

INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER (ITIN) A Powerful Tool for Immigrant Taxpayers

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What is an ITIN?

An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the U.S. Internal Revenue Service (IRS). An ITIN consists of nine digits, beginning with the number nine (i.e., 9XX-XX-XXXX).¹ Since 1996, the IRS has issued ITINs to taxpayers and their dependents who are not eligible to obtain a Social Security number (SSN).

Why does the IRS issue ITINs?

All wage earners—regardless of their immigration status—are required to pay federal taxes. The IRS provides ITINs to people who are ineligible for an SSN so that they can comply with tax laws.

Who uses an ITIN?

Taxpayers who file their tax return with an ITIN include undocumented immigrants and their dependents as well as some people who are lawfully present in the U.S., such as certain survivors of domestic violence, Cuban and Haitian entrants, student visa-holders, and certain spouses and children of individuals with employment visas. As of August 2012, the IRS had assigned 21 million ITINs to taxpayers and their dependents.²

Once a person who's been issued an ITIN is eligible to apply for an SSN, he or she may no longer use the ITIN.

What is an ITIN used for?

ITINs are issued by the IRS specifically as a means to pay federal taxes. While the IRS issues them solely for this purpose, ITINs may sometimes be accepted for other purposes, such as for opening an interest-bearing bank account, in employment dispute settlements, or for obtaining a mortgage.

Why do undocumented immigrants need an ITIN?

In addition to being required to pay taxes, immigrants benefit from filing income tax returns because:

- It demonstrates that they are complying with federal tax laws.
- Filing federal taxes is a way for immigrants to further contribute to the economy.
- It is one way that people who may have an opportunity to legalize their immigration status and become U.S. citizens can prove that they have “good moral character.”

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- Immigrants can use tax returns to document their work history and physical presence in the U.S. In order to be eligible for legal immigration status under any future immigration reform, people who currently are unauthorized to be in the U.S. most likely will have to be able to prove that they have been employed and have lived continuously in the U.S. for a certain number of years.
- People who file tax returns can claim crucial economic supports, such as the Child Tax Credit, including the refundable portion (also known as the Additional Child Tax Credit).³
- Filing a tax return is required in order to be able to claim premium tax credits for family members—often U.S. citizen children—who are eligible for health care coverage under the Affordable Care Act (ACA).⁴ These tax credits are necessary to help defray the cost of health insurance and thus make it affordable.
- Individuals who are eligible to file their taxes with an ITIN can establish that they are eligible for an exemption from the ACA’s individual mandate, which requires that people have health insurance. Undocumented immigrants are excluded from all ACA benefits, so they are not eligible to buy health insurance through the ACA’s health care marketplace, even at full cost.⁵
- Immigrant workers who receive settlement payments as a result of an employment-related dispute will be subject to the maximum tax withholding rate, unless they have an ITIN.⁶ For example, for a worker with an ITIN, the withholding on back wages paid to the worker because of a settlement will be based on the worker’s family status and the number of exemptions he or she can claim. By contrast, if the worker did *not* have an ITIN, the withholding would be figured as if the worker were single with no exemptions. Similarly, for workers without ITINs, the withholding on payments *other than* wages, e.g., on payments for punitive damages, is figured at the “backup withholding” rate of 28 percent, whereas workers who have ITINs ordinarily would have *no* withholding on such nonwage payments.

What is an ITIN *not* used for?

An ITIN does not authorize a person to work in the U.S. or provide eligibility for Social Security benefits. An ITIN does not provide a person with immigration status.

Do ITIN-filers pay taxes?

Yes! In 2010, over 3 million federal tax returns were filed with ITINs, which accounted for over \$870 million in income taxes.⁷ In the same year, over 3 million unauthorized workers, including ITIN-filers, paid over \$13 billion into Social Security.⁸

Is it safe to use an ITIN?

Generally, yes. The IRS has strong privacy protections in place to ensure that immigrants who report their income and file their taxes are not at risk of having their information shared.⁹ Under Internal Revenue Code section 6103, the IRS is generally prohibited from disclosing taxpayer information, including to other federal agencies. However, certain exceptions apply. For example, the IRS is required to disclose taxpayer information to certain

U.S. Treasury Department employees when they request it for tax administration purposes or to other federal agencies if it's needed for a nontax criminal investigation and a federal court has ordered that it be provided.¹⁰

What documents must a person present when applying for an ITIN?

ITIN applicants are required to provide proof of their identity and their foreign nationality. In 2012, to address allegations of fraud within the ITIN program, the IRS severely restricted the types of documents that new ITIN applicants may present.

