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LESSONS FROM HISTORY: DESIGNING WORKABLE, INCLUSIVE CHILD-CLAIMING RULES FOR TAX BENEFITS

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Taxpayers who have a close family relationship and live with a child for more than half the year can claim various child tax benefits, like the earned income tax credit (EITC) and the child tax credit (CTC), provided they meet other eligibility rules. For some complex families raising children, these relationship and residency rules can be difficult to navigate and may lead some to claim credits in error. For others, their caregiving arrangements do not align with these rules, making them ineligible for child tax benefits. Today's rules for determining who may claim a child have evolved in ways that have sometimes made them less inclusive and other times expanded eligibility (Crandall-Hollick et al. 2026). These changes have often been accompanied by stated congressional interest in reducing the amount of tax benefits claimed incorrectly (i.e., reducing noncompliance). A focus on reducing noncompliance is likely to remain important, especially as the tax system remains the largest source of cash assistance for low-income families with children. Some policymakers recognize that the existing rules exclude some families from tax benefits and are interested in making these rules more inclusive. Our research suggests the most durable path forward for updating these rules would include proactively addressing potential compliance issues, ensuring that taxpayers can follow and substantiate compliance with the rules and the IRS can administer them.

The income tax system is the greatest single source of federal investment in families with children. In fiscal year 2024, a third of all federal spending on children was through the tax code, primarily from the EITC and the CTC (Nikolopoulos et al. 2026). Together, these credits made up 80 percent of tax benefits for children.[1] These two credits are also valuable components of the social safety net, lifting 6.1 million people out of poverty in 2025, of which more than half, 3.3 million, were children (Bijou and Shrider 2026).

Black and Hispanic families are less likely to receive the EITC or the maximum CTC than White[1] families, in part because of eligibility rules that tie tax benefits to earnings and require taxpayers to have work-authorized Social Security numbers (SSNs). Both can exclude families or limit tax benefits, which can exacerbate racial inequities. At the lowest income levels, the EITC, for example, has been found to slightly widen the income gap between Black families and White families because of how the credit phases in with earnings (Hardy, Hokayem, and Ziliak 2022). And a disproportionate share of Black and Hispanic children live in families who do not receive the maximum CTC because their caregivers do not earn enough, a pattern shaped in part by historical and ongoing discrimination in the labor market (Collyer et al. 2023; Goldin and Michelmore 2022). Similarly, the SSN rules for the EITC and CTC deny these credits to children raised by undocumented immigrants, including US citizen children, many of whom are Hispanic (Passel and Krogstad 2025).

Rules around which taxpayer can claim a child for the EITC and CTC—often called connection tests—can also exclude families from these credits and may be more likely to affect Black and Hispanic families. To claim a child for the EITC and CTC (and the dependent exemption when it was in effect before 2018), a taxpayer must have a close family relationship with the child and generally have lived with the child for more than half the year. In extended families, where more than one taxpayer may be able to claim the same child for a tax benefit, additional tie-breaker rules determine which claim is valid.

Married couples that live with only their biological children for the entire year and with no other adults—sometimes thought of as "traditional" families but referred to as nuclear families in this brief—can apply connection tests in the most straightforward manner. In these situations, the connection tests are understood to accurately identify a child's caregivers—their parents. A larger share of White children are raised in nuclear families than Black children or Hispanic children (Michelmore and Pilkauskas 2022). At the same time, because there are more White children than Black or Hispanic children in the US, even the relatively smaller share that lives outside of nuclear families represents a significant number of children.

In recent years, there has been interest in revising existing child-claiming rules, including connection tests, to make them more inclusive of different kinds of families (Goldin and Jurow Kleiman 2022; Goldin and Michelmore 2022; NTA 2022). The legislative history of these rules suggests that taxpayer compliance—taxpayers following all the eligibility rules and being able to provide documentation substantiating eligibility—has often been the most important force shaping these rules. By contrast, considerations of how many families, and which families, may be excluded have received relatively less attention, at least in public debates.

A more equitable approach to policy design would weigh the impact of who would be excluded by various rule changes alongside considerations of noncompliance. The history of these rule changes suggests supporters of programs like the EITC have often focused on reducing noncompliance to protect these credits from being cut. But the failure to also proactively consider who would be excluded or burdened by eligibility rules during legislative debates, even if inadvertent, has meant that Black and Hispanic families may be less likely to benefit from (or receive smaller benefits from) the EITC and CTC than White families.

Since the tax code is now the largest source of cash assistance for low-income families with children, ensuring every child can benefit fully from the EITC and CTC has become a priority among some policymakers and advocates. To enact long-lasting changes to connection tests that would make the credits more inclusive of all

[1] We capitalize the term "White" to avoid perpetuating the notion of Whiteness as the standard or norm to which all other races and ethnicities are compared.

families, the history of these rules suggests that policymakers will likely need to also focus on compliance, ensuring that any new rules are easy for taxpayers to follow and substantiate and for the IRS to administer.

WHAT ARE CONNECTION TESTS?

Connection tests determine which taxpayer can claim an eligible child based on characteristics of the attachment between the child and the adult. Today, these tests define connection between taxpayers and children by relationship and residency. Taxpayers and children must have a close family relationship that is listed in the statute (the relationship test) and live together for most of the year (the residency test). For the CTC, there is a limited exception to the residency test for certain divorced or separated parents or parents who live apart (including those who never married).

