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Obama's Immigration Action Means Tax Refunds For Illegals, Says IRS

President Obama's aggressive executive action on immigration is still being litigated in the courts. In the meantime, tax refunds for the affected illegal immigrants have become controversial too. The IRS has reconfirmed that illegal immigrants can file and claim refunds for the last three years. Sound too bizarre to be true? Some say it isn't possible, but not the IRS.

It's called the Earned Income Tax Credit, the same refundable tax credit responsible for [billions in fraudulent refunds](#). IRS Commissioner Koskinen explained the seemingly bizarre result to Sen. Charles Grassley (R-Iowa). Illegal immigrants covered by the President's amnesty deal can claim back tax credits for work they performed illegally, even if they never filed a tax return during those years.



President Barack Obama speaks during a Cinco de Mayo reception in the East Room of the White House in Washington, May 5, 2015. Obama says that when it comes to achieving a comprehensive overhaul of immigration laws progress is 'not always a straight line.' He says that despite his executive actions on immigration, Congress still needs to pass legislation to make more permanent changes. (AP Photo/Carolyn Kaster)

This [written](#) response clarified the IRS chief's earlier statements, [confirming that illegals can get back taxes](#). Earlier this year, Mr. Koskinen [said](#) that to claim a refund, an illegal immigrant would need to have filed past tax returns. Now, the IRS chief says they can claim it even if they never filed tax returns in the past. According to the IRS, illegal immigrants granted amnesty and Social Security numbers can claim up to three years of back tax credits.

The IRS says a [2000 Chief Counsel Advice \(CCA\)](#) on this issue is correct. With the amnesty, illegal immigrants could [receive](#) tens of thousands of dollars in tax refunds. Under President Obama's executive action, an illegal immigrant can: (1) get a Social Security number; (2) claim the Earned Income Tax Credit for the three open tax years; and (3) IRS sends three years of tax refunds. No matter that you never paid taxes, never filed a return, worked off the books, etc.

The IRS says this is the way the Earned Income Tax Credit works. IRS Commissioner Koskinen says the IRS is following a 15-year-old opinion that "a taxpayer may claim the Earned Income Tax Credit for a taxable year using a Social Security number acquired in a later taxable year." Calling the three year tax refund perk a mockery of the law, Senator Grassley noted that illegals would be able to claim *billions* of dollars in tax benefits.

The President hasn't backed down. Meantime, U.S. Rep. Patrick McHenry introduced a bill to keep undocumented workers from receiving the Earned Income Tax Credit. "My bill is a direct result of the (IRS) announcement," [said McHenry](#), a Republican who represents the 10th District, which includes Gaston County. "It's very simple. If you're not here legally, you should not be able to access the Earned Income Credit. It's for the American taxpayers who are trying to make ends meet."

Rep. McHenry thinks there is a great chance for fraudulent returns, noting that even if undocumented workers were employed in the past, many may have used Social Security numbers that didn't belong to them. Rep. McHenry says illegal workers who broke the law should not benefit from the U.S. tax system. "If you're here counter to the law, you should not be able to recoup from the taxpayer that which you were fraudulently getting," he said. Rep. McHenry introduced the [No Free Rides Act](#). The bill would not stop illegal immigrants from filing tax returns, but would prohibit those workers from using Earned Income Tax Credit.

"President Obama's immigration action giving millions of illegal immigrants Social Security numbers marked an unprecedented executive overreach," said McHenry. "Now, we learn that these same people, whose first act on American soil was breaking our laws, might be eligible for up to \$24,000 in tax credits. This is simply unacceptable. By introducing the No Free Rides Act we ensure these illegal immigrants will not receive any more benefits intended to help American families."

For alerts to me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.