollment strategies) would require more precise estimates of these outcomes. This will require a substantial improvement in the evidence base.

3. **Measures of "return-on-investment" (ROI) for outreach and enrollment strategies.** ROI refers to the number or dollar amounts of EITC and CTC claims generated from different interventions, relative to the costs of implementing those interventions.
    a. *Strengths:* These measures would allow the IRS to build the evidence base on "what works" for encouraging eligible households to claim the EITC and CTC and invest in strategies that have the highest impact.
    b. *Limitations:* There are some implementation challenges in the immediate term for having the IRS estimate ROI for outreach and enrollment interventions. Moreover, ROI should not be the sole criterion for determining whether to invest in certain strategies, as boosting uptake among some hard-to-reach communities could require more resource-intensive approaches. And lastly, while this is perhaps a limitation of outreach and enrollment interventions broadly rather than the design of ROI measures, it may be the case that even the most effective and cost-efficient strategies can only capture a very small share of the total eligible non-claimant population. This would indicate that systemwide changes to tax filing and IRS return processing procedures are needed to achieve significant gains in program uptake.
4. **Program delivery measures.** The purpose of these performance measures would be to monitor and improve, for each stage of the tax return submission process, those areas where eligible EITC and CTC claimants face barriers and fall out of the system. These performance measures would seek to capture key aspects of the tax filing, return processing, audit, and customer services practices that impact program access for EITC and CTC claimants.
    a. *Strengths:* These measures would help the IRS identify specific components of the tax filing process and procedures for tax return processing (including audits) that are most exclusionary and could therefore most directly spur administrative changes at the agency.
    b. *Limitations:* It may take time to understand which aspects of program delivery matter most for credit access, and so this list of measures may need to be especially flexible to new research to "measure what matters." The IRS may also face statutory limitations – including the policy design and delivery mechanisms for the EITC and CTC specified in the tax code – that prevent them from taking certain administrative actions that would improve program delivery.

Given the strengths and limitations of each category described above, these types of performance measures may be complementary and should be pursued in tandem. These measures could be reported annually or periodically by the IRS, either folded into existing documents such as the agency's budget documents or Treasury's Annual Financial Report or published as a standalone report on EITC and CTC program access.

Finally, in **section 9**, we discuss options for implementing an access-oriented performance measurement framework, either through legislation, executive action, or a voluntary IRS initiative, as well as some overall considerations and limitations of such reporting regimes.

5 Improving Descriptive Statistics for Program Participation

Program Participation and Dollar Claim Figures

As explained in sections 1.2-1.5 and section 2 of this report, the IRS currently publishes very limited information on the population of eligible households that do not claim the EITC and/or CTC each year. The agency only publishes federal and state program participation rates for the EITC and does not publish *any* program participation rates for the CTC. Furthermore, the IRS only provides a general description of the demographic characteristics that are associated with lower EITC take-up and does not regularly publish specific disaggregated figures for the EITC and CTC participation gaps.

For both the EITC and the CTC, the IRS and Census Bureau could publish the total number of households that appear to be eligible for each tax credit, the total number of households that claimed them on tax returns, and the resulting program participation rates under the IRS-Census data match. For the CTC, the IRS could publish these figures for eligible children in addition to eligible households. And the agency could also publish the total dollar amount of EITC and CTC benefits for which households are eligible, the dollar amounts that were ultimately claimed on tax returns, and the resulting dollar claim rates.

The IRS and Census Bureau should be transparent about the uncertainty that is involved in computing the figures described above. As noted in section 2.2.2, independent estimates for the total population eligible for the CTC in 2021 ranged from about 66.3 million children to 70.1 million children. Furthermore, estimates for the population that missed Advance CTC payments ranged very roughly from 4.3 million children to 8.1 million children. Some of these differences in estimates can likely be explained by differences in the microdata used, but there are also likely real methodological differences in the assumptions used to estimate eligibility for tax benefits.

Each year, the IRS and Census Bureau could publish a detailed explanation of their methodology for the IRS-Census data matching process.[198] This explanation would ideally discuss the limitations of both the survey data and tax data, and explain the assumptions involved with imputing tax filing units and estimating eligibility.

Specifically, the IRS and Census Bureau should explain their process for assigning children to tax filing units and discuss how this methodological challenge affects topline program participation and dollar claim rates. As discussed in section 1.2, there are several reasons that there may be discrepancies between how children are assigned to tax filing units imputed from survey data and how children are actually claimed on tax returns. Children may be claimed properly by someone other than the person assumed in the IRS and Census Bureau's imputations because of limitations in the underlying survey data, or alternatively, families may have misunderstood the "qualifying child" rules applying to tax benefits and claimed children on their tax returns in error.

[198] As discussed above, previous IRS Working Papers shed some light, but it is unclear what the IRS's current methodology looks like. See: Plueger, *supra* note 14; Jones, *supra* note 14.

It is unclear how the Census Bureau and IRS currently address this issue when calculating the EITC's program participation rate, but depending on their methodological choices, child-claiming issues could be responsible for a potentially sizeable share of the EITC participation gap. For example, if Tax Filer A is modeled as eligible for the EITC but tacitly allows Tax Filer B to claim their child instead, Tax Filer A could increase the EITC's incomplete take-up rate and Tax Filer B could increase the EITC's improper payment rate.[199] This scenario could be relatively common and have a significant impact on EITC program participation rates. As Code for America has pointed out, roughly 3.2 million EITC-eligible households with children do not claim the credit each year while an estimated 2.5 million households claim children in error.[200]

If there are different assumptions that can plausibly be made to impute tax filing units, and these different assumptions produce significant variation in topline estimates, the IRS and Census Bureau should consider calculating program participation and dollar claim rates under multiple specifications and presenting figures as ranges.

Likewise, the IRS and Census should employ best practices to address income underreporting in survey data when modeling eligibility for the EITC, such as by using income data from tax returns rather than survey data when available, exploring using income data from information returns for non-filers, and making other needed adjustments.

The measurement challenges described above may make it challenging to produce reliable disaggregated estimates of the EITC and CTC participation gaps. But to the extent that methodological and data limitations allow, given previous research that suggests certain groups are more likely to miss out on tax benefits, the IRS and Census Bureau should also publish disaggregated figures based on the following characteristics:

- Non-filers vs. filers
- Income
- Benefit amount / Benefit phase:
    - Phase-in benefit amount:
        - Less than $100
        - $100-$500
        - $500-$1,000
        - $1,000+
    - Plateau (maximum benefit)
    - Phase-out benefit amount:

[199] Goldin, *supra* note 8.

[200] Code for America, "Annual Report to Congress on the Refundable Credits Gap: Scope and Draft Analysis Plan," March 2023, https://files.codeforamerica.org/2023/03/22145533/annual-report-to-congress-on-the-refundable-credits-coverage-gap-getctc-2022-research.pdf.

        - Less than $100
        - $100-$500
        - $500-$1,000
        - $1,000+
- Filing status / Gender:
    - Single
        - Male
        - Female
    - Head of household
        - Male
        - Female
    - Married filing jointly
- Number of qualifying children:
    - Zero (for EITC only)
    - One
    - Two
    - Three or more
- Race and Ethnicity:
    - Black
    - White
    - Hispanic
    - Asian American and Pacific Islander
    - Native American and Alaska Native
- Age of tax filer:
    - Under 25
    - 25-34
    - 35-44
    - 45-54
    - 55-64
    - 65+
- Relationship between tax filer and children:

- Parent/child
- Grandparent/grandchild
- Others

- Immigration status (to the extent possible)[201]
- Region:
  - *East Central*: Ohio, Indiana, Illinois, Missouri, West Virginia, Kentucky, Tennessee, Arkansas
  - *East Coast*: New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, North Carolina
  - *New England*: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut
  - *North Central*: Michigan, Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Montana, Idaho
  - *Southeast*: South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana
  - *Southwest*: Nebraska, Kansas, Oklahoma, Texas, Colorado, New Mexico, Arizona, Utah
  - *West*: California, Washington, Oregon, Idaho, Nevada, Alaska, Hawaii
- Employment type:
  - Ordinary income (wage and salary) only
  - Self-employment income only
  - Both ordinary income and self-employment income
- Industry of employment
- Other tax filing characteristics:
  - Unexpected claiming behavior (for example, tax filers that have claimed only the childless EITC when, according to the survey data, they appear to have eligible children in their household)
  - Tax filing history
    - Never filed a tax return before

[201] The Census Bureau has data on foreign-born individuals broadly but does not currently have estimates available for undocumented immigrants or any other specific legal status category. See: Census Bureau, "About the Foreign Born Population," last updated December 16, 2021, https://www.census.gov/topics/population/foreign-born/about.html. However, researchers have developed various methodological approaches to assigning legal status to the foreign-born population in survey data. See, for example: Julia Heinzel, Rebecca Heller, and Natalie Tawil, "Estimating the Legal Status of Foreign-Born People," Congressional Budget Office, March 2021, https://www.cbo.gov/system/files/2021-03/57022-Legal-Status.pdf.