The relationship and residency tests can result in more than one taxpayer being eligible to claim the same child for the same tax benefit. In such cases, tie-breaker rules determine which taxpayer has the proper claim. For example, an eligible child may live in the same home with her grandmother and mother, who both meet the relationship and residency tests for the EITC and CTC, but who file their tax returns as two separate taxpayers. Without any tie-breaker rules, both adults would have valid claims for the child on their respective tax returns. Under the current tie-breaker rules, the following applies:

- **If more than one parent is eligible to claim the child and both claim the child (on different returns), the parent with whom the child lives the longest has the valid claim.** If the child lives with both parents for the same amount of time, the parent who has the highest adjusted gross income (AGI) has the valid claim. If both parents are eligible and only one claims the child, that claim is considered valid and is not subject to this tie-breaker rule.
- **If a relative and a parent are both eligible and both claim the child, only the parent has the valid claim.** If a relative (like a sibling, grandparent, aunt, or uncle) and a parent are both eligible, but only the relative claims the child, the relative's claim is only valid if they have a higher AGI than any of the child's eligible parents. In other words, if no eligible parent claims the child, and the eligible relative's AGI is less than that of an eligible parent, their claim is invalid.
- **If more than one relative is eligible and no parent is eligible, the relative with the highest AGI has the valid claim.** Even if only one eligible relative claims the child, that claim is still subject to this tie-breaker rule and is only valid if that relative has the highest AGI among all eligible relatives.

The current tie-breaker rules prioritize the claims of parents over relatives and may, in some cases, provide unmarried cohabiting parents with greater flexibility to allocate children between them compared with nonparental relatives.[2] The taxpayer eligible to claim a given child for one tax benefit generally is the taxpayer eligible to claim them for all other tax benefits (Pareja 2014).

How Connection Tests Interact with Family Structure and Credit Claiming

Married parents who live with only their biological children may find it easier to comply with the current child-claiming connection tests since their family situations easily align with these rules. In these situations, the parents meet the relationship test and live with their children for most of the year, with no other taxpayers meeting these rules, and so the rules would be expected to correctly identify the child's parents as their primary caregivers.

Families who do not fit this description, sometimes referred to as "complex" families, may find that they are ineligible for benefits because the nuances of family life may not neatly align with the connection tests. If they still claim benefits, those claims will be in error. When those claims are associated with refundable tax credits, they are categorized as "improper payments."[3] For example, a stay-at-home unmarried mother raising her son with her boyfriend, who is not the child's biological father, will be ineligible to claim benefits like the EITC and refundable portion of the CTC because she does not have earnings from paid work. And her boyfriend, no matter how long he has lived with her and the child or how much caregiving he does, will be ineligible to claim her son for these credits because he is not related to the child and therefore does not meet the relationship test (Boddupalli, Crandall-Hollick, and Garriga 2026). Further, if the child's biological father lives elsewhere, the father will also be unable to claim the child because he fails the residency test, even if he may be actively involved in his son's life. If the boyfriend or noncustodial parent does claim the child for the EITC or CTC, perhaps because they view themselves as the child's primary caregiver, their claim will be considered an improper payment.

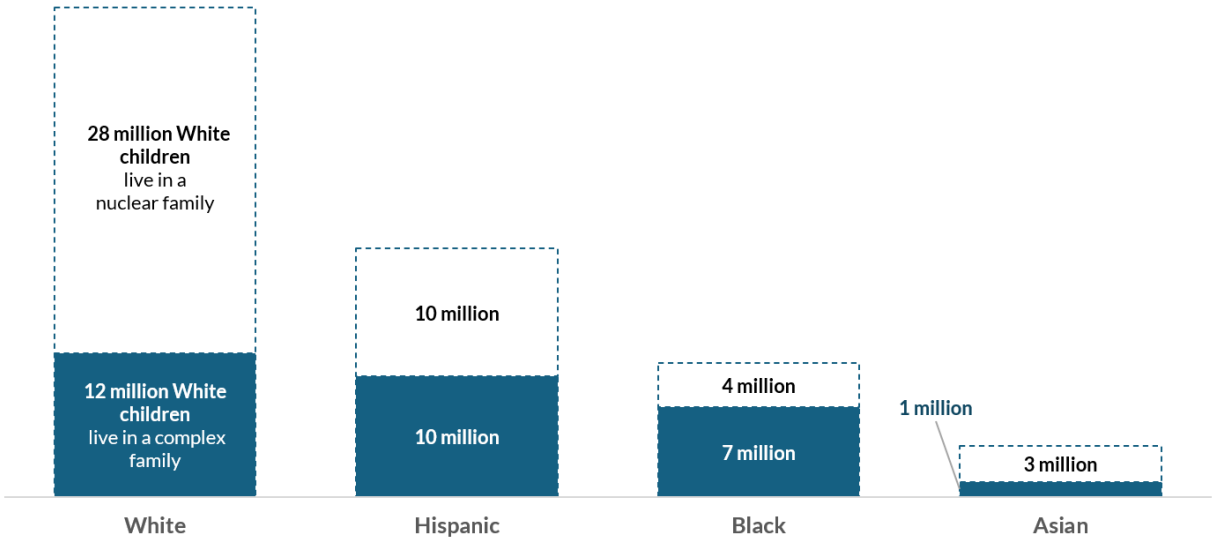
In other cases, eligible caregivers raising children in a complex family may struggle to navigate the many eligibility rules or find it difficult to substantiate their claims if audited, potentially creating confusion around who can claim a tax credit, leading some credits to be claimed in error or not be claimed at all (Moynihan et al. 2022). Take, for example, a child who lives with their mother and grandmother. The mother may spend several months elsewhere during the year, perhaps working various seasonal jobs to make ends meet, while her child remains in the home with the grandmother to have a more stable home life. In such a situation, the mother may struggle to determine if she has met the residency test, and even if she does meet it, may find it difficult to provide the necessary documentation to prove she meets this test if audited. The mother's challenges in substantiating her compliance with the residency test will be compounded if the child's grandmother takes the child to school, the doctor, and church.[4] The mother may simply decide to not claim the credit she is eligible for out of fear that she may be audited. Alternatively, the mother may encourage the grandmother to claim the credit for the child since she did most of the day-to-day caregiving. But the tie-breaker rules would mean the grandmother's claim would likely be an improper payment.