In order to apply for an ITIN, the applicant must

1. complete a [Form W-7](#), Application for IRS Individual Taxpayer Identification Number,¹¹ along with his or her federal income tax return,¹² *and*
2. prove his or her *identity* and *foreign nationality* status by providing a combination of original documents (see the table below) or certified copies of the documents (each copy must be certified by the agency that issued it; notarized copies are *not* acceptable).

The IRS will accept only a combination of the 13 documents listed in the table below as proof of identity and/or foreign nationality status. Applicants who can present a passport have to present only one document. Otherwise, they will need to present at least two documents or certified copies of at least two documents.

Document that proves both identity <i>and</i> foreign status	Documents that prove only identity	Documents that prove identity <i>or</i> foreign status (not both)
<ul style="list-style-type: none"> ✓ Passport 	<ul style="list-style-type: none"> ✓ Driver's license issued in the U.S. ✓ Foreign driver's license ✓ Identification card issued by a state within the U.S. ✓ U.S. military identification card 	<ul style="list-style-type: none"> ✓ U.S. Citizenship and Immigration Services photo identification ✓ Visa issued by the U.S. Department of State ✓ Foreign military identification card ✓ National identification card (must be current and include photo, name, address, date of birth, and expiration date) ✓ Foreign voter registration card ✓ Civil birth certificate ✓ Medical records (only for dependents under age 6) ✓ School records (only for dependents under age 14 or under age 18 if a student)

How does an applicant file for an ITIN?

An applicant can apply for an ITIN by mail, in person through a designated [IRS Taxpayer Assistance Center](#) (TAC),¹³ or with the help of an [Acceptance Agent](#) (AA) or a [Certifying Acceptance Agent](#) (CAA) authorized by the IRS.¹⁴

Applicants who apply for an ITIN by mail directly with the IRS must submit either the *original* of each supporting document or a *certified copy* of each supporting document. Applicants who do not want or are unable to mail their original documents or certified copies to the IRS may take them in person to a TAC or CAA to have the documents (or certified copies) verified and immediately returned to them. However, not all TACs provide ITIN-related services, or they may provide them only during restricted business hours. Because the number of TACs and CAAs is limited, many ITIN applicants simply aren't able to take their applications and documents to a TAC or CAA.

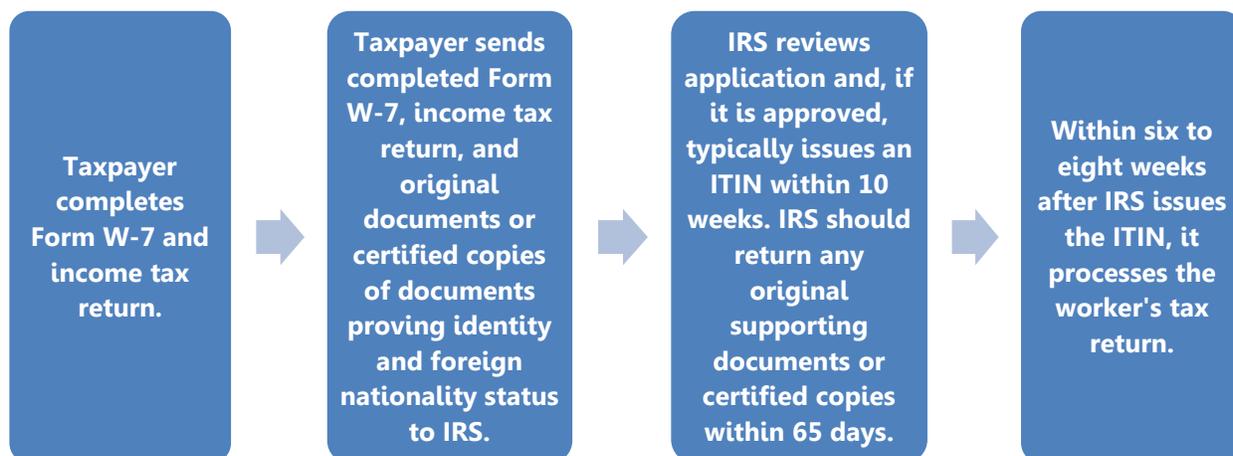
In addition, TACs are able to verify only two types of documents—passports and foreign identity cards—and CAAs are able to provide in-person verification only for primary and secondary applicants (not dependents). Given these restrictions and the fact that nearly 70 percent of dependent ITIN applicants prove their identity through birth certificates and school records (and do not have passports),¹⁵ most dependents will not have the option of having their identity documents verified in person.

