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RE: OMB Number: 1545-0074—Public Comment Request Notice

I. Summary

The University of Pittsburgh School of Law's Low-Income Taxpayer Clinic (the "Clinic") offers this statement in response to the Internal Revenue Service's Proposed Collection of Information issued on September 5, 2024 (OMB Number: 1545-0074).

II. Introduction

The Low-Income Taxpayer Clinic provides free legal assistance to persons (based upon their level of income) who have federal and state income tax controversy or need federal income tax advice. The Clinic provides assistance and advice for income tax returns under examination with the IRS. taxpayers facing IRS tax-collection issues, and negotiation, settlement, and trial of tax cases pending before the U.S. Tax Court. The Clinic was founded in 1999 through a generous grant from the United States Department of Treasury Office of the Taxpayer Advocate for the creation of the Low-Income Taxpayer Clinic (LITC). Currently, the Clinic is made up of seven students, a Clinic Director, Professor Alice L Stewart and a staff attorney, Rachael Shaw.

As members of the Clinic, we regularly work with clients who are confused and overwhelmed. Although most of our clients have ordinary sources of income and deductions, they struggle to understand their tax responsibilities and navigate the IRS's resolution process, due to the complex nature of the tax code and its administration. By working alongside these clients, we are uniquely positioned to speak on the challenges they face and how to alleviate them. We offer the following suggestions because we believe they will ease the burden both on our clients in complying with tax law, and on the IRS in administering it.

III. Pre-populated Tax Returns for Low-Income Taxpayers

A pre-populated tax return system for low-income earners would greatly help streamline the process for low-income taxpayers. Researchers from the National Bureau of Economic Research estimate that around 42-48% of tax returns can be accurately pre-populated using only current-year information returns and the prior-year return.[1] This high level of accuracy is particularly advantageous for low-income taxpayers who have more straightforward financial situations. The study notes that as income increases, the accuracy of the pre-populated returns decline, meaning this model is perfect for low-income earners who tend to have less income streams and are eligible for fewer deductions. The study explains that this is likely due to high income earners' use of itemized deductions which cause a divergence between pre-populated and actual returns. With the large increase of the standard deduction, low-income taxpayers more often than not have no need to itemize their deductions.[2] The tax policy center stated that in 2020, only 11% of filers with an adjusted gross income (AGI) between $50,000-$100,000 chose to itemize their deductions, and only 2% of filers with an AGI of $30,000 or less itemized their deductions.[3] This data shows that low-income earners would benefit greatly from pre-populated returns, and that the government should have little fear in the accuracy of those returns due to low-income earners' use of the standard deduction.

Further, the study indicates that of the 2019 non-filers, pre-populated returns tentatively indicate eligible refunds totaling $8.2 billion dollars to 20% of those filers. This shows that the system would greatly assist low-income taxpayers who often do not file their taxes. The IRS has stated that in 2020 alone, nearly $1 billion dollars of tax refunds were left on the table.[4] This affects low-income taxpayers who may not have been aware they were eligible for credits such as the Earned Income Tax Credit. The data illustrates the opportunity the IRS has to provide financial support that could alleviate poverty and contribute to household stability. Refundable credits promote economic stability within communities and can assist in covering necessary expenses such as housing, healthcare, and education, ultimately contributing to the overall well-being of families and individuals. This can be seen in the Child Tax Credit, which drove childhood

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[1] Lucas Goodman et al., AUTOMATIC TAX FILING: SIMULATING A PRE-POPULATED FORM 1040 pg. 1 (Nat'l Bureau of Econ. Rsch., Working Paper No. 30008, 2023).
[2] The Tax Policy Briefing Book, *What is the standard deduction?*, TAX POLICY CENTER (Jan. 2024), https://taxpolicycenter.org/briefing-book/what-standard-deduction#:~:text=The%20standard%20deduction%20reduces%20a,and%20the%20taxes%20they%20owe, (explaining that even before the large increase in the standard deduction from the Tax Cuts and Jobs Act, seventy percent of filers still used the standard deduction. The number of taxpayers using the standard deduction has only increased with the increase in the standard deduction); CRS Report R45971, The Impact of the Federal Income Tax Code on Poverty (explaining that low-income people often take the standard deduction because the standard deduction results in low-income taxpayers having no taxable income).
[3] The Tax Policy Briefing Book, *What are itemized deductions and who claims them?*, TAX POLICY CENTER (Jan. 2024) https://taxpolicycenter.org/briefing-book/what-are-itemized-deductions-and-who-claims-them.
[4] *See* Rob Wile, *More than $1 billion in federal tax refunds unclaimed as deadline to file approaches*, NBC NEWS https://www.nbcnews.com/business/taxes/unclaimed-tax-refund-how-much-and-how-to-apply-what-year-rcna145604.

