

New Legislation Enacted Determining How Tax Refunds and Credits are Treated by Other Public Benefit Programs

New legislation passed in December 2010 has greatly simplified and standardized the rules for how EIC and CTC refunds, as well as any tax refund, are treated in determining eligibility for other public benefit programs.

This should be helpful in encouraging lower-income workers to participate in asset-building programs and to open savings accounts without fear of exceeding resource limits and jeopardizing their eligibility for important public benefits. It may also help alleviate the fears of those who are concerned that refunds from tax credits might count as additional income and cause them to lose eligibility for crucial public benefits they receive, such as Medicaid.

Income. Congress enacted legislation in December 2010 which excludes any federal tax refund from counting as income in determining eligibility, or the amount of benefit, for any federally-funded public benefit program. This includes state and local programs only partially funded by federal dollars. Tax refunds can include benefits from the EIC, CTC, other tax credits, or refund of a filer's over withheld income tax.

Resource test. The legislation also provides that refunds that are saved by the filer do not count against the resource limits of any federally-funded public benefit program for 12 months after the refund is received.

These new rules are effective for 2010 through 2012, the period covered by the legislation, which temporarily extended the 2009 ARRA expansions of the EIC, CTC and other tax credits. Note that local staff of the agencies administering public benefits will not yet have received guidance on the new rules from their headquarters. This should occur within the next several weeks.

In case questions arise, the new provision is found here: PL 111-312, Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Sec. 728:

SEC. 728. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) In General- Subchapter A of chapter 65 is amended by adding at the end the following new section:

SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) In General- Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(b) Termination- Subsection (a) shall not apply to any amount received after December 31, 2012.'

(b) Clerical Amendment- The table of sections for such subchapter is amended by adding at the end the following new item:

Sec. 6409. Refunds disregarded in the administration of Federal programs and federally assisted programs.'

(c) Effective Date- The amendments made by this section shall apply to amounts received after December 31, 2009.