Prior research suggests that about 40 percent of children live in a complex family, with a higher share of Black and Hispanic children—67 and 49 percent, respectively—living outside a nuclear family structure (Michelmore and Pilkauskas 2022). This amounts to roughly 7 and 10 million children, respectively (figure 1). Because of these disparities, the barriers and challenges in credit claiming faced by complex families may disproportionately affect Black and Hispanic children. At the same time, since the largest number of children in the United States are White, the largest number of children potentially affected by these rules, about 12 million, are White (figure 1). Updating these connection tests to be more inclusive of complex families may simultaneously reduce racial disparities in tax credit eligibility and have broad benefits for all families.

FIGURE 1

While Many Children of Different Races and Ethnicities Live in Complex Families, Black and Hispanic Children Are Overrepresented

Number of children in complex families, by child's race/ethnicity, 2019



Source: Katherine Michelmore and Natasha Pilkauskas, "The Earned Income Tax Credit, Family Complexity, and Children's Living Arrangements," RSF: The Russell Sage Foundation Journal of the Social Sciences 8, no. 5 (2022): 143–65, https://doi.org/10.7758/RSF.2022.8.5.07, based on tables 1 and 2 and US Census Bureau, 2019 Current Population Survey, Annual Social and Economic Supplement (ASEC).
Notes: A nuclear family is defined as a family headed by two married parents, with no other adults in the household. Complex families include all families who are not nuclear families.

HOW HAVE CONNECTION TESTS CHANGED OVER TIME?

Connection tests today have evolved from being exclusively based on financial support at the beginning of the 20th century to being based on close family relationship and residency (Crandall-Hollick et al. 2026). Congress has often changed the connection tests to make family tax provisions easier for taxpayers to comply with and reduce claims made in error as more families, especially families with low incomes, have been brought into the income tax system. Often, these changes were also made to make it easier for the IRS to administer these provisions. But as these tests were modified, less attention was paid, at least in public debates, to the families raising children who were ineligible for tax benefits under these rules or who might struggle to comply with them.

Connection Tests Were Originally Based on Financial Support

Connection tests were originally based solely on financial support and enacted at a time when the income tax only applied to the small share of households with the highest incomes (Jones 1988; Sailer 1992). The first connection test in the modern income tax was enacted in 1917, when taxpayers were allowed to claim a dependent exemption for a child if the taxpayer provided most of that child's financial support. The dependent exemption excluded a fixed amount of a taxpayer's income from taxation for each child they could claim. This helped to adjust tax liabilities for larger families, since all else being equal, families with more children have a

reduced ability to pay income taxes. (The dependent exemption was repealed beginning in 2018 and replaced with a more generous CTC and nonrefundable credit for other dependents.)

A connection test based solely on financial support is, for some, a more flexible connection test than the current tests based on relationship and residency. Taxpayers, for example, could claim dependent exemptions for children that the taxpayer was unrelated to or did not live with, as long as the taxpayer provided a majority of the financial support for these children.

After World War II, Connection Tests Were Based on Financial Support and Close Family Relationship

In 1944, when the income tax changed from a "class tax" that only applied to a small share of individuals with high incomes to a "mass tax" paid by most Americans, Congress modified the dependent exemption's connection test so that an eligible taxpayer had to provide the majority of a child's financial support and have a close family relationship to the child. This additional "relationship test" limited eligibility to taxpayers most likely to have a legal obligation to support a child, denying claims made for children the taxpayer supported for charitable or moral reasons. In so doing, it reinforced the principle that this provision was designed to adjust tax liabilities by family size as opposed to subsidizing charitable support for children. And it may have helped reduce instances of the dependent exemption being claimed by taxpayers whose declarations of support for unrelated children were difficult for the IRS to verify.[5]

Basing eligibility on family relationships excluded children informally raised by nonrelatives. Limited historical data document how many children were being raised and cared for informally by nonrelatives. But researchers have documented the importance of extended family and nonrelative networks in raising children. Historically, some Black families, for example, relied on unrelated individuals for financial and caregiving support in raising children, especially in the face of economic insecurity and limited employment opportunities (Chatters, Taylor, and Jayakody 1994; Chatters, Taylor, and Tsuchiya 2025; Stack 1983). These arrangements are not unique to Black families, and their utility is not limited to raising children. But this example highlights the many situations when nonrelatives can play an important role in raising a child that does not always align with legally defined relationship rules.

Focusing eligibility on adults who had a legal obligation to support a child also denied eligibility for the dependent exemption to some families who formally fostered children. In 1954, Congress initially addressed this issue by expanding eligibility to foster children if they lived with a family for the entire year as a "member of household." But this designation excluded children whom a taxpayer intended to adopt, but who lived with the taxpayer for less than a full year. To address this, Congress made another legal carve-out in 1959 to expand eligibility for the dependent exemption to foster families if their foster child was placed in their home for legal adoption, which may have been viewed as a legal obligation between a taxpayer and a foster child warranting eligibility. In 1969, the rules were adjusted again to address cases where foster children had a close connection with a taxpayer, but whom the taxpayer did not intend to adopt. These legislative changes reflected Congress's desire to be more inclusive for foster families, but only where there seemed to be some legal obligation or commitment between a taxpayer and a foster child, with that legal obligation to financially support their foster child reducing their ability to pay income taxes. During these deliberations, less attention was paid in public debates to which families might still be left out, although at the time, only limited data existed on the demographics of foster children.[6]

Financial Support Tests Began to Be Reconsidered After the EITC Was Enacted

When the EITC was enacted, first temporarily in 1975 and then permanently in 1978, it marked the beginning of the federal income tax system becoming the largest federal source of cash assistance for low-income working families. EITC benefits were targeted toward single mothers with low incomes, and the credit's connection tests reflected that. Eligible taxpayers had to have a close family relationship to the child, financially support the child, and live with the child to be eligible for the tax credit. The EITC's residency test paralleled rules for other tax benefits like the head-of-household status, a tax filing status enacted in 1951 that provides additional tax benefits to many unmarried parents. The EITC residency rules also resembled residency requirements for nontax benefits for families with low incomes (Goldin and Jurow Kleiman 2022).