poverty to an all-time low in 2021.[5] This demonstrates how targeted financial support can lead to meaningful change in the lives of low-income families, providing them with the stability and resources they need to thrive. By ensuring that low-income families can access these credits through a pre-populated system, the Service can make significant strides in the wellbeing of low-income earners.

Additionally, this system will foster trust in the tax system among low-income individuals. The tax system is complicated, and the complexities of the system can cause low-income earners to avoid the process altogether. Having pre-populated forms would empower low-income earners to participate fully and develop trust in the tax system. Further, by boosting compliance among low-income earners, the Service would enhance financial literacy and awareness among low-income taxpayers. By simplifying the tax filing process and enhancing awareness of available credits, the IRS can help alleviate poverty, promote financial stability, and ultimately foster a healthier, more equitable society.

IV. Reforming the EITC

The Earned Income Tax Credit (EITC) is one of the most effective federal government programs at alleviating poverty, particularly child poverty.[6] It is estimated the EITC lifted 5.6 million people out of poverty in 2018, including 3 million children.[7] The EITC also lessened the severity of poverty for 16.5 million other people, including 6 million children.[8] Despite its effectiveness, however, the EITC fails to reach all the workers and their families that it is intended to benefit. In 2023, about 20 percent of eligible workers, or 5 million people, did not claim the credit, resulting in about 15 percent of the total benefits remaining unclaimed.[9] The unclaimed benefits totaled about $7 billion.[10] Of the 5 million workers who did not claim the EITC, the majority were people not required to file federal income taxes because their annual incomes were below the minimum threshold.[11] The lack of a filing requirement for those workers thus appears to be a significant factor contributing to unclaimed benefits. However, 1.7 million eligible workers did file taxes but still failed to claim the EITC. The complexity of determining eligibility and claiming the credit is a major factor preventing those taxpayers from claiming the credit.[12] This

[5] *See* George Fenton, *Gains From Expanded Child Tax Credit Outweigh Overstated Employment* Worries, CENTER ON BUDGET AND POLICY PRIORITIES, https://www.cbpp.org/research/federal-tax/gains-from-expanded-child-tax-credit-outweigh-overstated-employment-worries.

[6] Nathan Anderson, Kartik Athreya, Jason Keller, Roisin McCord, *Why Are Millions of Dollars in Tax Refunds Going Unclaimed?*, Fed. Reserve Bank of Chicago, (March 2022), https://www.chicagofed.org/publications/profitwise-news-and-views/2022/millions-tax-refunds-unclaimed.

[7] *Policy Basics: The Earned income Tax Credit*, CTR. ON BUDGET AND POL'Y PRIORITIES (April 28, 2023), https://www.cbpp.org/research/policy-basics-the-earned-income-tax-credit.

[8] *Id.*

[9] *Do all people eligible for the EITC participate?*, TAX POLICY CENTER, (Jan. 2024), https://taxpolicycenter.org/briefing-book/do-all-people-eligible-eitc-participate#:~:text=The%20credit's%20complexity%20may%20discourage,vary%20from%20year%20to%20year (explaining that the difference between the percentage of workers who claim the credit and the total percentage of benefits claimed is a result of workers with bigger potential benefits being more likely to claim the credit).

[10] *Id.*

[11] *Id.*

[12] *Id.*

complexity is not only a burden on taxpayers, but also on the IRS: in 2021, an estimated 28 percent of total EITC payments were improper, leading to a greater administrative burden for the IRS.[13]

The University of Pittsburgh School of Law's Low-Income Taxpayer Clinic supports clients who have barriers to claiming the EITC. Many of our clients reach out to the Clinic for representation specifically because they have been denied the EITC despite being eligible, and our certified legal interns work with them to determine why they were denied the credit and how to correct the error. The Clinic requests that the IRS simplify the process of claiming the credit, and to that end, has three proposals that we believe would increase proper claims, decrease improper claims, and simplify the tax filing process for eligible workers.

