

FAMILY TAX CREDITS

TAX YEAR 2015



CHECKLIST

Of Tax Issues For Immigrant Workers

As a result of a new law passed by Congress in late 2015, many Individual Tax Identification Numbers (ITINs) will expire and need to be renewed. The IRS has not yet established requirements and procedures for this renewal process. Please check <https://www.nilc.org/issues/taxes/itinfaq/> and <https://www.irs.gov/Individuals/Individual-Taxpayer-Identification-Number-ITIN> regularly for updates on these requirements.

○ Does an Immigrant Worker Need to File a Tax Return?

- Yes, if income was above a certain amount (see below)
- Yes, regardless of income type—including any cash income
- Yes, if the worker paid federal taxes and wants a tax refund
- Yes, to claim valuable tax credits
 - Earned Income Tax Credit (tax filer, spouse, and any children claimed for the credit must have a valid SSN)
 - Child Tax Credit and Additional Child Tax Credit (available to ITIN holders)
- Anyone whose income meets the tax return filing threshold, regardless of immigration status, should file a tax return to show they have complied with tax laws. Filing taxes every year also helps to document physical presence in the United States, demonstrates good moral character, and is required in some immigration proceedings.

○ At what income level do workers need to file tax returns?

- It depends on your filing status and age:
 - Single and under 65: \$10,300 or higher
 - Single and over 65: \$11,850 or higher
 - Married filing jointly under 65: \$20,600 or higher
 - Married filing jointly (if at least one spouse is over 65): \$21,850 or higher
 - Married filing jointly (if both spouses are over 65): \$23,100 or higher
 - Married filing separately: \$4,000 or higher
 - Head of Household under 65: \$13,250 or higher
 - Head of Household over 65: \$14,800 or higher
 - Widow(er) under 65 with qualifying dependent: \$16,600 or higher
 - Widow(er) over 65 with qualifying dependent: \$17,850 or higher

○ Will the information provided on a worker's tax return be shared with other individuals or agencies (like USCIS)?

Generally, no. The IRS is interested in collecting taxes—not immigration enforcement. There are laws in place that prohibit the IRS from sharing information collected on tax returns with individuals or other federal agencies, with very limited exceptions.¹ (For example, the IRS can provide the Social Security Administration with information on residency status of an individual, to help that agency determine how much tax to withhold from Social Security benefits.²)

○ How do immigrant workers file taxes without a valid Social Security Number?

Individual Taxpayer Identification Numbers (ITINs) are nine digit numbers that are used by the IRS to process the taxes of individuals without Social Security Numbers. They do not confer immigration status or work authorization.

Individuals eligible for an ITIN include:

- Lawfully present immigrants who cannot obtain a valid Social Security Number
- U.S. resident aliens/nonresident aliens and
- Unauthorized immigrants
- Dependents in Mexico and Canada

○ How do workers apply for an ITIN?

Individuals should complete IRS Form W-7, Application for IRS Individual Taxpayer Identification Number, and attach it to their completed federal income tax return. Applicants must also provide original or certified copies of identity documents such as a birth certificate or an unexpired passport. Applicants can mail their applications and supporting documents to the address listed on the W-7, or they may apply for an ITIN in person at IRS Taxpayer Assistance Centers (TAC) or with the help of a Certifying Acceptance Agent (CAA). CAAs and a limited number of TACs are authorized to verify some identity documents in person. TACs are able to verify passports and foreign identity cards. CAAs are able to provide in-person verification for primary and secondary applicants, but not dependents.

○ How long is an ITIN valid?

ITINs previously were issued for an indefinite period. In 2015, Congress mandated that individuals who received ITINs prior to January 1, 2013 are required to renew their ITINs on a staggered schedule between 2017 and 2020. (Please see chart below). In addition, the new law states that an ITIN will expire if an individual fails to file a tax return for three consecutive years.

ITINs issued to individuals after December 31, 2012 shall remain in effect **unless** the individual does not file a tax return - or is not included as a dependent on the return of another taxpayer - for three consecutive years.

REQUIRED DATE FOR ITIN RENEWAL

If ITIN issued	Then ITIN must be renewed by
Before January 1, 2008	January 1, 2017
In 2008	January 1, 2018
In 2009 or 2010	January 1, 2019
In 2011 or 2012	January 1, 2020

○ Can tax filers using ITINs still claim tax benefits?

Some tax benefits can be claimed with an ITIN, but some cannot. Tax filers can claim exemptions against the income that is counted for tax purposes for themselves, their spouses, and dependents, reducing or eliminating the taxes owed. In 2015, each exemption is worth \$4,000. Some tax credits are available to filers using ITINs, but others require a Social Security Number.

○ Who qualifies as a dependent for tax purposes?