Eligibility for the EITC was also based on a financial test, similar to the dependent exemption, though by 1978, when the credit was made permanent, the details of the test differed depending on whether the taxpayer was married or unmarried. A married couple was eligible for the EITC if they filed a joint return[7] and had a dependent child. Couples needed to provide more than one-half of a child's financial support during the year for the child to be considered a dependent, so that test indirectly applied to families claiming the EITC.[8] An unmarried parent was eligible if they filed their return as a head of household, which required them to pay for more than half the costs of the living space they shared with a child.[9]

For taxpayers, determining if they met the EITC's financial tests could be complicated. Married taxpayers were provided with a 23-line worksheet to help them determine if they provided over one-half of the costs of supporting a dependent child, while unmarried taxpayers were provided with an 11-line worksheet to help them determine if they provided over half the costs of the shared living space, often referred to as the "household maintenance test" (Holtzblatt 1991).

Many taxpayers with low incomes struggled with the EITC's financial support or household maintenance tests. When a child had lived with just one taxpayer and was not receiving any outside financial assistance, determining whether they met either of these tests could be more straightforward. But if part of a child's support came from a government program or a relative or friend who occasionally sent a check, that reduced the share of total support from the parent that could be counted in these tests, complicating the calculations and making valid claims harder to substantiate.

While most EITC recipients at the time were White, Black and Hispanic households were overrepresented compared with their share of the total population,[10] suggesting that the burden of these financial tests, though broad, also fell disproportionately on people of color and complicated their access to tax credits.

REDUCING EITC NONCOMPLIANCE BY ELIMINATING FINANCIAL SUPPORT TESTS

The EITC's financial tests drove a high share of credit dollars being claimed in error, at substantially higher rates than today. A 1990 IRS research study of tax returns from the 1980s found that 39 percent of all EITC dollars had been claimed in error. The most common errors were claiming a dependent the taxpayer was ineligible to claim and claiming the head-of-household filing status incorrectly (Holtzblatt 1991). After the report's release, Holtzblatt (1991) noted sustained political pressure to reduce the EITC's error rate. The US Treasury Department, in consultation with congressional tax-writing committees and the Joint Committee on Taxation, developed legislative proposals to reduce noncompliance, and Congress passed them with little change.

The proposals to reduce EITC noncompliance eliminated the financial support test for married taxpayers and the household maintenance test for unmarried parents. To resolve cases where multiple taxpayers could claim

the same child for the credit, a tie-breaker rule awarded the EITC to the taxpayer with the highest AGI. The EITC error rate fell from roughly 39 percent of credit dollars to around 21 percent within a decade of these changes, where it has hovered ever since (Greenstein and Shapiro 1998).[11]

The elimination of the EITC's financial support and household maintenance tests in the 1990s likely made claiming the credit easier for many taxpayers, including the increasing numbers of working single mothers who benefited from the EITC (Meyer and Rosenbaum 2001). Many single parents still had to meet the household maintenance test to file as a head of household, but they no longer had to also navigate these rules for the EITC. During this period, employment rates of single mothers increased for all, but especially so for Black single mothers, suggesting that the potential benefits of simpler EITC claiming rules may have been wide-ranging (Falk 2018).

But these changes may have also made credit claiming more difficult for those with children who were cared for in extended families, where the eligible taxpayer with the highest AGI would have the valid claim, regardless of whether they were the child's primary caregiver. If a child lived with their low-income father and higher-income grandmother, only the grandmother's claim would be valid under the original tie-breaker rules. Even if the father was the primary caregiver and received little financial assistance from the grandmother, he would be ineligible to claim the tax credit and if he did, his claim would be considered an improper payment. And if the grandmother's income were too high, she could be ineligible for the EITC. Black and Hispanic children were substantially more likely to be raised in extended families than White children during this period (Cross 2018; Pilkauskas, Amorim, and Dunifon 2020), which may have led to disproportionate burdens in credit claiming.

Even with these changes, there was still opposition to expanding the EITC, often fueled by noncompliance research. After the 1993 EITC expansion, for example, policymakers seeking to reverse these changes highlighted EITC noncompliance research (for a summary, see GAO 1998). In March 1994, Senator Roth requested that GAO[12] study EITC noncompliance.[13] The results, as a Treasury official noted, contained both "good and bad news for the [Clinton] Administration…. On the one hand, the error rates contained in the report will be lower than the 40 percent rates found in studies of EITC compliance during the eighties. Nonetheless, the error rates contained in the report are still unacceptably high."[14] Policymakers, including Senator Roth and Senator Nickles, introduced legislation to drastically reduce EITC benefits, because of what they contended was "rampant fraud and abuse" of the credit.[15]

By the end of the 1990s, intense scrutiny of the EITC remained, often focusing on erroneous claims. In 1997, Congress directed additional funds to the IRS to use available tools like audits to reduce EITC noncompliance.[16] As Ventry (2007, 1266) observed, the EITC "faced increasing threats when claimants began to resemble the apocryphal welfare cheat who bilked the government and lived off the dole; that is, when noncompliance rates for the program skyrocketed to 35 and 40 percent in the 1980s and 1990s. Only after supporters of the EITC mounted a protracted effort demonstrating the program's pro-work, anti-welfare features did the threats subside." Dorothy Brown has noted that "welfare" is a racially coded word in the United States meant to imply government assistance for Black families and to erode political support for government assistance programs even when, as is the case with the EITC, the typical recipient is White (Brown 2007; Cronin, DeFilippes, and Fisher 2023).[17]

