

EASING THE TRANSITION BACK TO THE FINANCIAL MAINSTREAM

PROMISING RE-ENTRY PRACTITIONER PRACTICES FOR FINANCIAL CONTROL AND TAX ISSUES

INTRODUCTION

With the support of the Mizuho Foundation, The Financial Clinic (“Clinic”) launched New Ground: A Foundation to Build Wealth (“New Ground”), an innovative capacity building two-year initiative for New York City-based re-entry programs. The goal of New Ground is to improve the lives of the formerly incarcerated individuals by helping them develop essential skills to gain control of their financial lives and improve their transition from prison to mainstream society. The vision for this program is to create a replicable best practice model that can be implemented in re-entry programs nationwide.

The Clinic successfully recruited seventeen organizations including those that not only served formerly incarcerated individuals but also provided alternatives to incarceration, preventative youth, and criminal justice programs for organizational development sessions. At the development sessions, the Clinic helped provide participating organizations with the knowledge, tools, and support needed to embed financial development practices into their current case management and institutionalize financial planning into their service delivery model.

The Clinic also worked with participating organizations to elevate financial security issues to the initiative’s Policy Advisory Group and other New York City re-entry coalitions and taskforces. Through collected data and conversations with organizations during the development sessions, the Clinic has identified two areas where best practices for social service organizations could significantly impact the re-entry population by helping them overcome financial security issues.

I. Lack of a standard process to manage finances while in prison complicates transition to mainstream society.

Financial or government agency systems are equipped for a myriad of life-changing events such as births, marriages, divorces, and deaths. Yet few have specific guidelines for an individual entering prison. For example, if an individual with an individual retirement account marries, the spouse automatically becomes the default beneficiary with special protections against this default. If an employed person has a child, his or her employer will likely offer that employee options to extend benefits coverage to that child.

If a person enters prison, there are no specific guidelines that help assist them to put their financial house in order. There is no requirement that individuals alert their financial institutions, tax agencies, child support agencies, or creditors that they are entering prison. While there, they will have limited means of managing their finances, access to any supports, or reaching these institutions. At most, they may be able to designate a power of attorney to a trusted individual, but even this process is not clearly uniform or easy. Both the Internal Revenue Service and New York Department of Taxation and Finance have separate powers of attorney procedures and forms, which yield different levels of permissible authorized activities.



The lack of clear and consistent options coupled with a short time frame often leaves a prisoner with a mixed bag of work-around strategies. But this may inadvertently create even more issues as joint bank accounts that should have been closed before entering prison allow the other account holder to incur fees or penalties that now put both account holders in danger of having negative information that will prevent them from opening up bank accounts in the future. Authorizing an individual to represent someone to file a tax return for the year they entered prison now compromises that prisoner's personal and confidential information and if instructions are not clear, future tax returns may be filed without the prisoner's permission.

Suggested Best Practice

During intake, case managers and financial coaches may often focus on determining the scope and severity of presenting issues such as debt and credit while overlooking the process of how the re-entry individual entered prison and who had access to their finances while in prison. Creating a quick chart and reviewing it with the customer at the beginning of the process can help organize the customer and flag any particular issues. An example of the thought process and what a filled out chart could look like are shown below.



Here is an example of a summary worksheet that can help re-entry individuals understand how to manage and prioritize their next steps. The most critical support is supporting the re-entry individual in learning how to both uncover what has happened while he or she has been in prison. It is key to this process for practitioners to be sensitive that these financial situations often involve close family members or loved ones that may raise additional concerns for the re-entry individual to face.

FINANCIAL AREA	ACCOUNT	STATUS AT ENTRY	CURRENT STATUS	NEXT STEPS
BANKING	Main Street Bank, Only Account Holder	Closed, Balance: \$0	Closed	None
BANKING	Big Apple Bank, Joint Account holder with mother	Open, Balance: \$350, Used to pay for apartment utilities, no letter to inform bank of absence	Open with several outstanding fees	Contact Big Apple Bank to resolve issues and explain situation.
STUDENT LOANS	Higher Ed Corp.	Open, Balance: \$7,500; No letter to inform private student loan company of absence	In default	Contact student loan company and work out a payment plan.