        - Filed a tax return in the prior tax year
    - Audit history
        - Audited in the previous year
        - Audited in the last 5 years

The characteristics above are generally captured in the survey data and tax data that the IRS already uses to compute the EITC's program participation rate, so it likely would not take significant resources or effort for the IRS to conduct these additional calculations and publish the results.

Publishing the number of tax filers in the EITC and CTC participation gaps that fall into each demographic group – and the amount of unclaimed EITC and CTC dollars attributable to each group – would allow the IRS and external stakeholders to understand each group's *share of the total* EITC and CTC participation gaps as well as *within-group* program participation and dollar claim rates. Both types of measures are complementary, and both can be used to inform outreach and enrollment efforts. It would be important for the IRS and advocates to understand, for example, whether elderly people represent a relatively small share of the total population missing out on the CTC but nevertheless have a significantly lower take-up rate than younger people with children eligible for the CTC.

The IRS and Census Bureau could also publish, again to the extent possible, cross-tabulations to develop a more fine-grained understanding of the specific household types that are most likely to miss out on the EITC and CTC. For example, previous research has found that households without qualifying children and with incomes in the phase-in region of the EITC have take-up rates below 50%.[202]

To avoid creating "false precision" and steering outreach and enrollment efforts in the wrong direction, the IRS and Census Bureau should be very clear in their reporting about the level of uncertainty involved in producing disaggregated estimates. Particular caution should be exercised when publishing geographic estimates. Throughout 2021, many organizations used the Treasury Department's zip code level data on Advance CTC participation to target their outreach efforts, even though that data had not even been normalized for the overall zip code population and ultimately did not identify any significant geographic patterns.[203] As Code for America has pointed out, hyper-local geographic analysis and other types of disaggregation can potentially serve as a "distraction" if the underlying results are inconclusive or unreliable.

Strengths and limitations

Simple, easy-to-understand topline dollar and filer participation rates can provide a key focal point for driving accountability and focus.

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[202] See Table 16: Plueger, *supra* note 14. See also, figure 3: Jones, *supra* note 14.

[203] Gabriel Zucker and Maximilian Hell, "Getting the Child Tax Credit to Families With Low or No Incomes Means Using the Right Data," Code for America, September 21, 2021, https://codeforamerica.org/news/getting-the-child-tax-credit-to-families-with-low-or-no-incomes-means-using-the-right-data/.

The simplicity of these metrics, however, is also a drawback. For example, for some households, increased program uptake could even potentially result in a *net loss* of financial resources, if the costs of filing a tax return and claiming the EITC and CTC exceed the benefit amounts received. Some tax filers may ultimately pay tax preparation fees that are higher than the EITC and CTC amounts for which they are eligible, and others may find that they owe back taxes, under-withholding penalties, or other liabilities when they file a tax return. Consequently, aiming for a universal or near-universal program participation rate may not necessarily be optimal for some eligible households.

Furthermore, as sections 1.2 and 2.2.2 emphasize, topline participation rates themselves are quite sensitive to underlying estimates of how many filers are "truly" eligible for the EITC and CTC. For these reasons, we emphasize the need for additional transparency about the methodology used to calculate these topline estimates, and to supplement them with other categories of performance measures.

6 Measuring Outcomes

Interest in driving EITC and CTC program participation rates upwards is soundly based on strong evidence using multiple methodologies that these credits ultimately improve outcomes across measures including health, education, and lifetime earnings.[204] However, as discussed in section 5 of this report, it is unlikely that improvements in topline program participation or dollar claim rates will translate into improved outcomes equally for all tax filers. As noted above, tax preparation costs must be considered, and financial and other outcomes are likely to be better for households whose credit amounts, net of access costs, are higher, all other factors equal.

Furthermore, there is already some compelling evidence that the EITC and CTC are more likely to substantially improve the well-being of certain groups of families and children. For instance, the evidence on improved health, education, and lifetime outcomes for children is strongest for children in the poorest families, thus access improvements for the lowest-income families are likely to translate into the strongest improvements in wellbeing.[205] Another study suggests that EITC and CTC refund amounts can be particularly significant in increasing college enrollment rates for families with a senior in high school, suggesting that improving access among some highly targeted populations at highly salient times could deliver important educational benefits.[206]

[204] See, for example: Arloc Sherman and Tazra Mitchell, "Economic Security Programs Help Low-Income Children Succeed Over Long Term, Many Studies Find," Center on Budget and Policy Priorities, July 17, 2017, https://www.cbpp.org/research/poverty-and-inequality/economic-security-programs-help-low-income-children-succeed-over; National Academy of Science, "A Roadmap to Reducing Child Poverty," 2019, https://nap.nationalacademies.org/catalog/25246/a-roadmap-to-reducing-child-poverty.

[205] For example, see: Randall K. Q. Akee, William E. Copeland, Gordon Keeler, Adrian Angold, and E. Jane Costello, "Parents' Incomes and Children's Outcomes: A Quasi-experiment Using Transfer Payments from Casino Profits," American Economic Journal: Applied Economics, Vol. 2 No. 1, January 2010, https://www.aeaweb.org/articles?id=10.1257/app.2.1.86.

[206] Dayanand Manoli & Nicholas Turner, "Cash-on-Hand & College Enrollment: Evidence from Population Tax Data and Policy Nonlinearities," NBER Working Paper 19836, January 2014, https://www.nber.org/papers/w19836.

For these reasons, *how* the Administration chooses to increase measures like the topline program participation rate may be just as important for household outcomes as the amount by which those measures improve over time. For example, imagine if the IRS were to substantially increase the EITC's topline program participation rate by boosting uptake among claimants that fall in the very end of the credit's "phase-out" region, have *relatively* higher incomes, and are only eligible for very small benefit amounts. Such nominal changes in program participation rates may not necessarily translate into significantly improved health, educational, and other outcomes for those households, even if they received financial benefits net of filing costs.

A performance measurement framework could try to drive resources, attention, and access towards filers for whom the benefits of receiving the EITC and CTC – not just in terms of dollars claimed, but in terms of the magnitude of improvements to their well-being – would be the greatest. This is of course challenging, primarily because the evidence base does not yet exist to produce fine-grained measures capturing the extent to which a dollar of EITC and CTC benefits may translate into different types or levels of wellbeing outcomes – such as health, educational, or other benefits – for certain groups of tax filers, both immediately and in the long-term.

Nevertheless, some novel research and analysis serve as instructive examples of how the IRS could potentially develop such measures and use them to inform decisions around resource allocation within the tax system. For example, Nathaniel Hendren and Ben Sprung-Keyser have developed a framework for estimating the monetary value of "social benefits" – including reductions in infant mortality, increases in earnings or labor supply, and other positive outcomes – that were produced by 133 historical changes in social policy over the last 50 years.[207] And the IRS is proposing using neighborhood-level data on health, housing, and other factors to identify the disadvantaged communities that will be prioritized for allocations of the environmental justice "bonus" tax credits under the Inflation Reduction Act. On a similar token, the IRS could attempt to build evidence on which groups of tax filers would benefit most from increased EITC and CTC uptake across a range of outcomes and consider that evidence when allocating resources towards targeted outreach activities or access-oriented programmatic reforms.