In the early 2000s, after a determination by the Office of Management and Budget, erroneous claims of the EITC began to be classified and reported as improper payments, alongside improper payments in nontax programs, under the Improper Payments Information Act of 2002 (Brown 2012). The Office of Management and

Budget's reporting would continue to focus policymakers' attention on this aspect of the EITC well into the future and put pressure on the IRS to reduce noncompliance, often by increasing the number of EITC returns that were audited.[18]

This focus on reducing EITC noncompliance was later found to disproportionately burden Black taxpayers. Even though audit selection is race-blind—taxpayers do not provide their race or ethnicity on their income tax return—recent research found that Black taxpayers were substantially more likely to be audited than non-Black taxpayers, largely driven by disparities in audits of Black and non-Black EITC recipients (Elzayn et al. 2025; TACRE 2024). According to the study, some factors that may have contributed to the audit rate disparities fall under Congress's responsibilities: "Congress sets the rules governing credit eligibility—which may contribute to more mistakes among Black taxpayers due to racial differences in family structure—and IRS funding—which shapes the ability of the agency to allocate resources to complex cases" (Elzayn et al. 2025, 159).

RESIDENCY TESTS HAVE REDUCED NONCOMPLIANCE BUT CHALLENGES REMAIN

Financial support tests came under more scrutiny in the late 1990s and early 2000s for driving noncompliance in other tax benefits, like the dependent exemption, and were eventually eliminated from most child tax benefits in 2004 as part of the Working Families Tax Relief Act. In their place remained the relationship test and the residency test, which are the foundation for connection tests of most child tax benefits today.

A residency test, compared with a financial support test, was believed to be simpler for most taxpayers to comply with and potentially easier to administer. As Holtzblatt and McCubbin (2003) explain, a residency test does not necessarily require the extensive recordkeeping that a financial support test does if a taxpayer must justify their claim to the IRS.

Even if the residency test was easier than a financial support test to comply with, that did not mean it was easy. A 2002 GAO report found that when a taxpayer had to substantiate their EITC claim in an audit, "providing documentation to show that a child lived with the taxpayer has consistently been identified as the toughest El[T]C eligibility requirement to substantiate" (GAO 2002, 14). Failure to meet (and substantiate) the residency test is now the main source of error in child tax benefits like the EITC, and the IRS struggles to administer this provision because it has no reliable and routinely updated data to verify whether a taxpayer meets this requirement.[19] The IRS also has no such third-party data to verify compliance with the financial support test when a return is filed.

Policymakers adopted a residency test not because it was perfect, but because its adoption helped reduce EITC noncompliance compared with the prior financial support test. Some research suggests that families of color may be more likely to struggle to provide the types of documentation that could prove they meet the residency test (Crandall-Hollick et al. 2026). Researchers have found that reducing administrative burdens in social benefit programs broadly may help lower economic disparities by race (Parolin, Cross, and O'Brien 2023; Ray, Herd, and Moynihan 2023).

Tie-Breaker Rules Have Become Less Flexible

Adopting a residency test for any child tax benefit meant that for some households, including extended families or unmarried cohabiting parents, more than one taxpayer in a household could make an eligible claim, necessitating tie-breaker rules. Explicit tie-breaker rules to address these cases were included with the EITC. Under the tie-breaker rules in effect before 2002 for the EITC, if multiple taxpayers were eligible for the credit,

only the taxpayer with the highest AGI could claim the EITC.[20] This rule was intended to prevent duplicate credit claims from the outset.

However, a tie-breaker rule based exclusively on income could not always ensure that the EITC went to a child's primary caregiver. A single parent raising her child, while living with her own wealthier parents, would likely have a stronger connection to the child than the grandparents, yet these tie-breaker rules would have only recognized the grandparent's claim as valid. Further, the IRS struggled to administer this tie-breaker when only one taxpayer claimed the child, because without an audit, it would have little visibility into who else may have been eligible to claim a child.

In 2001, the tie-breaker rules were relaxed to give families who met all the other eligibility criteria more discretion based on the facts and circumstances that only they could know. This change went into effect in 2002. As Leibel, Lin, and McCubbin (2020) note, the "2001 act allowed taxpayers to decide among themselves who could claim the qualifying child and imposed a tie-breaker rule only if two or more eligible taxpayers claimed the child" (38–39). In these situations, the claims from the parent would be prioritized. If both parents claimed the EITC, the credit would go to the person the child lived with the longest, and if the child lived with them equally, the credit would go to the parent with the highest AGI. If two nonparents claimed the child, the taxpayer with the highest AGI could claim the child for the tax credit.

In 2008, the Treasury recommended that Congress limit the flexibility in the tie-breaker rules that had been in effect since 2002, highlighting in part how existing rules could allow those with higher incomes to benefit (Treasury 2008). That same year, Congress enacted legislation in line with Treasury's recommendation, limiting the flexibility of existing tie-breaker rules, which went into effect in 2009. After this change, parents' claims were prioritized in the tie-breaker rules. Eligible nonparent relatives would only have a valid claim for child tax benefits if neither eligible parent claimed the benefit and the relative had higher income than any eligible parent.

Noticeably absent from most of these public debates was an analysis of who may be excluded from the rules or struggle to comply with them. This is not to say policymakers did not consider who would be left out, but rather that the exclusion of some families was not the focus of the public debates to the same degree that reducing noncompliance was.

CASE STUDY: TIE-BREAKERS AND EXTENDED FAMILIES

Changes to the tie-breaker rules in the 2000s may have affected many children in extended families. Extended families include both families with multiple tax units of the same generation (an aunt or uncle living with their sibling and their sibling's children) and families with multiple tax units across generations (multigenerational families). In extended families, multiple adults across different tax units may meet the relationship and residency tests to claim a child for the EITC and CTC, and their claim will only be valid if they can subsequently pass the tie-breaker rules.

