

Legislative Recommendation #64**Enable the Low Income Taxpayer Clinic Program to Assist More Taxpayers in Controversies With the IRS****SUMMARY**

- *Problem:* In 1998, Congress created the Low Income Taxpayer Clinic (LITC) grant program to provide free or nominal-cost representation to low-income taxpayers involved in controversies with the IRS and to provide education about taxpayer rights and responsibilities to taxpayers who speak English as a second language (ESL). The law capped the grant that could be awarded to any clinic at \$100,000 per year. The law also limits the grant amount a clinic may receive to the amount it raises from other sources. As a result of these limitations, the LITC program is not as effective as it could be in assisting the maximum number of eligible low-income taxpayers.
- *Solution:* Eliminate the \$100,000 per-clinic funding cap and reduce the matching funds requirement where doing so would expand coverage to additional low-income taxpayers.

PRESENT LAW

IRC § 7526 authorizes the Secretary, subject to the availability of appropriated funds, to provide matching grants for the development, expansion, or continuation of LITCs. The LITC Program was authorized as part of the IRS Restructuring and Reform Act of 1998 to provide free or nominal-cost representation to low-income taxpayers who are involved in controversies with the IRS and to provide education about taxpayer rights and responsibilities in multiple languages for ESL taxpayers.

IRC § 7526(c)(1) imposes an annual aggregate limitation of \$6 million for LITC grants “[u]nless otherwise provided by specific appropriation.”

IRC § 7526(c)(2) imposes an annual limitation on grants to a single clinic of \$100,000.¹

IRC § 7526(c)(5) limits the amount of LITC funding a clinic may receive to the amount it raises from other sources (*i.e.*, a 100 percent matching funds requirement). The match may be in cash or third-party in-kind contributions (*e.g.*, volunteer time, donated supplies).

REASONS FOR CHANGE

The LITC Program is an effective and low-cost means to assist low-income and ESL taxpayers. In 2023, the LITC Program Office awarded grants to 138 organizations in 48 states and the District of Columbia. In 2022, the most recent year for which complete data is available, clinics receiving grant funds represented about 20,000 taxpayers dealing with an IRS tax controversy, including in cases before the U.S. Tax Court. They provided consultations or advice to over 15,000 additional taxpayers. The clinics worked closely with the Tax Court and the IRS Office of Chief Counsel to resolve docketed cases on a pre-trial basis where possible. They helped taxpayers secure more than \$10 million in tax refunds and reduced or corrected taxpayers’ liabilities by more than \$41 million. They also brought thousands of taxpayers back into filing and

¹ In the fiscal year (FY) 2023 appropriations act, Congress doubled the per-clinic cap from \$100,000 to \$200,000 and doubled overall program funding from \$13 million in FY 2022 to \$26 million. See Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 4459, 4655 (2022). This change was helpful, but appropriations legislation is annual, and several clinics have told us they are reluctant to invest in raising additional matching funds and hiring and training additional employees unless they have assurance that these higher funding levels will be made available in future years. For that reason, we continue to recommend raising the caps in the authorizing legislation (*i.e.*, IRC § 7526).

payment compliance, and helped ensure that individuals understood their rights and responsibilities as U.S. taxpayers by conducting nearly 1,400 educational activities that were attended by about 57,000 individuals.²

The success of the LITC Program is tied largely to the extensive use of volunteers. Some 1,100 volunteers contributed to the success of LITCs by volunteering about 36,000 hours of their time. More than 66 percent of the volunteers were attorneys, certified public accountants, or enrolled agents.³

There are many underserved low-income taxpayers across the nation who could benefit from LITC assistance. The overriding goal of LITC management is to provide quality service to more taxpayers. IRC § 7526 currently contains two restrictions that limit expansion of the LITC Program to serve additional taxpayers.

First, the annual limitation on grants to a single clinic of \$100,000, which has remained unchanged since 1998, prevents the LITC Program Office from awarding additional funds to qualified clinics that have demonstrated excellence in assisting low-income and ESL taxpayers and the ability to efficiently handle more cases. Even if the restriction were to be retained, the \$100,000 cap enacted in 1998 would have to be raised to about \$190,000 simply to reflect the effects of inflation.⁴ However, the LITC Program Office could ensure more taxpayers receive LITC services if it is given discretion to provide larger grants to clinics that demonstrate they can use funds productively. The objective is not to create “super clinics”; we believe it is important to maintain maximum geographic coverage for taxpayers across the United States. Rather, as more taxpayers are becoming comfortable working with service providers remotely and as the Tax Court has begun to offer virtual trial sessions, we believe some clinics will be able to achieve economies of scale that will allow them to serve considerably more taxpayers at comparatively less cost.⁵

Second, the 100 percent matching funds requirement in some cases serves as a barrier to coverage. The purpose of the match requirement is to ensure that each clinic’s management has a broad commitment to assisting taxpayers and to encourage clinics to recruit tax professionals on a volunteer basis to cover additional taxpayers. In general, strong clinics do not have difficulty meeting the requirement, and we believe the match requirement generally should be retained. But in certain circumstances, resources to meet the match requirement may be limited. The LITC Program Office has encountered difficulty identifying and funding clinics in certain geographic areas, and a lower match requirement may make it economically feasible for other potential clinics to operate. In addition, if our recommendation to eliminate the \$100,000 per-clinic funding cap is adopted, clinics that can meet the 100 percent matching funds requirement when receiving grants of \$100,000 may have difficulty raising funds in excess of \$100,000 on a 1:1 basis. Thus, clinics awarded grants in excess of \$100,000 should not be held to the same 100 percent matching funds requirement. The same is true for new clinics that are trying to get off the ground in underserved areas. Taxpayers would be better served if the LITC Program Office is given the discretion to reduce the matching percentage in these circumstances (but not below 25 percent).

² See IRS, Pub. 5066, Low Income Taxpayer Clinics 2023 Program Report (Dec. 2023).

³ *Id.*

⁴ See Bureau of Labor Statistics, CPI Inflation Calculator, https://www.bls.gov/data/inflation_calculator.htm (last visited Oct. 27, 2023).

⁵ In 2019, Congress authorized an analogous program, the Volunteer Income Tax Assistance (VITA) matching grant program, which provides free tax return preparation for individuals with low to moderate incomes (*i.e.*, below the maximum Earned Income Tax Credit threshold), individuals with disabilities, and individuals with limited English proficiency. The VITA statute, IRC § 7526A, was modeled after the LITC statute but does not impose any per-program grant limitation.

RECOMMENDATIONS

- Eliminate the \$100,000 per-clinic funding cap imposed under current law by removing subsection (2) from IRC § 7526(c) and renumbering subsequent subsections accordingly.
- Amend IRC § 7526(c)(5) to retain the 100 percent “matching funds” requirement as the general rule but provide that the Secretary has the discretion to set a lesser matching rate (but not below 25 percent) where doing so would expand coverage to additional taxpayers.⁶

⁶ For legislation that would generally implement these recommendations (and make other changes), see Low-Income Tax Clinic Modernization Act, H.R. 9677, 117th Cong. (2022). Among other things, H.R. 9677 would have increased the maximum amount that can be awarded to a clinic from \$100,000 to \$500,000 (indexed for inflation in future years) and granted the Secretary the authority to reduce the matching funds requirement from 100 percent to 50 percent where doing so would expand coverage to additional taxpayers.