Further developing the evidence base around how dollars of additional tax credits translate into wellbeing outcomes for different groups of tax filers will take research resources and time. However, this research will be useful not only for informing outreach efforts and administrative improvements to boost credit access, but also to inform decisions around potential statutory changes to credit eligibility. Indeed, much of the understanding that we already have about differential outcomes across tax filers (as noted above) flows from IRS-supported research.

Furthermore, fine-grained estimates capturing how dollars of refundable tax credit uptake translate into lifetime outcomes may not be necessary or even the best way to ensure that these outcomes are considered as the IRS allocates time and resources towards outreach efforts and programmatic reforms. For example, a decision-making framework that simply prompts program

[207] Nathaniel Hendren and Ben Sprung-Keyser, "A Unified Welfare Analysis of Government Policies," The Quarterly Journal of Economics, Vol. 135, No. 3, March 5, 2020, https://academic.oup.com/qje/article/135/3/1209/5781614.

administrators to consider and report on their efforts to reach the lowest-income families or other communities that may benefit most from improved access could be a useful step.

To be clear, we do not intend to imply that it is *unimportant* for the IRS to increase program participation and access for certain groups of households, such as those eligible for only small benefit amounts. Even EITC and CTC benefits of $100 or less can go a long way to help families living in poverty make ends meet. We are simply proposing that the IRS dedicate time and financial resources to support research that will advance a better understanding of which households may receive *outsized* benefits from improved program uptake, so that the IRS, policymakers, and external stakeholders can determine whether it makes sense to prioritize certain types of targeted outreach campaigns (for example, perhaps those aimed at the lowest income or housing-insecure families), program delivery improvements, or even statutory changes to eligibility rules accordingly.

7 Measuring "ROI" for Outreach and Enrollment Efforts

Section 1.4 of this report describes many reasons that some eligible tax non-filers do not claim tax benefits. There is some evidence about effective strategies for boosting program participation. For example, research indicates that targeted outreach campaigns, combined with interventions or services simplifying the tax filing process, can increase uptake of refundable tax credits among both non-filers and tax filers.

However, there is still much that is unknown about the effectiveness and cost efficiency of specific outreach and enrollment strategies. This means that beyond some broad general findings, it is very difficult for policymakers to confidently prioritize resources towards interventions that are likely to make the largest difference, and be the most cost-effective, in boosting tax credit uptake.

As explained in section 2.2.3, Code for America estimated the number of simplified tax returns (via GetCTC) generated from a wide range of outreach initiatives by state and local governments, nonprofits, and other stakeholders in 2021. There was clear evidence that certain campaigns, including those conducted by state and local benefits agencies, were both cost-efficient and effective at generating returns. But the evidence on other types of campaigns was more mixed.

Code for America's estimates of simplified tax returns generated from GetCTC outreach campaigns in 2021 are a valuable contribution to the evidence base on refundable tax credit uptake, but their findings may not be generalizable beyond the years and populations targeted, and may warrant repetition in future years.[208] Specifically, these campaigns targeted a small group of non-filers that were likely among the most difficult to reach, because many low-income

[208] See Code for America, *supra* note 131: "in future years, analysis of the type included in this report should be done by Treasury or the IRS, using IRS data that accommodates all returns, regardless of the method used to file them."

households eligible to use the GetCTC tool[209] were already receiving automatic payments of the monthly CTC after previously using the EIPs portal in 2020 to submit simplified tax returns. Still, more households eligible to use GetCTC were likely reached by the early round of outreach letters from the IRS and SSA that linked to the IRS's original non-filer tool, rather than the GetCTC tool.[210] The IRS and SSA did not publicly report the exact number of simplified returns generated from those letters, but Code for America's rough estimates suggest that these letters may have captured a significant share of eligible households before the rest of the studied outreach campaigns were launched. On the other hand, unless the ARP's CTC expansion is re-instated, there will be no simplified tax filing software like GetCTC available in future years.[211] Consequently, all types of outreach efforts are likely to be less effective going forward than they were in 2021 (given the importance of simplified filing at reaching those who do not traditionally file tax returns – for more on this, see section 8.4).

While the evidence base on the effectiveness of different types of interventions to improve tax credit uptake has increased in recent years, this evidence base will need to be developed substantially to drive more sound resource-allocation and intervention decisions. For that reason, in future years, the IRS and Treasury should (1) continue to conduct the types of direct outreach that have a track record of success, including using data from information returns to send outreach letters to potentially eligible households (as was done for EIPs and the Advance CTC) and sending CP09/CP27 mailers to potentially eligible tax filers that did not claim the EITC on their tax returns; (2) estimate the "Return on Investment" (ROI) for those direct outreach efforts – or the number of tax returns with EITC and CTC claims, dollar amounts of EITC and CTC claims, and total refund dollars generated relative to the costs of conducting those efforts; and (3) work with states, localities, community-based organizations, and other stakeholders to estimate ROI for their outreach interventions and, in turn, build a stronger evidence base on how to increase refundable tax credit participation.[212]

Strengths and limitations

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[209] As explained in section 2.2.1, households could only use GetCTC to claim EIPs and the Advance CTC if they had incomes below the federal tax filing threshold – those with incomes above these thresholds were required to submit a full tax return. Therefore, GetCTC outreach campaigns were aimed at those with very low incomes who are not required to file tax returns, or "non-filers" – and as explained above, many of those households were already captured by the IRS's initial "non-filer tool" for claiming EIPs.

[210] See section 2.2.3 of this report for a discussion of these letters.

[211] The IRS's forthcoming pilot for a direct e-filing program in the 2024 filing season (described in more detail later in this section) may be helpful at reaching those who do not typically file tax returns. This tool will not include "pre-population" of income and other data and thus will require tax filers to report their own incomes, so it may have less of an impact on EITC and CTC program participation among non-filers than simplified filing tools with such features. See section 8.4 for more information on the importance of simplified filing at reaching those who do not typically file tax returns.

[212] For example, Code for America's "National Outreach Campaign for Tax Benefits" played a critical role in coordinating with various government and non-profit stakeholders, providing them with technology (unique QR codes) to estimate the number of simplified tax returns generated by each campaign and collating the results in a detailed, public report. These types of convening efforts and analysis should have a permanent home at the IRS, even though the Advance CTC and other elements of the ARP have expired.

A stronger evidence base on what types of outreach and enrollment campaigns effectively boost EITC and CTC uptake will help direct IRS and civil society resources towards the highest-impact interventions.

However, in the immediate term, there may be some implementation challenges for having the IRS develop certain types of ROI estimates for various outreach and enrollment strategies. As described in section 2.2.3, Code for America was able to measure the effectiveness of Advance CTC outreach efforts by creating a unique URL for each campaign and then using GetCTC's internal user data to estimate the number of users that arrived at the website using each link. But because GetCTC and the IRS's non-filer tool for claiming EIPs are no longer operational, and because the IRS does not currently run its own direct electronic tax filing system, the IRS lacks immediate access to the type of back-end user data that Code for America used to generate its ROI estimates.

Given that the IRS does not currently manage its own tax filing software or non-filer tool and conducts very little direct outreach to households potentially eligible for the EITC and CTC (beyond sending CP09/CP27 letters), the IRS would need to play a much bigger role in coordinating with external stakeholders to generate in-house ROI estimates for outreach and enrollment campaigns. For example, the IRS could help those conducting EITC and CTC outreach – i.e., nonprofits, state and local governments, and other stakeholders – to (1) set up unique URLs for campaigns linking to virtual VITA options like Code for America's GetYourRefund tool or Free File, and then (2) partner with Code for America and Free File private providers to trace how various users arrived at each tool. The IRS could also pursue other approaches to measuring ROI beyond generating unique URLs.