Millions of children live in extended families (Cohn et al. 2022; Cross 2018; Sarkisian, Gerena, and Gerstel 2007). Today, almost one in eight children, and almost one in five EITC-eligible children, live with one or both of their parents and other relatives (Michelmore and Pilkauskas 2022). While a significant number of White children live in low-income extended families, often in response to economic shocks (Cross 2020; Mollborn, Fomby, and Dennis 2012), larger shares of Black and Hispanic children live in extended families across all income levels (Cross 2018). Recent data suggest more children are living in these caregiving arrangements, in particular

children living with parents and grandparents, at levels not observed since the 1950s (Pilkauskas, Amorim, and Dunifon 2020).

Discordance between caregiving and tax credit eligibility rules may be especially pronounced in extended families where children live with a parent and other relatives. In these cases, the tie-breaker rules prioritize the claims of the parent, even when another relative may be raising the child. A larger share of Black and Hispanic children are raised in families with a combination of parents and other relatives than White children (Michelmore and Pilkauskas 2022), suggesting that Black and Hispanic children may be disproportionately affected by the current rules. If a child lives with a parent and a relative who is their caregiver, their relative will often be ineligible to claim the EITC and CTC for that child. And if they are eligible, and the parent does not claim the child, the relative may struggle to prove they have higher income than the parent.

The implications of the 2009 changes to the tie-breakers are highlighted in *Smyth v. Commissioner*,[21] in which a grandmother who lived with her son and his children was not eligible for child tax benefits for the grandchildren, even though she was raising them. In their ruling, the Tax Court found the following:

> "… it is impossible for us to convince ourselves that the result we reach today—that the IRS was right to send money meant to help those who care for small children to someone who spent it on drugs instead—is in any way just. Except for the theory of justice that requires a judge to follow the law as it is but explain his decision in writing so that those responsible for changing it might notice."[22]

The precise impacts of changes to the tie-breaker rules in the 2000s, however, are unclear. When the rules were more flexible between 2002 and 2008, they may also have allowed families to receive larger tax benefits by allowing the tax unit eligible for the largest benefits to claim the child. But in other cases, the limited flexibility of the tie-breakers after 2008 may have provided greater clarity and simplicity.

Since the number of extended families is expected to grow in the United States across all races and ethnicities (Cohn et al. 2022), creating more inclusive rules that are easy to comply with may make tax filing and benefits access easier for more caregivers in complex families and could reduce erroneous credit claims.

WHAT'S NEXT FOR CONNECTION TESTS?

Today, the child-claiming connection tests are often understood as a proxy for determining something that cannot be directly observed: the person who is a child's primary caregiver. Although policymakers have historically focused on designing these rules to improve compliance, a factor that will likely continue to shape them, these rules should also be evaluated on how accurately they identify the person or persons who are raising a child and who would thus be most likely to spend the EITC and CTC for the child's benefit (Goldin and Jurow Kleiman 2022).

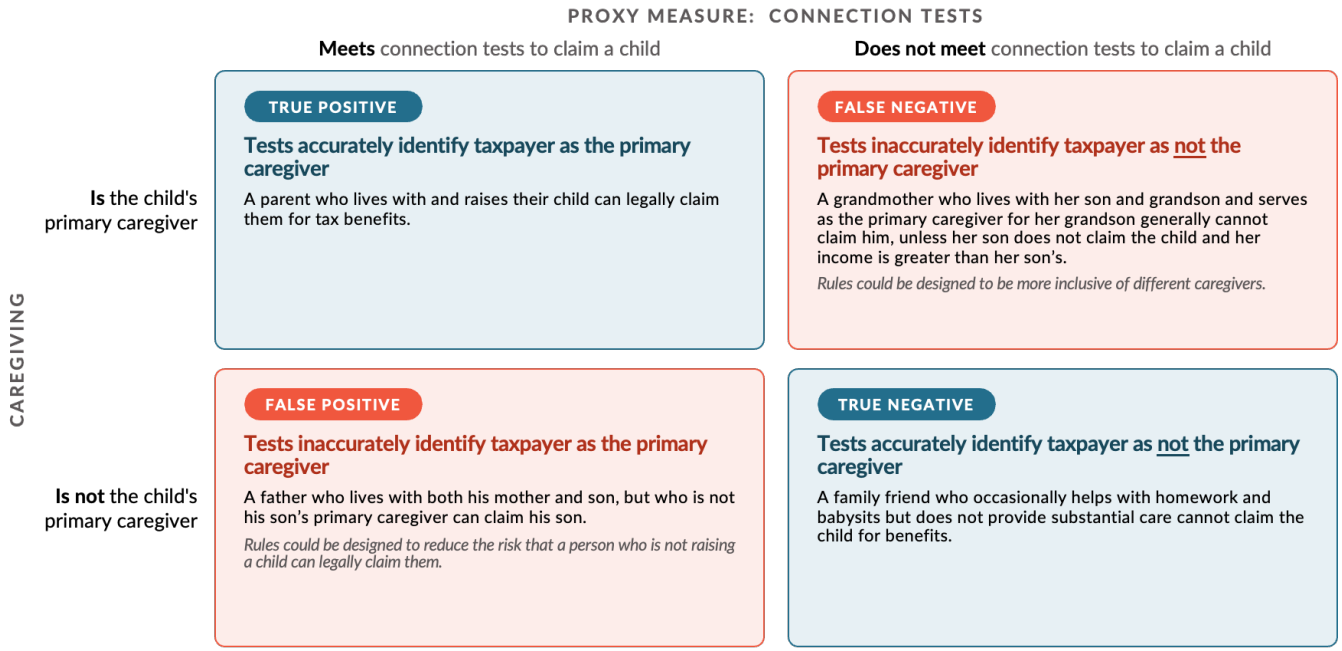
Because connection tests are imperfect proxies, they will sometimes incorrectly identify the child's primary caregiver and in other cases, identify no one as their primary caregiver, meaning no taxpayer can legally claim the child on their return. Most US children are claimed on tax returns (Gee et al. 2026), so the former is likely the larger issue. When the connection tests fail to correctly identify a child's primary caregiver, they can exclude a child's actual caregiver from eligibility ("false negative" in figure 2) while allowing a noncaregiver to legally claim benefits ("false positive" in figure 2), reducing the likelihood that child tax benefits are channeled toward supporting the child.