Our first proposal is to create an online portal where workers can claim the EITC without filing their taxes. This portal would be designed specifically for workers with annual incomes below the filing threshold. It would allow those workers, who make up a majority of eligible workers who do not claim the EITC, to claim the credit without having to file taxes. There is precedent for such a portal: in 2020, the IRS launched a web tool to help people who do not normally file a tax return to claim the Economic Impact Payments (EIP).[14]

In order to be successful, the proposed portal should be very simple to encourage use and minimize mistakes and confusion. It should request only enough information from workers to determine if they are eligible for the EITC and other common tax credits, such as the Child Tax Credit. The questions on the portal should use simple, colloquial language. The portal should be compatible with mobile devices, as many low-income Americans access the internet primarily with a smart phone.[15] This portal will significantly reduce the barrier to claiming the EITC for American workers who are not required to file federal income taxes, increasing rates at which those workers claim the credit.

The Clinic's second proposal is that the IRS begin automatically granting the EITC to eligible childless workers, regardless of whether they claim the credit or file federal tax returns. The IRS knows enough about American workers, through information returns like the W-2 and 1099 forms, to be able to identify childless workers who are eligible for the EITC.[16] The IRS can simply send those workers the EITC automatically. While this proposal will not help workers who have dependent children, it will still have some effect at reducing the rate at which the credit goes unclaimed.

The Clinic's third proposal is that the IRS offer to send workers who have qualified for the EITC a prepaid debit card loaded with their refund amount. Currently, about 5 percent of American households do not have a bank account.[17] For these households, cashing a refund check from the

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[13] TAXPAYER ADVOC. SERV. ANNUAL REPORT TO CONGRESS, *Complexity of the Tax Code* (2022), at 49.
[14] *Treasury, IRS launch new tool to help non-filers register for Economic Impact Payments*, INTERNAL REVENUE SERVICE (April 10, 2020), https://www.irs.gov/newsroom/treasury-irs-launch-new-tool-to-help-non-filers-register-for-economic-impact-payments.
[15] Cassandra Robertson, Gabriel Zucker, Nina Olson, *Strategies for Increasing Uptake of the Earned Income Tax Credit*, New America (Nov. 12, 2020), https://www.newamerica.org/pit/reports/strategies-increasing-uptake-earned-income-tax-credit/.
[16] *Id.*
[17] *Id.*

IRS can be costly. They often have to bring their check to a check cashing company that will charge them a significant fee to cash their refund. Providing workers with the option of receiving a prepaid debit card will allow them to avoid the predatory practices of retail establishments that cash checks and more fully experience the benefits that the EITC is intended to provide.

Similar to the proposal to introduce an online portal for workers below the filing threshold, there is precedent for this proposal from the administration of the Economic Impact Payments: in 2020, the IRS distributed EIP payments to 4 million households by sending them prepaid debit cards.[18] That strategy helped those households avoid losing some of their EIP to predatory check cashers, and it should be established as a permanent program for workers eligible for the EITC. However, we believe that prepaid debit cards should only be sent to workers who request them. Sending debit cards to workers who are not expecting them could cause confusion and there is a risk that some recipients will misidentify the cards and will accidentally discard or misplace them. Additionally, workers that already have a Direct Express federal debit card, that they received from the Social Security Administration, for example, should have the option to have their tax refund loaded onto that card, instead of being sent a new debit card.

The members of the Clinic have witnessed first-hand how the complexity of the EITC creates frustration and delay for American workers trying to receive the benefits they are rightly entitled to. We know that for each of our clients who we can help claim the EITC, there are many more eligible workers who never receive the credit due to its complexity. To address these inefficiencies, we have made three proposals: (1) creating an online portal for non-filing workers to claim the EITC; (2) automatically granting the credit to eligible workers without children; and (3) establishing the option to receive the EITC refund in a prepaid debit card format. We hope the IRS will consider these proposals that we believe will greatly benefit our low-income taxpayer clientele.

V. Calibrating the Tax Burden for Individual Forms

The request for comment specifies a key goal of the request to evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions. The breadth of forms implicated in the request for comment dilutes the impact on specific 1040 forms that impact the most vulnerable taxpayers. We propose creating a separate table to show the increased burden in hours, monetized time burden, and out of pocket costs for 1040 forms. For interested taxpayers to effectively comment and determine which forms are impacting individual taxpayers filing standard 1040s, it is necessary to include more specific information.