The IRS's recent announcement of a pilot government-run electronic tax filing system for the 2024 tax season, presents an important opportunity for the IRS to conduct more direct outreach and estimate ROI for outreach and enrollment campaigns linking to the agency's new software.[213] The Inflation Reduction Act included $15 million for the IRS to study the costs and feasibility of creating a direct e-file program. During rollout of this new initiative, the IRS should (1) invest significant resources in direct outreach to raise awareness about this tool, especially among low-income households potentially eligible for the EITC and CTC, and (2) take advantage of user data from this new system to estimate ROI for various outreach interventions pursued by both the IRS and external stakeholders.

More broadly, one limitation of ROI estimates is that certain interventions that appear to have relatively low ROI (in terms of tax returns or EITC/CTC claims generated by outreach and enrollment interventions relative to costs) may nevertheless be worth pursuing if they raise uptake among particularly hard-to-reach communities. Some families and children that fall into the EITC and CTC participation gaps may require more resource-intensive approaches to outreach and enrollment to meaningfully increase program access. For example, researchers at the Urban Institute emphasized the importance of "dedicating resources to train trusted

[213] Internal Revenue Service, "IRS submits Direct File report to Congress; Treasury Department directs pilot to evaluate key issues," May 16, 2023, https://www.irs.gov/newsroom/irs-submits-direct-file-report-to-congress-treasury-department-directs-pilot-to-evaluate-key-issues.

messengers" to reach immigrant communities.[214] Organizing such trainings, especially if they involve "coalitions of government officials and research, law, and advocacy organizations," may be more costly and time-consuming than lower-touch interventions like distributing fliers or sending text messages.[215] But as the Urban Institute points out, these types of interventions may be necessary in order to reach certain groups of people that are missing out on tax benefits. For these reasons, while ROI measures can be important to help guide the IRS and external stakeholders towards more effective investments in outreach and enrollment strategies, these measures should not necessarily be the sole consideration when deciding whether to invest in certain approaches.

After extensive trial and error with various outreach and enrollment interventions it may be the case that even the most cost-efficient and effective strategies available to the IRS under current law can only drive a very small share of EITC and CTC claims relative to the size of total program participation gaps.[216] This would indicate that larger systemwide changes may be needed to meaningfully increase program access and uptake.

8 Access-Oriented Performance Measures for Program Delivery

It is important for policymakers to understand the barriers to accessing the EITC and CTC at each stage of the process of filing tax returns and claiming tax benefits. As described in section 1.4.1, there are many ways that tax returns are filed (and in turn, that EITC and CTC claims are submitted to the IRS): through enrolled paid preparers like CPAs and tax lawyers, unenrolled paid preparers, commercial self-assistance software, the Free File Alliance, VITA/TCE services, and so on. The exact details of the tax filing process and the costs of tax preparation services vary across providers. And then, once tax returns have been submitted and arrive at the IRS, they are subjected to a series of screening processes for various types of errors and non-compliance. There are many points during tax return processing where refund claims can be delayed or challenged.

Section 3 of this report describes how the IRS and other stakeholders already publish many program delivery measures that capture some components of the complex processes described above. However, this data is scattered across a wide range of publications, and because some of the measures are mandated under different statutory regimes (PIIA, TFA, etc.) or published ad

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[214] Luisa Godinez-Puig, Aravind Boddupalli, and Livia Mucciolo, "Lessons Learned from Expanded Child Tax Credit Outreach to Immigrant Communities in Boston," The Urban Institute, October 2022, https://www.taxpolicycenter.org/sites/default/files/publication/164300/lessons_learned_from_expanded_child_tax_credit_outreach_to_immigrant_communities_in_boston_1.pdf.

[215] *Ibid*.

[216] Only a relatively small share of the total population eligible for the Advance CTC and EIPs claimed those tax benefits using GetCTC. Furthermore, many GetCTC users – roughly 25 to 40 percent – arrived at the platform not through "proactive" outreach efforts, but from "from clients searching out and finding GetCTC themselves," and roughly another 15-30% arrived at the platform through "word of mouth." These figures suggest there may be limits to the amount of EITC and CTC claims that even the best-designed outreach efforts can realistically generate. See: Code for America, *supra* note 131.

hoc, they are made available with varying frequency. Furthermore, many of these measures focus on tax filers at large, rather than on the experiences of EITC and CTC claimants specifically.

The IRS should identify, and then collate in one place, the existing program delivery measures that are most relevant to the experience of claiming the EITC and CTC. Likely additional measures will need to be developed to provide a more granular understanding of the specific issues that EITC and CTC claimants experience at various stages of the tax filing process.

To the extent possible, these program delivery measures should be disaggregated by key demographic characteristics, including race and ethnicity. Different groups of tax filers may face different barriers when attempting to submit a tax return and interface with the IRS. For example, the IRS previously used facial recognition software for identity verification purposes, even though such software generally is more likely to misidentify Black and Asian faces.[217] Information on race and ethnicity is not collected directly on tax returns, but several recent research papers have reliably "imputed" or estimated the racial identities of tax filers using first names, last names, and home addresses pulled from tax returns.[218]

Program delivery measures will likely fall into one of three general categories, capturing:

1. The experience of submitting a federal income tax return to the IRS;
2. The "flow" of a tax return through the IRS once it has been submitted, and the extent to which various screening processes for error and non-compliance serve as barriers to access; and
3. The relative ease of communicating with the IRS when issues arise – e.g., via telephone, digital tools, mail, in-person, and other means).

These three categories are discussed in more detail below.

8.1 Measures for Tax Filing

As Code for America explains in their *Blueprint for a Human Centered Social Safety Net*, "for too many people, the process of applying for and maintaining safety net benefits requires navigating a system with numerous barriers that push them further away from [their] basic needs."[219] Accordingly, the organization sees the solution in a "human centered safety net," which would "be simple, accessible, and easy for real people to use… provide clarity when there is confusion [and]…guarantee that the needs of clients are put first."[220]

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[217] Chad Boutin, "NIST Study Evaluates Effects of Race, Age, Sex on Face Recognition Software," National Institute of Standards and Technology, December 19, 2019, https://www.nist.gov/news-events/news/2019/12/nist-study-evaluates-effects-race-age-sex-face-recognition-software.

[218] Julie-Anne Cronin, Portia DeFilippes, and Robin Fisher, "Tax Expenditures by Race and Hispanic Ethnicity: An Application of the U.S. Treasury Department's Race and Hispanic Ethnicity Imputation," U.S. Treasury Department, Office of Tax Analysis, January 2023, https://home.treasury.gov/news/featured-stories/disparities-in-the-benefits-of-tax-expenditures-by-race-and-ethnicity /; Hadi Elzayn, Evelyn Smith, Thomas Hertz, Arun Ramesh, Robin Fisher, Daniel Ho, and Jacob Goldin, "Measuring and Mitigating Racial Disparities in Tax Audits," Stanford Institute for Economic and Policy Research, January 30, 2023, https://dho.stanford.edu/wp-content/uploads/IRS_Disparities.pdf.

[219] Code for America, "Safety Net Blueprint," https://www.codeforamerica.org/features/safety-net-blueprint/.

[220] *Ibid*.

Code for America's National Safety Net Scorecard provides instructive examples of performance measures that can be used to assess the quality of benefits delivery and drive towards a human-centered social safety net.[221] Many of these measures pertain to the application process for public benefits, including those quantifying "application burden" (such as the average number of minutes to complete an application and the number of applications completed relative to those started); "customer satisfaction" (such as the number of users reporting the application was easy to complete); and more.

Relative to other public benefits programs, the EITC and CTC are unusual in that there is not one singular process by which to "apply" for them. Because there are so many different options for tax filing, user experience can vary dramatically depending on the specific services or tools used. For example, there are likely differences in how long it takes to self-prepare taxes online using H&R Block rather than TurboTax, because there are differences between software options in how accurate and effective "interview" questions are, web interface and design, availability of customer service and support, and so on.[222] There are likely even greater differences between tax filers that self-prepare their taxes using online software and those visiting enrolled paid preparers, unenrolled paid preparers, VITA sites, and so on.