Policy Suggestion

Those entering prison would benefit, at a minimum, from creating extended absence notifications to financial institutions and government agencies that would automatically trigger: (a) ceasing correspondences to old addresses, (b) designating new individuals authorized to speak on behalf of the account holder, and (c) allowing alternative communications such as email to communicate. A system where these notifications would be triggered to other government agencies would be ideal. For example, if someone was entering prison, an automatic notice might be sent to tax departments, child support agencies, and student lenders. Although prisoners may be reluctant to send out such notices, it would reduce confusion and be a record that could prevent identity theft or other fraudulent practices.

II. Insufficient tax supports for re-entry populations pose barriers to transition

Taxes may be one of the few financial areas that re-entry practitioners may not feel equipped to address. It is not surprising--tax laws are typically hard to understand and are surprisingly complicated for prisoners and post-prison life and impose a different treatment on them because of their current or past imprisonment that can last years after they have been released.

There may be reasonable reasons to treat prisoners differently--for example, preventing a prisoner from claiming a residential state tax credit while in prison in that state. Yet, there are fewer justifications to treat prisoners or re-entry individuals differently when the underlying activities that give rise to a tax benefit are indistinguishable from non-prisoners.

Suggested Best Practice

Tax basics can be straightforward. Re-entry practitioners should know the following:

- ▶ Determine if the prisoner had income sources (i.e. investment) that required tax return filing during the period in prison
- ▶ During the year that the prisoner entered prison and if it is within the previous three tax years, determine if there was income before entering prison—the re-entry individual may be able to get their withholdings or a tax credit for this period
- ▶ Get Internal Revenue Service tax return transcripts to confirm no other tax returns were filed using the prisoner's social security number or other personal information. To request a transcript online, go to www.irs.gov and click on the "Order a Transcript" tool. To order by phone, call 1-800-908-9946 and follow the prompts in the recorded message. To order by mail or fax, use Form 4506-T, Request for Transcript of Tax Return. For a New York return, file a Form DTF-50.
- ▶ If there is an outstanding balance, the practitioner can call the tax agencies to work out a repayment plan.

One of the most important things that a re-entry practitioner can do in easing the transition is cleaning up any tax issues while in prison. One of the most common types of identity theft is use of prisoners' social security numbers to file tax returns: whether it is use of the prisoner's information by parties outside prison to other prisoners. Many prisoners are vulnerable to these fraudulent returns that will complicate tax filings.

Policy Suggestion

If the tax code embodies social policy, then two of the largest refundable tax credits that can help the re-entry individuals establish their financial security are affected by their prison records. Both the Earned Income Tax Credit (EITC) and the American Opportunity Credit (AOC) have specific provisions that exclude eligibility for those who have been in prison or particular types of felony offenses. These credits comprise the small number of refundable tax credits that are available to specifically assist low-income taxpayers, in fact the EITC is the single largest federal anti-poverty program in the country.

In 2014, more than 28 million households received \$66 billion from the EITC. Credit amounts are calculated on the basis of how much earned income the taxpayer earned and how many qualifying children the taxpayer is claiming. While there are specific exclusions for which types of income can be considered "earned" for purposes of claiming the credit, generally all income which is compensation for services, including wages and self-employed, fall within the scope. The only exclusion is income earned for work done by prisoners and for re-entry individuals in work release or halfway houses programs. Yet, that same income is still subject to federal and state income tax.

This AOC is the only tax benefit for education that comes in the form of a refundable credit. Even if the filer has no tax liability, he or she can still get up to \$2,500 for college undergraduate education expenses paid including tuition and course materials. For re-entry individuals looking to earn a college degree to help improve their skills for employment, this can be a powerful resource. Yet, the credit specifically excludes any individual convicted of a felony for drug possession from claiming it. This exclusion is one of the most unique and targeted exclusions, and one that should be re-examined.

CONCLUSION

Re-entry individuals would not be the only beneficiaries of policy changes and best practice implementation. The general population would greatly benefit by a decrease in poverty related crime and a reduction in recidivism. Furthermore, implementation of best practices becomes much more significant when we think of all the unnecessary suffering by re-entry individuals due to a lack of process and supports, both which can be alleviated with relative ease. Uptake of policy suggestions would work to systemically place processes and supports in place while providing access to the nation's largest anti-poverty program, the EITC. It is easy to blame re-entry individuals for putting themselves in their current situations by denying them certain rights, however, we must keep in mind that they have served their punishment and are simply looking to get on with their lives and become productive members of society.