A dependent is defined as a qualifying child or a qualifying relative (see chart below). Dependents must be U.S. citizens, U.S. residents, U.S. nationals, or a resident of Canada or Mexico. For tax purposes, a U.S. resident is anyone who is a lawful permanent resident or meets the “substantial presence” test, defined as anyone physically present in the U.S. at least 31 days during the tax year AND a total of 183 days during the current year and preceding two years.

	Relationship	Residence	Age	Support
Qualifying child	The taxpayer’s child or stepchild (whether by blood or adoption), foster child, sibling or stepsibling, or a descendant of one of these.	The child has the same principal residence as the taxpayer for more than half the tax year. ³	Child must be under the age of 19 at the end of the tax year, or under the age of 24 if a full-time student for at least five months of the year and younger than you and your spouse (if filing jointly), or be permanently and totally disabled at any time during the year.	Child did not provide more than one-half of his/her own support for the year.
Qualifying relative	Any person (except spouse or qualifying child) who lived with the taxpayer all year as a member of their household. ⁴	The person has the same principal residence as the taxpayer for the whole year. ⁵	N/A	Individual did not have gross taxable income above \$4,000 in 2015, and taxpayer provided over half of the individual’s support for the year.

○ Are immigrant tax filers eligible for tax credits?

Sometimes!

- **Federal Earned Income Tax Credit (EITC):** refundable tax credit worth up to \$6,242.
 - To qualify, the tax filer, spouse, and any qualifying children claimed for the EITC must have a valid Social Security Number.
- **Federal Child Tax Credit:** refundable tax credit worth up to \$1,000 per qualifying child. For the Child Tax Credit, a qualifying child must be a U.S. citizen, U.S. resident (as defined by tax laws), or U.S. national.⁶
 - ITIN holders are eligible to claim the Child Tax Credit. If a qualifying child does not have a Social Security Number, the credit can be claimed by using his or her ITIN.
- **Federal Child and Dependent Care Tax Credit:** tax credit worth up to \$2,100.
 - ITIN holders are eligible to claim the Child and Dependent Care Tax Credit, and must also provide the Social Security Number or ITIN of their care provider. If a qualifying child or dependent does not have a Social Security Number, the credit can be claimed using his or her ITIN.
- **Federal Premium Tax Credit:** tax credit worth up to thousands of dollars to help cover the cost of health insurance under the Affordable Care Act, or Obamacare.
 - ITIN holders may claim Premium Tax Credits for family members eligible for health coverage under the Affordable Care Act. For more information, visit https://www.nilc.org/issues/health-care/aca_mixedstatusfams/.
- Your state may also offer tax credits for families. Visit www.nwlc.org/loweryourtaxes for more information.

○ Where can people get free help filing their taxes?

- The IRS sponsored Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs—call **(800) 906-9887** or visit <http://irs.treasury.gov/freetaxprep> to find a VITA or TCE site near you. Many of these sites provide translators to help families whose primary language is not English.
- The AARP-sponsored Tax-Aide program—call **(888) 227-7669** or visit www.aarp.org/money/taxaide to find a Tax-Aide site near you.
- The Free File Program offers free online tax preparation software—for more information, visit <http://www.irs.gov/uac/Free-File:-Do-Your-Federal-Taxes-for-Free>

BEWARE OF SCAMS AND NOTARIO FRAUD!

The IRS generally contacts tax filers by mail, and would never ask for payment by debit card or wire transfer. In addition, families should not give out Social Security Numbers or bank information over the phone or to anyone who shows up at their house claiming to be an IRS agent. The IRS has more information about tax scams, at <http://www.irs.gov/uac/Tax-Scams-Consumer-Alerts>.

And beware of notario fraud: untrained and dishonest tax preparers may misrepresent their credentials and may promise large refunds. However, in case of errors, the taxpayer, not the tax preparer, must pay any additional taxes and interest owed and may be subject to penalties.

○ What if a tax filer has tax problems with the IRS?

- Low-Income Taxpayer Clinics can help tax filers, including immigrants, resolve issues with the IRS. There are LITCs in every state. To find an LTC in your area, visit <http://www.irs.gov/Advocate/Low-Income-Taxpayer-Clinics/Low-Income-Taxpayer-Clinic-Map>.

1 See generally I.R.C. § 6103 (2012).

2 § 6103(h)(5).

3 Exceptions apply, in certain cases, for children of divorced or separated parents, kidnapped children, temporary absences, and for children who were born or died during the year.

4 Exceptions to the requirement that a qualified relative must live with the taxpayer apply, when the relative is the taxpayer's child, stepchild, foster child, or a descendant of any of them; brother, sister, half-brother, half-sister, stepbrother, or stepsister; a son or daughter of the taxpayer's brother, sister, half-brother, or half-sister; father, mother, stepfather, stepmother, grandparent, or other direct ancestor; a brother or sister of the taxpayer's father or mother; the taxpayer's son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

5 *Id.*

6 See IRS Pub. 972, Child Tax Credit 2 (2015), available at <http://www.irs.gov/pub/irs-pdf/p972.pdf>.