It would be virtually impossible to implement performance measures gauging the accessibility of each individual option for tax filing – there are nearly 9,000 VITA/TCE sites across the country, tens of thousands of paid tax preparers, and a wide range of online software options available commercially and through the Free File Alliance. Furthermore, the IRS does not have access to user data for private providers of tax preparation services.

Instead, the IRS could use surveys or other means to produce higher-level estimates capturing the overall state of tax filing accessibility for EITC and CTC claimants (for example, the average amount of time spent preparing tax returns or average cost of tax filing for EITC and CTC claimants). Separate estimates could be calculated for EITC and CTC claimants with business income (for example, gig workers), as their taxes are generally more complex and time-consuming to complete. Estimates could also be segmented by general category of tax preparation method (estimates for those using unenrolled preparers, those using self-assisted software, etc.).

The IRS already reports some measures of tax filing burden for filers as a whole, as part of the agency's obligations under the Paperwork Reduction Act.[223] For example, the IRS already calculates the average hours that tax filers spend record-keeping, tax planning, and completing and submitting forms, as well as the average cost for preparing a return. The IRS could calculate similar estimates for EITC and CTC filers specifically.

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221 Code for America, "National Safety Net Scorecard: A New Framework for Assessing Safety Net Delivery," https://codeforamerica.org/programs/social-safety-net/scorecard/the-national-safety-net-scorecard/.

222 See, for example: Melanie Pinola and Kaitlyn Wells, "The Best Online Tax Filing Software," The New York Times, updated March 7, 2023, https://www.nytimes.com/wirecutter/reviews/best-tax-software/.

223 John Guyton, Pat Langetieg, Pete Rose, Brenda Schafer, Sherri Edelman, Andres Garcia, and Molly Stasko, "Taxpayer Compliance Burden," February 2023, https://www.irs.gov/pub/irs-pdf/p5743.pdf.

As mentioned in section 7 of this report, the IRS is planning to launch its own direct electronic tax filing option for the 2024 filing season. The IRS should develop measures, similar to those outlined in Code for America's National Safety Net Scorecard, that capture the extent to which this software is easy for tax filers to navigate, particularly for those attempting to claim the EITC and CTC. Measures of "application burden," "customer satisfaction," "online and mobile accessibility," and more would help the IRS to iterate and improve its tax filing software over time and identify specific design elements that pose barriers to access for certain communities.

8.2 Measures for Tax Return Processing and Audits

Tax returns submitted to the IRS are subjected to multiple stages of screening for error and tax non-compliance.[224] It is important for the IRS to understand which screening and compliance processes are most difficult to navigate, and where eligible EITC and CTC claimants might be dropping out of the system.[225] The IRS could conduct and publish a "funnel analysis" that shows how tax returns with EITC and CTC claims flow through the IRS and where significant barriers might exist. See below for a general example:[226]

- <u>Stage 1: Tax Return Submission</u>
    - # and % of returns paper filed
    - # and % of returns e-filed
        - # and % of returns accepted on first attempt
        - # and % of returns initially rejected because a dependent was claimed by another tax filer
            - # and % of returns re-submitted and accepted, via e-filing (i.e. the dependent in question was dropped from the return)
            - # and % of returns re-submitted and accepted, via paper filing (i.e. a competing claim for dependent was lodged)
            - # and % of returns not successfully re-submitted

[224] Taxpayer Advocate Service, "Taxpayer Roadmap: An illustration of the modern United States Tax System," 2020, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/TAS_Roadmap_18x18.pdf.

[225] This type of analysis is consistent with recommendations to analyze IRS processes and systems for administrative burdens outlined in: Book, Fogg, and Olson, *supra* note 28. It is also consistent with previous recommendations from the Taxpayer Advocate Service to identify stages of a taxpayer's "journey" through the tax system "where the taxpayer's anxiety increases and human intervention is warranted." See recommendations for a "Taxpayer Anxiety Index:" National Taxpayer Advocate, "The National Taxpayer Advocate's Remarks on the Role of Trust and Taxpayer Advocate Service in Fostering Tax Compliance," Fiscal Year 2020 Objectives Report to Congress, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/JRC20_Volume1_Introduction.pdf; Center for Taxpayer Rights, supra note 196

[226] This "funnel analysis" was inspired by similar analysis that Code for America conducted and published for GetCTC. See, for example: Code for America, "Modernized eFile — Issues for Low-Income Filers Lessons from GetCTC on the design of the IRS tax return processing system," GetCTC 2022 Learnings Report, April 2023, https://files.codeforamerica.org/2023/04/20122629/modernized-efile-and-client-experience-getctc-2022-learnings-report.pdf.

        - # and % of returns initially rejected because of errors related to verifying identity (IP PIN number[227] error or incorrectly reporting previous year's Adjusted Gross Income[228])
            - # and % of returns re-submitted and accepted, via e-filing
            - # and % of returns re-submitted and accepted, via paper filing
            - # and % of returns not successfully re-submitted
        - # and % of returns initially rejected for other reasons[229]
- Stage 2: Tax Return Processing
    - # and % of returns with refund claims disbursed on time, without compliance flags
    - # and % of returns with refund claims delayed or denied altogether due to compliance flags:
        - Identity theft
        - Math error authority (which allows the IRS to make automatic adjustments to tax liabilities or refund amounts and provides limited opportunities for taxpayers to contest those adjustments),[230] disaggregated by math error category.[231]
            - # and % of returns with adjustments
            - # and % of returns with abatements[232]

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[227] The IRS issues Identity Protection PINs to tax filers that are victims of identity theft. Tax filers that have been issued IP PINs are required to submit their PINs with their tax returns every year, and their returns will be rejected if they fail to do so.

[228] Tax filers are required to submit their prior-year Adjusted Gross Income (AGI) on their self-prepared and e-filed tax returns in order to validate their identities.

[229] See here for additional rejection reasons: https://www.e-file.com/help/correcting-rejected.php.

[230] Taxpayer Advocate Service, "The IRS Has Failed to Exercise Self-Restraint in Its Use of Math Error Authority, Thereby Harming Taxpayers," 2018 Annual Report to Congress, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/07/ARC18_Volume1_MSP_11_PostProcessing.pdf.

[231] Math error types are enumerated in section 6213(g) of the Internal Revenue Code.

[232] The Taxpayer Advocate Service previously found that for one type of math error – the wrong Taxpayer Identification Number (TIN) being listed for a dependent on a tax return – the IRS subsequently abated and reversed 55 percent of those errors. TAS's analysis also found IRS could have resolved 56 percent of those errors using information that the agency already had in its possession. The IRS should conduct this type of analysis for all types of math error, to better understand the extent to which math error assessments are accurate up front (and as a result, how many tax filers may be having their EITC and CTC claims denied or reduced unnecessarily). See: Taxpayer Advocate Service, "Post-Processing Math Error Authority: The IRS Has Failed to Exercise Self-Restraint in Its Use of Math Error Authority, Thereby Harming Taxpayers," 2018 Annual Report to Congress, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/07/ARC18_Volume1_MSP_11_PostProcessing.pdf.

- <u>Stage 3: Examinations</u>
    - # and % of returns selected for:
        - Correspondence audits
        - Field audits
        - Office audits
    - # and % of returns with the following audit outcomes:
        - No change
        - Agreed
        - No agreement signed / Some taxpayer participation
        - No agreement signed / No taxpayer participation
    - # and % of returns that undergo the audit reconsideration process, with the following outcomes:
        - Initial tax assessment is abated
        - Initial tax assessment is partially reduced
        - Iniital tax assessment is upheld
    - # and % of returns selected for audits for the following reasons:[233]
        - Errors related to qualifying child rules
        - Income under-reporting
        - Errors related to tax filing status (for example, filing as Head of Household instead of Married Filing Jointly)
        - Others
    - # and % of tax filers under audit with professional representation

There is already some evidence that certain stages of tax return processing pose significant barriers to accessing the EITC and CTC. Code for America found that just 33% of those using GetCTC in 2022 had their simplified tax returns accepted by the IRS on the first try and only an additional 10% of returns were accepted upon resubmission.[234] More than 20% of all simplified tax returns were rejected because of identity verification issues – the IP PIN and AGI mismatch issues described in the "funnel" analysis example above.[235]

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[233] Internal Revenue Service, "Handling the Most Common Errors," updated February 14, 2023, https://www.eitc.irs.gov/tax-preparer-toolkit/tools-and-tips/handling-the-most-common-errors/handling-the-most-common-errors.