How long does it take to receive an ITIN?

Outside of peak processing times (between January and April), it should take up to six weeks for an applicant to receive his or her ITIN. However, because most ITIN applications must be filed with tax returns, they are typically filed during peak processing times. As a result, it can take 8 to 10 weeks to receive an ITIN. Any original documents or certified copies submitted in support of an ITIN application will be returned within 65 days.

After the ITIN application has been approved, the IRS will process the tax return within 6 to 8 weeks.

How do you apply for an ITIN by mail?



How long is an ITIN valid?

ITINs previously were issued for an indefinite period. In 2012, the IRS announced that, beginning on January 1, 2013, all newly issued ITINs would be valid for only five years.¹⁶ However, in July 2014, the IRS amended this new rule and announced that, beginning in

2016, it will begin deactivating ITINs that have not been used on a federal income tax return for any year during a period of five consecutive years.¹⁷

What are the barriers to getting an ITIN?

Because ITIN applicants face many difficulties obtaining certified copies of their identity documents, and because of the limited options for in-person verification of these documents, many ITIN applicants may be forced into the vulnerable position of going without valuable identity documents for weeks or months (or longer, if their documents are lost). For some, this has proven too risky and burdensome. As a result, the ITIN rules that went into effect in 2012 caused a dramatic decline in the number of ITIN applications. In 2013, there were nearly 50 percent fewer ITIN applications than in each of the previous three years.¹⁸ In addition, the IRS rejected over 50 percent of the applications that were submitted in 2013.¹⁹

What problems are created by the barriers to getting an ITIN?

When the requirements for getting an ITIN are too hard to meet:

- Immigrants will not be able to get an ITIN and file income tax returns. As a result, they won't be able to comply with their obligations under federal tax laws.
- Immigrants who can't get an ITIN or file tax returns will face problems if they ever become eligible for immigration relief. Certain applications require proof that the applicant has filed tax returns to establish that he or she has "good moral character."
- Immigrants who can't get an ITIN or file tax returns will also find it harder to prove their work history and that they have been physically present in the U.S. for a certain amount of time, which is also relevant for immigration applications.
- Low-income immigrants will be prevented from claiming tax supports for which they are eligible, including the Child Tax Credit (CTC), the Additional Child Tax Credit (ACTC), and credits under the Affordable Care Act (ACA). Barriers to obtaining the CTC and ACTC can push low-income children deeper into poverty.

Similarly, if they can't file tax returns, mixed-immigration status families with members who are eligible for health insurance under the ACA will not be able to prove that they have complied with the individual mandate. And if they received a health insurance premium tax credit, they won't be able to provide the information about their health insurance and income that the IRS needs in order to reconcile the tax credit that was advanced to them with the tax credit for which they're actually eligible. This could prevent them from being able to renew their health insurance the following year.

FOR MORE INFORMATION, CONTACT

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¹ Although all ITINs begin with the number “9,” not all taxpayer identification numbers (TINs) starting with the number “9” are ITINs. For example, when a taxpayer files taxes without any TIN (i.e., without an SSN or ITIN), the IRS will issue a temporary IRS number (IRS number) for the taxpayer, which also begins with the number “9,” that is used for internal identification purposes until the taxpayer provides a permanent TIN. Unlike IRS numbers and other TINs beginning with the number “9,” the fourth and fifth numbers in a 9-digit ITIN will always range from 70-88, 90-92, or 94-99. This is important to verify in cases where a taxpayer may mistakenly believe he or she is using an ITIN.

² “The IRS’s Handling of ITIN Applications Imposes an Onerous Burden on ITIN Applicants, Discourages Compliance, and Negatively Affects the IRS’s Ability to Detect and Deter Fraud,” *National Taxpayer Advocate Annual Report to Congress* (Taxpayer Advocate Service, Internal Revenue Service, 2012), www.taxpayeradvocate.irs.gov/userfiles/file/Full-Report/Most-Serious-Problems-ITIN-Individual-Taxpayer-Identification-Number.pdf, figure 1.9.1, p. 156. The full 2012 annual report to Congress is available from www.taxpayeradvocate.irs.gov/2012-Annual-Report/FY-2012-Annual-Report-To-Congress-Full-Report.

³ Letter from Internal Revenue Service Commissioner Douglas H. Shulman to Senate Majority Leader Harry Reid answering questions about the Child Tax Credit, July 20, 2012, www.nilc.org/document.html?id=1098.

