



# Food Distribution National Policy Memorandum

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United States  
Department of  
Agriculture

Food and  
Nutrition  
Service

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**DATE:** May 9, 2011

**POLICY NO:** FD-115: Commodity Supplemental Food Program (CSFP), Food Distribution Program on Indian Reservations (FDPIR), and the Emergency Food Assistance Program (TEFAP)

**SUBJECT:** Provisions of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the Act; P.L. 111-312) was signed into law on December 17, 2010. Section 728 of the Act requires that Federal tax refunds received between January 1, 2010 and December 31, 2012 not be counted as income or as a resource in the 12 months following the date of receipt in all Federal means-tested programs, including CSFP, FDPIR, and TEFAP. Federal tax refunds may be the result of a refundable credit, over-payment, or both. Because Section 728 applies to all refunds received on or after January 1, 2010, individuals applying or updating their eligibility to participate in CSFP, TEFAP, or FDPIR may have received a tax refund in 2010 or 2011 that now must be disregarded. Specific guidance for each program is outlined below.

### **Implementation in CSFP**

Federal tax refunds received between January 1, 2010 and December 31, 2012 cannot be counted as income in CSFP. If, prior to publication of this memorandum, a person applied to participate in CSFP and was denied because household income exceeded program limits due to a Federal tax refund received on or after January 1, 2010, that person may reapply to participate in the program. If found to be eligible, such persons may receive benefits going forward, but may not receive benefits retroactively.

### **Implementation in FDPIR**

Since lump-sum payments, such as Federal tax refunds, are excluded as income in FDPIR, only resources are affected by section 728 of the Act. Under the Act, such refunds cannot be counted as resources for 12 months following receipt.

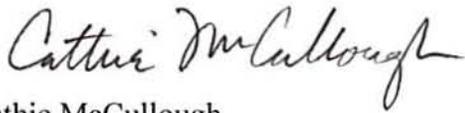
For example: A two-person household (without any elderly or disabled members) has resources totaling \$1,900 on April 5, 2011. The household receives a \$250 Federal tax refund one day later, on April 6. The household then applies to participate in FDPIR. When calculating the household's eligibility to participate in the program, the lump-sum \$250 is excluded as income *and as a resource* for a total of 12 months. In other words, the \$250 Federal tax refund does not increase the household's resources from April 2011 through March 2012.

If, prior to publication of memorandum, a person applied to participate in FDPIR and was denied because household resources exceeded program limits due to a Federal tax

refund received on or after January 1, 2010, that person may reapply to participate in the program. If found to be eligible, such persons may receive benefits going forward, but may not receive benefits retroactively.

**Implementation in TEFAP**

Federal tax refunds received between January 1, 2010 and December 31, 2012 cannot be counted as income in TEFAP. In addition, in States that include resource limits among their eligibility criteria, such refunds cannot not be counted as resources for 12 months following receipt.

A handwritten signature in cursive script, reading "Cathie McCullough".

Cathie McCullough  
Director  
Food Distribution Division