

Fact Sheet:

New Legislation determines 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 Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) refunds, as well as any tax refund, are treated in determining eligibility for other public benefit programs.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) was signed into law on December 17, 2010. The law includes a provision that disregards tax refunds received after December 31, 2009 as income and as resources (for a period of 12 months) in programs funded in whole or in part with federal funds, including those operated by States, localities, or others. The law is not retroactive, but applies as of the date of enactment.

Under prior law, certain refundable tax credits were disregarded as income and resources under rules that varied from program to program. Some programs excluded the EITC for 12 months while others disregarded it for as little as three months. And, because amounts received due to a specific credit were excluded – but not the entire refund – it could be difficult or eligibility workers to implement.

Under new law:

- **Income** - The legislation 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 EITC, CTC, or other refundable tax credits. Regardless of whether the tax refund is the result of a refundable credit, over-withholding, or both, the refund is not taken into account as income or as resources in the month received.
- **Resource test** - The resource exclusion lasts for 12 months for all programs. 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.

Programs Affected

Under the statute, tax refunds must be excluded from consideration as income in the month received and as a resource for 12 months in any program that is funded in whole or in part by federal funds. This includes all major means-tested programs that consider income and may consider assets when determining eligibility.

Filing Season

Because the 2011 tax season has already begun, States must move expeditiously to implement this provision to ensure that tax refunds are properly disregarded in eligibility decisions.

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. It is always best for a taxpayer to **check with their local benefit coordinator** to find out if their benefits fall under this provision.

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The following are sources of information on the new legislation:

http://www.irs.gov/individuals/article/0,,id=150557_00.html

<http://eitcoutreach.org/wp-content/uploads/2010/12/Refund-Disregard-Alert-2011.pdf>

http://www.acf.hhs.gov/programs/ocs/liheap/guidance/information_memoranda/im11-03.html

http://www.acf.hhs.gov/programs/ocs/im_tax_relief.html

<http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2011/pi201101/pi201101.html>

http://www.acf.hhs.gov/programs/occ/law/guidance/current/111_312/state_111_312.htm

<http://www.fns.usda.gov/snap/rules/Memo/2010/031810a.pdf>

<https://secure.ssa.gov/apps10/public/reference.nsf/links/02042011024158PM>

<http://www.cms.gov/CMCSBulletins/downloads/02-01-2011-Tax-Disregard.pdf>