The failure of these eligibility rules to align with current caregiving relationships, and the difficulty for certain caregivers to substantiate their eligibility, can also increase noncompliance. Even if a child's primary caregiver fails to meet the eligibility rules, or cannot substantiate their compliance with these rules, they may still claim the benefit, resulting in an erroneous claim. Some argue that the mismatch between people's caregiving arrangements and eligibility rules may contribute to some taxpayers' willingness to engage in noncompliant behavior, in part to combat their perceptions that the rules are unfair (Book 2018). A primary caregiver who fails to meet these tests is also omitted from calculations of the share of credits received by eligible taxpayers, often expressed as take-up rates. The failure of child-claiming rules to include all caregivers may thus contribute to both higher improper payment rates and lower take-up rates of refundable tax credits.

FIGURE 2

Connection Tests for Child Tax Benefits Serve as a Proxy for Caregiving

Like any proxy, connection tests produce two kinds of errors: caregivers they exclude from eligibility and noncaregivers they include for eligibility for child tax benefits



Source: Tax Policy Center.

Policymakers interested in enacting more equitable eligibility rules can start by asking additional questions beyond the scope of noncompliance, such as:

How many and what kind of caregivers are excluded from eligibility because they do not conform to traditional ideas of family? Are the families excluded more likely to be historically underserved populations (including Black and Hispanic families with low incomes) that policymakers want tax benefits to reach? What are the costs and benefits of writing tax rules that include them? Are the noncompliance risks from more inclusive rules high or low? Can documentation requirements reduce noncompliance concerns while still being easy enough for eligible taxpayers to follow?

Additional research on who may be excluded or face greater administrative burdens in claiming child tax benefits under current connection tests could provide policymakers with valuable information to answer these questions and ultimately provide a more holistic picture of their impacts. This may, in turn, help policymakers revise existing child-claiming rules to not only improve compliance, but also be more inclusive of diverse caregiving arrangements, which could help mitigate racial and ethnic disparities in tax benefit receipt.

NOTES

1 Elaine Maag and Margot Crandall-Hollick, "Tax Programs, Mainly the CTC and EITC, Continue to Drive Federal Investment in Children," *TaxVox* (blog), Urban-Brookings Tax Policy Center, 2026, https://taxpolicycenter.org/taxvox/tax-programs-mainly-ctc-and-eitc-continue-drive-federal-investment-children.

2 Some cohabiting unmarried parents may have flexibility in who can claim their biological children that live with them. For example, assume two unmarried cohabiting parents, Parent A and Parent B, both live with their biological children Child A, Child B, Child C, and Child D all year and no other individuals. Parent A pays more than half the cost to maintain the household for at least one qualifying individual, for example Child A, and so elects to file as head of household (HOH). Parent B files as single. Parent A claims Child A for the EITC and the CTC assuming the child is eligible for both. But Parent A and Parent B can decide among themselves who will claim Child B, Child C, and Child D for these credits, assuming they meet these credits' other eligibility requirements. However, there are cases where cohabiting unmarried parents cannot decide who will claim a child for a tax benefit, even under the existing tie-breaker rules. In a similar example to the above where the parents only had one child (Child A) and that child qualified Parent A for HOH status, Parent A is the only parent who could claim Child A for the EITC and CTC, assuming the child met all eligibility requirements. Theoretically, Parent A and Parent B could also each file as single filers, which would provide more flexibility to decide who could claim Child A, but could also result in a higher tax bill depending on the parents' incomes. See Internal Revenue Code section 152, IRS Notice 2006-86, https://www.irs.gov/pub/irs-drop/n-06-86.pdf, and IRS Publication 4012, https://www.irs.gov/pub/irs-pdf/p4012a.pdf.

3 An improper payment is one that either should not have been made or that was made for the wrong amount (including both underpayments and overpayments).

4 The IRS's EITC toolkit (Form 886-H-EIC Toolkit) notes the following types of documentation it accepts to substantiate a taxpayer has met the residency test vis-à-vis a particular child: (1) school records (a taxpayer may need to send one or more school records to show residence for more than half of the year); (2) medical records from doctors, hospital or clinic (a taxpayer may need to send more than one medical record to show residence for more than half of the year); (3) adoption or foster child placement statement/documents from social service placement agency; (4) court records; (5) a statement from the child's school or higher educational institution on signed and dated letterhead; (6) a statement from the child's childcare provider (not a relative) on signed and dated letterhead; (7) a statement from a child's health care provider, doctor, nurse or clinic on signed and dated letterhead; (8) a statement from my employer on signed and dated letterhead; (9) a statement from Indian Tribal official on signed and dated letterhead; (10) a statement from my landlord or property manager on signed and dated letterhead; (11) a statement from place of worship on signed and dated letterhead; (12) a statement from shelter(s) on signed and dated letterhead. All of this documentation must include the taxpayer's address, the child's address and the dates the child lived with the taxpayer at the same address (for the EITC this address must also be in the United States), https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/form-886-h-eic-toolkit.

5 The relationships that met this test were listed in the statute and included being the taxpayer's son or daughter (including stepchild), grandchild, sibling, niece, or nephew. And because dependents that qualified for the dependent exemption were not limited to children in the 1944 law, qualifying relationships also included other individuals, like a taxpayer's father or mother (including stepparents), aunts and uncles, and in-laws.

