

# United States Senate

WASHINGTON, DC 20510

September 7, 2011

The Honorable Douglas Shulman  
Commissioner  
Internal Revenue Service  
U.S. Department of the Treasury  
1111 Constitution Avenue, NW  
Washington, DC 20224

Dear Commissioner Shulman:

I was alarmed to read the recent report by the Treasury Inspector General for Tax Administration, which found that, in 2010, the Internal Revenue Service (IRS) improperly paid out \$4.2 billion in refundable tax credits associated with Additional Child Tax Credit (ACTC) to individuals not authorized to work in the United States. In light of the trillion-dollar deficits facing our country, I request that you promptly explain why the IRS continues to pay out billions of dollars to unauthorized workers.

I share the view of the Inspector General that the IRS already has authority to stop these payments and believe you must begin utilizing it without delay. However, if necessary, I am prepared to pursue legislation immediately to give the IRS the authority to stop improper payments before they are made.

While the total amount of payments to unauthorized workers is enormous, the trend lines are even more disturbing. The number of unauthorized workers claiming the ACTC has increased steadily over the past five years. The total amount of money paid improperly has more than doubled during that period. The Inspector General only analyzed the ACTC, but it is not hard to imagine that similar problems are occurring with other refundable credits. The Inspector General noted that the IRS has strong controls for the Earned Income Tax Credit, but it has not put in place equally strong controls for many other credits. This is deeply problematic and must be remedied.

Wrongful payments of refundable tax credits should be easy to identify and stop. The law is clear that individuals who are not authorized to work in the United States are not entitled to public benefits. Those who are authorized to work in the United States have a Social Security number. Those who are not authorized to work in the U.S. file with an Individual Taxpayer Identification Number (ITIN). It seems reasonable to presume that an ITIN filer is not eligible for the ACTC.

Despite the law and the fact that unauthorized workers should be easy to screen, the IRS continues to make payments to filers using ITINs. In cases where it later finds an improper payment, it can attempt to recoup the payment through the deficiency process, which takes

additional resources. It would be much more efficient and effective to deny the payments in the first place.

The Inspector General's report identifies several other issues that merit closer consideration. I look forward to discussing these issues with you and your staff, as well. However, stopping unauthorized payments can and must happen immediately.

Sincerely,

A handwritten signature in blue ink that reads "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" starting with a large loop and the last name "McCaskill" following in a similar style.

Claire McCaskill  
United States Senator