Low-income taxpayers often do not have the resources nor time to comment on changes to tax forms that could dramatically increase the burden of filing. Therefore, organizations like low-income tax clinics exist to serve and highlight common issues that occur to our clients.[19] As we have discussed, low-income taxpayers are lost when determining eligibility requirements for credits like the EITC and CTC.[20]

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[18] *Id.*

[19] Leslie Book, *The IRS's EITC Compliance Regime: Taxpayers Caught in the Net*, 81 OR. L. REV. 351, 415 (2002).

[20] TAXPAYER ADVOC. SERV. ANNUAL REPORT TO CONGRESS, *Complexity of the Tax Code* (2022), at 49.

The estimated burden on taxpayers focuses on recordkeeping, cost, and time. We believe that the estimated hours are likely undercounted because taxpayers will spend considerable time determining if they are eligible for the credit or if they need professional help. For low-income taxpayers that do not have the economic resources to seek professional help, they have to deliberate and determine if the tax benefits to taking a credit outweigh the potential penalties of incorrectly filing or the cost of a professional tax preparer.[21] The Department of the Treasury and the National Taxpayer Advocate believe that taxpayers may seek help from noncredentialled preparation providers which can lead to increased incidents of noncompliance.[22] Taxpayers that are lost, confused, or desperate for solutions may turn to tax preparation providers that are unable to provide them with accurate information or insufficient filings. Low-income taxpayers face an increased burden when looking for tax assistance. They may take longer to find help that fits within their budget or take the first option that is available to them at a higher cost. The burden associated with simple forms fail to take in consideration the time it takes for low-income taxpayers to find assistance to file and in return, increases the monetary and time burden when it comes time to fix the mistakes caused by noncredentialled preparation providers.

Breaking up the burden between 1040 forms and more specialized forms will allow taxpayers to more effectively see the increase in burden between 2023 and 2024. By having a large collection of forms, some items will be overinclusive or underinclusive of monetary and hourly burden. An individual form may have a small increase in monetary burden, but that impact may disproportionately impact low-income taxpayers. An hour increase for an individual filing without tax assistance is more impactful than an hour increase for a taxpayer that has access to tax preparation resources. Low-income taxpayers are often filing the most common types of tax documents. When it comes time for requests for comments, advocates for low-income taxpayers need an accurate calculation of the taxpayer burden to determine how our clients will be impacted. An increase in the time burden for low-income taxpayers implicate an additional monetary burden on taxpayers. Many low-income taxpayers work hourly jobs; therefore, every hour that a taxpayer is preparing forms or looking for tax preparation services they are losing the opportunity to work.

VI. Creating a Standardized Evidence Form

A common issue our clients face is confusion and frustration with the evidence needed to support or prove assertions within the Child Tax Credit and Earned Income Tax Credit. Current iterations of the 1040 forms give instructions on how to determine head of household and dependency eligibility, but it would be extremely beneficial to taxpayers for a brief list of documentation that would prove their designation.

The burden on taxpayers to find and locate records relating to their dependents and yearly financial records after a notice of deficiency is provided is immense. Along with the stress and

[21] Jacob Goldin, *Tax Benefit Complexity and Take-up: Lessons from the Earned Income Tax Credit*, 72 TAX L. REV. 59, 100-101 (2018).
[22] TAXPAYER ADVOC. SERV. ANNUAL REPORT TO CONGRESS, *Complexity of the Tax Code* (2022), at 49.

confusion of tax debt, taxpayers need to locate crucial documentation to prove that they qualify for the credits they applied for within a limited time frame. The IRS should include common documentation used to confirm eligibility for the EITC, CTC, and head of household filing on Form 1040 and the corresponding instructions. A standardized evidence form would provide a centralized location for taxpayers to determine the records they need before a notice of deficiency is sent. As certified legal intern students working in a low-income taxpayer clinic, we are consistently explaining to our clients and chasing after documents and records that demonstrate that the taxpayer was eligible for the credits or deductions they selected.

VII. Conclusion

For these reasons, the Clinic supports the implementation of a pre-populated tax return system, reforms to the Earned Income Tax Credit, and the creation of standardized documentation requirements. These changes will greatly alleviate the burden on our low-income clients, as well as assist the IRS in the efficient administration of the tax system.

We thank you for your consideration.

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