6 Historical data on fostering are sparse and the most comprehensive national data on foster children that include information on race and ethnicity of foster children and the types of foster homes these children were placed in—be it with relatives, who would generally be eligible to claim a foster child, or with nonrelatives, who could only do so in much more limited situations—only started being collected in the mid-1990s, with complete data collected in the early 2000s. See the Adoption and Foster Care Analysis and Reporting System (AFCARS) dataset. For more information, see https://www.ndacan.acf.hhs.gov/datasets/datasets-list-afcars-foster-care.cfm.

7 Married taxpayers who file separately were and remain ineligible for the EITC.

8 The child that qualified a married joint filer for the EITC had to meet the rules of the dependent exemption.

9 For head of household filers that claimed the EITC, the child that qualified them for the tax credit generally did not have to meet the requirements of the dependent exemption. This was the case when the child was the taxpayer's child or stepchild. Adopted children and foster children that were placed with foster parents for legal adoptions also counted as children for this test. Other children could qualify a taxpayer for the EITC if they met the tests of the dependent exemption.

10 Liebman (1998, 88) finds that "40 percent of EITC recipients in 1990 were Non-Hispanic White, 39 percent were Non-Hispanic Black, and 19.5 percent were Hispanic," while US Census Bureau data indicated that 75 percent of the adult population was non-Hispanic White, 12 percent was non-Hispanic Black and 9 percent was Hispanic. US Census Bureau,

"Population by Race and Hispanic or Latino Origin for the United States: 1990 and 2000," PHC-T-1, Table 4, April 2, 2001, https://www.census.gov/data/tables/2000/dec/phc-t-01.html.

[11] Janet Holtzblatt, "Whose Child Is It Anyway? The Ways & Means Definition Makes It Harder for The IRS To Know," *TaxVox* (blog), Urban-Brookings Tax Policy Center, September 27, 2021, https://taxpolicycenter.org/taxvox/whose-child-it-anyway-ways-means-definition-makes-it-harder-irs-know.

[12] The General Accounting Office was renamed the Government Accountability Office in 2004. See https://www.gao.gov/about/what-gao-does/history.

[13] Senator William V. Roth Jr., "Roth Wants Earned Income Tax Credit Scrutinized for Fraud," press release, 1994, https://www.taxnotes.com/research/federal/legislative-documents/congressional-news-releases/roth-wants-gao-and-irs-help-in-examining-eitc-fraud/13wb0.

[14] See memo from Eric Toder to Lloyd Bentsen (1994), available in the Clinton Digital Library, https://clinton.presidentiallibraries.us/items/show/31291.

[15] "Full Text: Unofficial Transcript of June 8 Finance Hearing on EITC," Tax Notes, https://www.taxnotes.com/research/federal/other-documents/testimony-other-than-irs-and-treasury/full-text-unofficial-transcript-of-june-8-finance-hearing-on/131c8.

[16] The Balanced Budget Act of 1997 (Pub. L. No. 105-33, 111 Stat. 251, https://www.govinfo.gov/content/pkg/PLAW-105publ33/pdf/PLAW-105publ33.pdf) authorized funding for a five-year initiative by the IRS to improve compliance for the EITC (Section 5702). The Taxpayer Relief Act of 1997 (Pub. L. No. 105-34, 111 Stat. 788, https://www.govinfo.gov/content/pkg/PLAW-105publ34/pdf/PLAW-105publ34.pdf) introduced additional compliance rules to reduce improper claims of the tax credit. These included a new provision that denied the EITC to a tax filer for a period of two years if the tax filer made a "reckless" claim and for a period of 10 years if the tax filer made a fraudulent claim. These are commonly known as two-year and ten-year "bans." Congress has since applied them to other refundable tax credits.

[17] During the 2012 presidential election cycle, Republican candidate Gingrich referred to President Obama, the first Black president of the United States, as the "food stamp president" (see for example "Gingrich: Obama 'Food Stamps' President," Associated Press, January 6, 2012, https://www.youtube.com/watch?v=VXcyX8blbu0). Critics highlighted this as a way to use race as part of an electoral strategy with Representative Clyburn stating, "That is something they have been told will work to connect the president as being a black-oriented president, taking away from somebody else to give to black people"; Debbie Elliott, "'Food Stamp President': Race Code, or Just Politics?," *National Public Radio,* January 17, 2012, https://www.npr.org/2012/01/17/145312069/newts-food-stamp-president-racial-or-just-politics.

[18] In 2020, the IRS was reported as formally requesting that the erroneous claims of refundable tax credits like the EITC and CTC no longer be reported as improper payments but instead be reported as part of research on the tax gap. See Book 2021 for a discussion. Leslie M. Book, "TIGTA Releases Report on Improper Payment Rate For Refundable Credits," Tax Notes, June 1, 2021, https://www.taxnotes.com/procedurally-taxing/tigta-releases-report-improper-payment-rate-refundable-credits/2021/06/01/7h68k?pt=1.

[19] A recent IRS compliance study of the EITC found that most dollars of credit improperly claimed were due in part or totality to incorrect claims of qualifying children and most errors in claiming children were related to the residency test (Leibel 2014).

[20] At the time, income was a modified version of adjusted gross income (AGI).

[21] *Smyth v. Commissioner*, T.C. Memo. 2017-29 (2017). Grisel Smyth, who worked as a nurse's aide, also cared for two young grandchildren who lived with her, and she claimed them on her 2012 return receiving over $5,000 in benefits. Her son, who lived with her, and was the parent to these two children, also claimed them. In this case, the Tax Court noted the unfairness of the ruling they were about to hand down, that Ms. Smyth's son was unemployed and spent the refund check on drugs. But the tie-breaker rules were clear that parental claims trumped nonparental claims. Even if Ms. Smyth's son had not claimed the children, she would only have been able to claim them if her income was higher than her son's. For a discussion of the case, see Book (2018).

[22] *Smyth*, T.C. Memo. 2017-29.

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