[234] Code for America, *supra* note 226.

[235] *Ibid*.

Code for America also documented substantial issues with claiming dependents via GetCTC.[236] The IRS will automatically reject e-filed tax returns with claims for dependents that have already been claimed on another tax return. Tax filers then must decide whether they want to lodge a competing claim, which would require them to paper file instead of e-filing and may subject their tax return to considerable processing delays. Alternatively, filers can drop the dependents from their return even if they believe they are the rightful person to claim those dependents. This issue was another common source of rejections in GetCTC. About 10% of all tax returns submitted via GetCTC – and 17.6% of tax returns with dependents claimed – were rejected because of conflicting claims over dependents.[237] Many of these tax filers opted to re-submit without claiming the children in dispute, instead of trying to paper file.

Difficulties with claiming dependents are part of the reason why the "vast majority" of GetCTC clients did not ultimately receive any CTC benefits through the platform – instead, they used the tool to claim outstanding EIPs.[238] Only about half of GetCTC clients tried to claim dependents at all, and even among those that did, "a disproportionate share of these claims were not accepted because the dependents had already been claimed, and many then resubmitted without dependents."[239]

Furthermore, there is suggestive evidence that some portion of filers who have their EITC denied or reduced during correspondence audits in fact meet the underlying eligibility criteria for the credit claimed. One 2004 study found that 43% of EITC recipients whose claims were originally denied or reduced during audit received additional benefits after completing the IRS audit reconsideration process.[240] And a 2007 study found that "low-income filers with representation were twice as likely as their non-represented counterparts to emerge from an IRS audit with no change in their claimed EITC, at rates of 41.5% and 23.1%, respectively."[241] These studies indicate that correspondence audit outcomes may not reflect true eligibility for the EITC and the CTC – instead, they may simply reflect the extent to which tax filers have the time and resources to navigate a burdensome audit process.[242]

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[236] Research using data on all tax filers, not just those filing through GetCTC, has also identified these issues. See: Justin Schwegel, "DUPTIN Part I," Procedurally Taxing, March 1, 2023, https://procedurallytaxing.com/duptin-part-i/; Justin Schwegel, "DUPTIN Part II," Procedurally Taxing, March 2, 2023, https://procedurallytaxing.com/duptin-part-ii/; Justin Schwegel, "DUPTIN Part III," Procedurally Taxing, March 3, 2023, https://procedurallytaxing.com/duptin-part-iii/.

[237] *Ibid*.

[238] Code for America, *supra* note 131.

[239] *Ibid*.

[240] National Taxpayer Advocate, "Earned Income Tax Credit (EITC) Audit Reconsideration Study," December 31, 2004, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/11/eitc_audit_recon_ra_dec2004.pdf.

[241] Adam S, Chilton, Jonathan P. Schneller, and Joshua L. Boehm, "The Earned Income Tax Credit, Low-Income Workers, and the Legal Aid Community," Columbia Journal of Tax Law, Volume 3, June 1, 2012, https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=8189&context=journal_articles.

[242] For a discussion of these issues and possible administrative improvements to the correspondence audit process, see: Nina E. Olson, "How Did We Get Here – Correspondence Exams and the Erosion of Fundamental Taxpayer

Beyond the proposed "funnel" analysis, additional performance measures could be developed that capture the "human experience" of some of the IRS's procedures for tax return processing and compliance described above. For example, the complexity of IRS tax forms and notices is a recurring issue, so the IRS could develop measures capturing the "reading level" of notices that EITC and CTC recipients are likely to receive (such as the "initial contact letter" notifying EITC recipients that an audit has begun or Form 866-H-EIC which explains the types of documents EITC recipients must submit during audits involving qualifying child errors).[243] It could also be helpful to measure the average number and types of documents that EITC and CTC recipients must submit to substantiate their claims during audits, broken down by error type.

Analyzing the flow of tax returns through the IRS's audit process, and the "human experience" of IRS audits, is especially important towards ensuring Black tax filers have equal access to the refundable tax credits for which they are eligible. Recent research finds Black EITC claimants are more likely to be audited by the IRS than non-Black EITC claimants. For further discussion of this research, see section 1.4.2 of this report.

8.3 Measures for Communication with the IRS

Section 3 details a variety of "customer service" measures that capture the relative ease of reaching the IRS when issues arise during the tax filing process, including phone service rates, statistics on in-person Taxpayer Assistance Centers (TACs), figures on usage of various digital tools and online resources, and so on. The IRS should identify which of these existing measures are most relevant to EITC and CTC program access and develop new measures that focus more specifically on EITC and CTC claimants as a group (rather than tax filers as a whole). These measures could include:

- More detailed figures on user experience and take-up of digital tools among those claiming the EITC and CTC on their tax returns, such as:
  - The share of EITC and CTC claimants undergoing correspondence audits that are provided access to the IRS's Document Upload Tool (which allows tax filers to upload documents using their phones rather than sending them in the mail and is currently being rolled out gradually) and the share that actually use this tool.[244]
  - The share of EITC and CTC claimants undergoing correspondence audits that have access to and use Taxpayer Digital Communications Secure Messaging (TDC SM), which allows tax filers to communicate electronically with the IRS.

Rights – Part 1" Procedurally Taxing, March 14, 2022 https://procedurallytaxing.com/how-did-we-get-here-correspondence-exams-and-the-erosion-of-fundamental-taxpayer-rights-part-1/; Nina E. Olson, "How Did We Get Here? Correspondence Exams and the Erosion of Fundamental Taxpayer Rights – Part 2," Procedurally Taxing, March 15, 2022, https://procedurallytaxing.com/how-did-we-get-here-correspondence-exams-and-the-erosion-of-fundamental-taxpayer-rights-part-2/. See also: Center for Taxpayer Rights, supra note 196.

[243] For a discussion of the need for "taxpayer-centric notices," see: Center for Taxpayer Rights, supra note 196.

[244] Taxpayer Advocate Service, "Lifecycle of a Tax Return: Correspondence Audits: Increased Communication Alternatives Are in Progress," September 8, 2021, https://www.taxpayeradvocate.irs.gov/news/nta-blog-lifecycle-of-a-tax-return-correspondence-audits-increased-communication-alternatives-are-in-progress/.

    - Measures capturing the quality of user experience for both tools (with feedback captured via user surveys).
- Share of telephone calls to certain toll-free lines (such as the W&I Correspondence Audit hotline or the "Where's my Refund?" hotline) that are explicitly related to issues claiming the EITC and CTC, and information on what the most common questions or issues are.[245]
- More detailed figures on customer service and user experience among EITC and CTC claimants at TACs, including staffing levels, average wait times, language access, etc.

8.4 Limitations

In theory, the program delivery measures described above would allow the IRS to pinpoint specific elements of the tax filing process and downstream compliance procedures that pose the greatest barriers to EITC and CTC access and would motivate the agency to prioritize administrative reforms that are responsive to those measures. However, various statutory constraints may prevent the IRS from taking certain important steps to significantly increase program participation.