⁴ *Frequently Asked Questions: The Affordable Care Act & Mixed-Status Families* (National Immigration Law Center, Oct. 2013), www.nilc.org/aca_mixedstatusfams.html.

⁵ *Id.*

⁶ See, generally, *Backup Withholding for Missing and Incorrect Name/TIN(s)* (Pub 1281, Rev. 2-2011, Catalog No. 63327A, Internal Revenue Service, U.S. Treasury Dept., 2011), www.irs.gov/pub/irs-pdf/p1281.pdf.

⁷ *Recovery Act: Individuals Who Are Not Authorized to Work in the United States Were Paid \$4.2 Billion in Refundable Credits* (Ref. No. 2011-41-061, Treasury Inspector General for Tax Administration, July 7, 2011), www.treasury.gov/tigta/auditreports/2011reports/201141061fr.pdf, appendix IV, table 1, p. 20.

⁸ Stephen Goss, Alice Wade, J. Patrick Skirvin, Michael Morris, K. Mark Bye, and Danielle Huston, *Effects of Unauthorized Immigration on the Actuarial Status of the Social Security Trust Funds* (Actuarial Note No. 151, Office of the Chief Actuary, Social Security Administration, Apr. 2013), www.socialsecurity.gov/OACT/NOTES/pdf_notes/note151.pdf.

⁹ See 26 U.S.C. § 6103, www.law.cornell.edu/uscode/text/26/6103.

¹⁰ See 26 U.S.C. § 6103(i), www.law.cornell.edu/uscode/text/26/6103. Although there are two known incidents in which these exceptions appear to have been violated, they are extremely isolated events. The IRS has reiterated its strong commitment to its confidentiality rules and has subsequently reiterated its commitment to its disclosure rules in an effort to mitigate any chilling effect on ITIN tax-filers.

¹¹ The form and instructions are available from www.irs.gov/uac/Form-W-7,-Application-for-IRS-Individual-Taxpayer-Identification-Number.

¹² With limited exceptions, ITINs may not be filed for on their own without a complete tax return. For a list of exceptions, such as opening an interest-bearing account, see pp. 7-9 of the IRS Instructions for Form W-7, Application for Individual Taxpayer Identification Number (Rev. August 2013), www.irs.gov/pub/irs-pdf/iw7.pdf.

¹³ To find the TAC nearest you and learn about the services it offers, visit www.irs.gov/uac/Contact-Your-Local-IRS-Office-1.

¹⁴ To learn more about the IRS’s Acceptance Agent Program, visit www.irs.gov/Individuals/Acceptance-Agent-Program.

¹⁵ “Individual Taxpayer Identification Numbers: ITIN Application Procedures Burden Taxpayers and Create a Barrier to Return Filing,” *National Taxpayer Advocate 2013 Annual Report to Congress* (Taxpayer Advocate Service, Internal Revenue Service, 2013),

www.taxpayeradvocate.irs.gov/userfiles/file/2013FullReport/INDIVIDUAL-TAXPAYER-IDENTIFICATION-NUMBERS-ITIN-Application-Procedures-Burden-Taxpayers-and-Create-a-Barrier-to-Return-Filing.pdf, p. 224. The full 2013 annual report to Congress is available from www.taxpayeradvocate.irs.gov/2013-Annual-Report/About-the-Report/.

¹⁶ See *General ITIN Information* (Internal Revenue Service, webpage update of July 2, 2014), www.irs.gov/Individuals/General-ITIN-Information, and *Updated ITIN Procedure Changes Announced* (Internal Revenue Service, FS-2012-11, Nov. 2012, webpage update of Apr. 29, 2014), www.irs.gov/uac/Newsroom/Updated-ITIN-Procedure-Changes-Announced.

¹⁷ See *Unused ITINs to Expire After Five Years; New Uniform Policy Eases Burden on Taxpayers, Protects ITIN Integrity* (Internal Revenue Service, IR-2014-76, June 30, 2014, webpage update of Aug. 6, 2014), www.irs.gov/uac/Newsroom/Unused-ITINS-to-Expire-After-Five-Years;-New-Uniform-Policy-Eases-Burden-on-Taxpayers.-Protects-ITIN-Integrity.

¹⁸ “Individual Taxpayer Identification Numbers: ITIN Application Procedures Burden Taxpayers and Create a Barrier to Return Filing,” *supra* note 15, figure 1.21.5, p. 220.

¹⁹ *Id.*, figure 1.21.6, p. 221.