For example, evidence from GetCTC demonstrates the importance of simplified tax filing at boosting refundable tax credit uptake among those with very low or no earnings who do not typically file tax returns.[246] In 2022, Code for America conducted a randomized controlled trial where one group of traditional non-filers was sent a link to GetCTC and another group was sent a link to VITA full tax filing services through GetYourRefund. The simplified filing completion rate was about eight times higher than the full tax filing completion rate.[247] Code for America concluded that simplified filing was so successful because it eliminated the requirement to report income to claim the CTC. When Code for America added optional functionality for claiming the EITC in 2022 – which *did* require users to manually report their incomes – they found that users attempting to claim the EITC were significantly less likely to make it through the filing process and submit a return using GetCTC.[248]

Simplified tax filing is clearly a critical tool for reaching those who do not typically file tax returns, but the IRS will not be able to re-authorize it for all low-income tax filers unless the ARP's design changes to the CTC are re-instated by Congress. Because the ARP eliminated the phase-in for the CTC, low-income families were entitled to the same benefit amount regardless of how much they earned, so reporting income was unnecessary and simplified tax filing was

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[245] The IRS could also conduct analysis of "how its phone tree system does or does not meet the needs of the taxpayer public," as IRS phones often "shunt people to automated lines that do not resolve their issues." See: Center for Taxpayer Rights, supra note 196.

[246] Code for America, "The Importance of Simplified Filing: Lessons from overall GetCTC usage, experimental results comparing simplified and full filing, and EITC functionality in GetCTC," February 2023, https://files.codeforamerica.org/2023/02/13122111/importance-of-simplified-filing-getctc-2022-learnings-report.pdf.

[247] *Ibid*.

[248] *Ibid*.

made possible. But now that the ARP's CTC expansion has expired, "there are no longer any tax benefits that can be paid out to low-income families without knowing their exact income."[249]

That is not to say that the IRS is necessarily precluded from implementing simplified tax filing procedures for at least some share of EITC and CTC claimants. Code for America has argued that the IRS has the statutory authority to implement a pilot simplified filing process for households with W-2 (wage and salary) income only.[250] Under such a pilot, households would fill out basic information about their tax filing unit (marital status, number of dependents, etc.) and instead of requiring income reporting, the IRS would use its own universe of Form W-2 data (which is sent to the agency via employers) to determine the amount of EITC and CTC for which households are eligible. Self-employed workers likely could not be covered because income reported on Form 1099s is less reliable, but this pilot could cover a significant number of low-income families. To date, the IRS has not pursued this proposed pilot program.[251]

Furthermore, any access-oriented performance measures will likely reinforce existing evidence that unenrolled paid tax preparers are responsible for a significant share of EITC error and drive many tax filers into the IRS's burdensome audit process. However, the IRS is currently banned from imposing any regulations on paid preparers, and legislative changes are needed to provide the IRS with such regulatory authority.[252]

In short, access-oriented performance measures may provide helpful information to the IRS that could inform administrative actions and priorities, but statutory limitations may nevertheless prevent the agency from implementing some of the highest-impact strategies for boosting program uptake.

9 Implementation Options, Feasibility, and Limitations of an Access-Oriented Performance Measurement Framework

Legal Regimes

Legislation would be required to *guarantee* that the IRS develops an access-oriented performance measurement framework for refundable tax credits and reports regularly and publicly on those measures across administrations.

The Program Integrity Information Act (or PIIA, discussed in section 3.1 of this report) provides a close point of comparison, as the statute requires agencies administering "high-priority programs" to publish an annual report that must include specific data, i.e., each program's improper payment rate and a discussion of root causes of program error, actions being taken to reduce improper payments, progress towards meeting "reduction targets" for improper payments,

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[249] *Ibid*.

[250] Code for America, "Improving Administration of Refundable Tax Credits," updated October 2022, https://files.codeforamerica.org/2022/10/27145619/2022-october-improving-administration-of-refundable-credits-memo.pdf.

[251] The IRS's pilot for a direct e-filing tool in tax year 2024 will not include pre-population of income data from information returns.

[252] Wancheck, *supra* note 73.

and other relevant issues. Further, the law requires relevant oversight bodies – which, for the IRS, is Treasury's Office of Inspector General and TIGTA – to report annually on whether agencies are complying with PIIA's requirements.

The Taxpayer First Act (or TFA, discussed in section 3.2 of this report) is also instructive. TFA required the IRS to publish a customer service strategy including short-term, medium-term, and long-term timelines for implementation and "metrics and benchmarks for quantitatively measuring progress." The statute was not prescriptive about the exact metrics and benchmarks that needed to be published, and required the IRS to determine which measures would be most appropriate.

A statute with a similar structure to PIIA could be drafted to require the IRS to annually report the key topline estimates on program participation described in section 5 of this report. Some of the other types of performance measures described in this report – e.g., outcomes-based measures, "ROI" measures for outreach and enrollment strategies, and service delivery measures – may take some time for the IRS to refine. Any law implementing an access-oriented performance measurement framework could, similarly to the TFA, require the agency to issue a report outlining a process and timeline for developing and implementing those categories of measures. Such a statute could borrow additional accountability elements from the PIIA, including a requirement for the IRS to report annually or even quarterly on actions being taken to boost refundable tax credit uptake, or a requirement for TIGTA to monitor the IRS and Treasury's compliance with the regime.

Code for America has previously recommended a similar legislative approach. The organization proposed a statutory requirement for the IRS to publish an "Annual Report on the Refundable Credits Gap," which would include disaggregated estimates of the eligible non-claiming population and estimates of the impacts of direct IRS outreach efforts.[253]

Executive Orders or Memorandums of Agreement

There are several other types of administrative commitments that may not have the same binding status as law but could nevertheless serve to establish and begin to embed performance metrics across the federal government.

Measures such as Executive Orders (EOs) or Memorandums of Agreement (MOAs) that bind requirements to develop and implement access-oriented performance measures across multiple agencies may be more difficult to reverse than efforts that originate purely from Treasury and the IRS. For example, the Biden Administration has been slow to address harmful reporting regimes that involve OIRA and OMB due apparently, in large part, to the difficulties of running inter-

[253] Code for America, "Annual Report to Congress on the Refundable Credits Gap: Scope and Draft Analysis Plan," March 2023, https://files.codeforamerica.org/2023/03/22145533/annual-report-to-congress-on-the-refundable-credits-coverage-gap-getctc-2022-research.pdf.

agency processes.[254] Administrative commitments may be easier to secure than the legislative options described above.

However, EOs or MOAs that apply to multiple social safety net programs and federal agencies may be overly prescriptive about the exact metrics that should be included in performance measurement frameworks and may limit opportunities for the IRS to iterate in response to emerging evidence on which factors are most important for EITC and CTC access.

Voluntary Reporting by the IRS

Of course, the IRS could voluntarily opt to move forward with developing and implementing an access-oriented performance measurement framework for refundable tax credits, without being required to do so by federal legislation or an Executive Order.

Such a framework would be consistent with several Executive Orders instructing federal agencies to examine ways to improve program access and service delivery. For example, Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," directed agencies to analyze "potential barriers that underserved communities and individuals may face to enrollment in and access to benefits and services in Federal programs."[255] A subsequent Executive Order on "Further Advancing Racial Equity" included similar language.[256] Yet another Executive Order on "Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government" stated that "the Federal Government must design and deliver services in a manner that people of all abilities can navigate" and instructs agencies to "design experiences with the Federal Government that effectively reduce administrative burdens."[257]

An access-oriented performance measurement framework would also be consistent with a recent memo from Deputy Treasury Secretary Wally Adeyemo that outlines "principles for promoting fair and effective compliance."[258] The memo directs the Treasury Department to make "program

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[254] Brandon DeBot and Chye-Ching Huang, "It's Time for a New Approach to OIRA Review of Tax Regulations," The Tax Law Center at NYU Law, November 16, 2022, https://medium.com/@taxlawcenter/its-time-for-a-new-approach-to-oira-review-of-tax-regulations-8d0017d8d54b.

[255] The White House, "Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," January 20, 2021, https://www.whitehouse.gov/briefingroom/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underservedcommunities-through-the-federal-government/.

[256] The White House, "Executive Order on Further Advancing Racial Equity and Support for Underserved Communities Through The Federal Government," February 16, 2023, https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/16/executive-order-on-further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/.

[257] The White House, "Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government," December 13, 2021, https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/13/executive-order-on-transforming-federal-customer-experience-and-service-delivery-to-rebuild-trust-in-government/

[258] Deputy Treasury Secretary Wally Adeyemo, "Principles for Promoting Fair and Effective Compliance," Memorandum for Department Bureaus and Offices, Department of the Treasury, June 8, 2023, https://home.treasury.gov/system/files/136/Treasury-Compliance-Framework-Core-Principles.pdf

rules and guidance more accessible" and make "application, filing, payment, and reporting processes more user-friendly," with the goal of making it "easier for individuals and entities who want to comply with the law to fulfill their obligations."[259] Performance measures would allow the Treasury Department to quantify the types of programmatic improvements described in the memo and monitor progress over time.

Lastly, this framework would be consistent with many of the IRS's data, research, and evaluation commitments in the SOP (which is described in more detail in section 3.4 of this report).

For example, Initiative 1.9 states that the IRS intends to "improve understanding of the credits and deductions gap" and "use analytics to assess taxpayer uptake of credits, particularly those intended to benefit small businesses and underserved communities." The IRS could operationalize this initiative by implementing our suggestions for improving the descriptive statistics that are published for EITC and CTC program participation, which are discussed in section 5 of this report.

The IRS could also operationalize Initiatives 1.2 and Objective 4 by implementing our suggestions for a "funnel analysis" and other types of service delivery measures that are outlined in section 8 of this report. Initiative 1.2 states that the IRS intends to "evaluate which taxpayers face barriers during filing, such as those who may be eligible for credits and deductions" and "prioritize creating and improving digital pathways for these taxpayers." More broadly, Objective 4 states that the IRS intends to use taxpayer data and advanced analytics to "better understand taxpayer journeys" and "the barriers and pain points that frustrate taxpayers."

Considerations and Limitations of Performance Measurement Frameworks

There is limited concrete evidence on the extent to which reporting regimes for performance measurement are successful at (1) driving attention and resources toward certain issues and (2) motivating administrative and/or legislative change.

The PIIA, and previous "improper payments" reporting regimes, have arguably been successful at directing resources and attention towards refundable tax credit error, driving administrative priorities, and building a robust evidence base on the sources of EITC and CTC error.[260] However, these regimes have not been sufficient to drive lawmakers to address those sources of error and have, rather, fueled interventions that are not high-value and even create substantial harm.

The annual release of the EITC's improper payment rate and subsequent reporting from TIGTA have historically generated significant media coverage[261] and scrutiny from lawmakers (in the

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[259] *Ibid*.

[260] As we have argued, this focus is imbalanced, misplaced, and overall harmful. See: The Tax Law Center, *supra* note 143. Here, however, we consider this simply as an example of the extent to which performance measure reporting regimes can achieve their intended aims.

[261] For example: Josh Hicks, "IRS paid billions of dollars in improper refunds, report says," Washington Post, April 24, 2013, https://www.washingtonpost.com/politics/federal_government/irs-paid-billions-of-dollars-in-improper-refunds-report-says/2013/04/24/428b5ade-ad08-11e2-b6fd-ba6f5f26d70e_story.html.

form of Congressional hearings and public statements).[262] The IRS and Treasury are required to report both annually and quarterly on steps being taken to reduce improper payments, and so to that end, PIIA's regime has likely driven some administrative action as well. Furthermore, requiring the IRS and Treasury to analyze the root causes of improper payments has helped elucidate which design and delivery elements of refundable tax credits are most responsible for errors.

PIIA has driven some legislative action, but not necessarily the types of policy changes that would have the highest impact on improper payment rates. For example, several provisions of the Protecting Taxpayers from Tax Hikes (PATH) Act were motivated by concerns over improper payments of refundable tax credits, but evidence suggests these provisions have had a fairly limited impact on reducing errors while causing additional barriers to access.[263] At the same time, Treasury's annual reports on the root causes of improper payments have essentially repeated the same message for years– that statutory simplification of eligibility criteria, paid preparer regulation, and more robust information reporting requirements are the legislative changes that are most needed to reduce EITC and CTC error. However, lawmakers have yet to act on many of these recommendations.

The PIIA example requires us to consider that access-oriented performance metrics might similarly lead to stronger identification and prioritization of high-impact interventions to improve access – but that performance measures alone could be insufficient to result in meaningful administrative or legislative changes. (Or even, as in the case of the improper payments regime, result in low-impact action with substantial downsides.)

Nevertheless, an access-oriented performance measurement framework may still deliver some benefits. A more robust evidence base on effective strategies for boosting program participation could help guide state, local, and civil society activities and advocacy, directing resources towards high-impact potential interventions rather than less promising ones. In the improper payments space, IRS research on sources of error has resulted in legislative proposals and advocacy focused on key problems, and while these proposals have not yet been successfully enacted, this means that lawmaker and civil society resources and attention are at least being driven by evidence.

Another consideration relates more specifically to ROI and service-related metrics. It is difficult for any performance reporting framework to determine and prescribe the extent to which such measures should guide the IRS's day-to-day programmatic and operational decision-making. As Code for America has pointed out, in other anti-poverty program areas, states "collect and create

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[262] For example: Senate Finance Committee Hearing, "Improper Payments in Federal Programs," October 1, 2015, https://www.finance.senate.gov/imo/media/doc/20936.pdf.

[263] The PATH Act requires the IRS to delay distribution of tax refunds for filers claiming the EITC and CTC until several weeks into the tax filing season, so that the agency has additional time up front to verify claims. However, a TIGTA report found that the IRS only identified "refund fraud" on 0.03% of delayed returns before distributing refunds in 2019. See: O. Kondratjeva, S.P. Roll, M. Despard, and M. Grinstein-Weiss, "The Impact of Tax Refund Delays on the Experience of Hardship Among Lower-Income Households," Journal of Consumer Policy, Vol. 45 No. 2, February 10, 2022, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9127047/#.

static reports of data and send them to federal agencies" but "they are rarely referenced or utilized in program planning to help inform decision-making and program changes over time."[264] Without broader organizational changes at the agency, it is possible that this dynamic would play out at the IRS following implementation of an access-oriented performance measurement framework, especially given the agency's "dual mission" as a revenue collector and disburser of benefits. Program access improvements will need to be weighed against a wide range of other considerations, including the IRS's obligation to identify and reduce tax non-compliance and resource constraints that may necessitate investments in other activities unrelated to EITC and CTC uptake. In short, performance measures will not necessarily, in and of themselves, lead the IRS to prioritize program access above other mission-critical objectives.

Lastly, there are some broader lessons to be learned from other countries' attempts to implement complex, data-driven frameworks for policy evaluation. New Zealand's Treasury implemented a "Living Standards Framework," which evaluates the extent to which various policies advance "wellbeing" using more than 100 different social, economic, and political indicators. The LSF has been criticized for its complexity.[265] Evaluating policies with such a wide range of indicators can make it *harder* for policymakers to make important decisions – as one scholar argued, having "60 or 120 is the same as having zero indicators" because there is simply too much information to consider, and it is unclear how to prioritize some indicators over others.[266] Complex frameworks can ultimately hamper accountability, by making it possible for policymakers to justify almost any policy decision "by cherry-picking from the indicators that are most favorable."[267]

In sum

We have proposed multiple categories of potential performance measures in this report, but it will ultimately be important for the IRS to (1) rigorously analyze which elements of refundable tax credit design and delivery pose the greatest barriers to access, (2) develop metrics that will allow the agency to monitor progress on these specific issues, and (3) prioritize tangible investments in outreach, enrollment, and service delivery improvements accordingly. Such an approach would be more effective at driving policy change than a performance measurement framework that lays out all possible inputs to EITC and CTC access but remains neutral on which ones are most important.

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[264] Code for America, "National Safety Net Scorecard: A New Framework for Assessing Safety Net Delivery," https://codeforamerica.org/programs/social-safety-net/scorecard/the-national-safety-net-scorecard/.

[265] Chye-Ching Huang, "New Zealand's 'Wellbeing Budget' Approach," SSRN, June 16, 2020, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3606841.

[266] Arthur Grimes, Victoria University of Wellington Spotlight Series Seminar at 5:30.

[267] Chye-Ching Huang, "New Zealand's 'Wellbeing Budget' Approach," SSRN, June 16, 2020, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3606841.