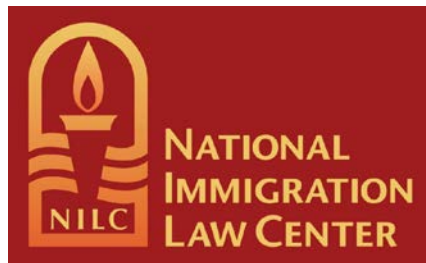


Tax Filing Issues for Immigrants: 2018 Update

February 8, 2018



Webinar Goals and Agenda

Goals

- Educate providers and community organizations about ITIN renewal process in order to get the word out to communities
- Provide an update about ITIN filing issues and changes in the recently passed tax bill
- Address concerns about tax filing for immigrants, including for ITIN filers and individuals granted DACA
- Correct any misinformation about ITIN renewals and tax filing for immigrants

Agenda

- I. Background on Immigrant Tax Contributions (Samantha Vargas Poppe, NCLR)
- II. Current Immigrant Tax Filing Issues and Tax Bill Changes (Jackie Vimo, NILC)
- III. Individual Mandate Penalty (Gabrielle Lessard, NILC)
- IV. Current status of ITIN renewals + who is required to renew, when to renew, and what happens if you don't renew (John Wancheck, CBPP)
 - I. Resources communities can use and share with others
- V. Q&A

Background on Immigrant Tax Contributions

Immigrant Tax Contributions

Immigrants without a SSN make **significant tax contributions** at the federal, state and local level.

- This includes payroll taxes (Medicare and Social Security). In 2010, a Treasury study showed over 3 million unauthorized workers, including ITIN-filers, paid over **\$13 billion** into Social Security.
- Undocumented immigrants contribute to these programs but do not receive benefits, creating a **net positive effect** on the programs' financial security.
- In 2010, over 3 million federal tax returns were filed with ITINs, which accounted for over **\$870 million** in income taxes.

Immigrant Tax Contributions

- At the state and local level, the Institute on Taxation and Economic Policy (ITEP), estimates that undocumented immigrants collectively contribute an estimated **\$11.74 billion in state and local taxes** each year.
 - DACA recipients alone pay about **\$2 billion dollars** in state and local taxes.
 - This amounts to a larger share of their incomes in state and local taxes than the top 1% of taxpayers do (8.9% for DACA recipients vs. 5.4% for the top 1%).
- Estimates support that undocumented immigrants can contribute even more with a comprehensive immigration reform.

Immigrant Tax Issues in Current Climate + Tax Bill Changes

ITIN Filers

- Individual Taxpayer Identification Numbers (ITINs) allow individuals who are ineligible for a Social Security Number (SSN) to pay taxes.
- ITINs are issued regardless of immigration status because both resident and nonresident aliens may have a U.S. filing or reporting requirement under the Internal Revenue Code.
- Examples of individuals who need ITINs include:
 - A nonresident alien required to file a U.S. tax return
 - A U.S. resident alien (based on days present in the United States) filing a U.S. tax return
 - A dependent or spouse of a U.S. citizen/resident alien
 - A dependent or spouse of a nonresident alien visa holder
- Current law provides strong **confidentiality provisions** for tax-filing data held by the IRS.
[26 U.S. Code § 6103]

Current Issues for ITIN Filers

- It is possible that Congress or the Trump Administration could make changes to existing laws and regulations.
- Weighing the risks associated with renewing ITINs, requesting an ITIN for the first time, and filing taxes with an ITIN:
 - If you already have an ITIN, the IRS already has your information. As such, you are not necessarily increasing your exposure by renewing your ITIN or filing taxes with an ITIN unless you have recently changed your address.
 - Not all ITIN filers are undocumented, so filing taxes with an ITIN does not confirm immigration status.
 - Filing taxes can be useful in future immigration proceedings in the event that you are able to adjust your status. ITIN filings can serve as proof of income, residence in the U.S., “good moral character,” and whether you are married.

Benefits of an ITIN

- Compliance with federal tax laws
- Contribution to the economy
- Adjustment of status:
 - Good moral character
 - Work history
 - Physical presence
- Tax Credits
- Health Insurance:
 - Insurance-premium tax credits under Obamacare
 - Establish exemption from individual mandate
- Worker settlements resulting from employment-related dispute

DACA Tax Issues

- Many people with DACA have lost work authorization, and the future of the program is uncertain.
- **The Social Security Number (SSN) issued to DACA grantees remains valid indefinitely** (even if the person's work authorization expires).
 - If you previously filed taxes with an ITIN number, that number is no longer valid and should not be used to file taxes.
 - If your Employment Authorization Document (EAD) has expired, you should continue to file taxes using the SSN you were issued when you were granted DACA.
- Under tax law, regardless of your status, your employer must file taxes and withhold employment taxes for you for the wages you received while employed, and you are still legally obligated to file taxes and pay taxes on your earnings (unless you are exempt).

Tax Cuts and Jobs Act Changes

- HR 1 “Tax Cuts and Jobs Act” passed December 2017
- Two major changes impacting immigrants
 - > Eligibility for Child Tax Credit (CTC)
 - > Individual Mandate

Child Tax Credit CTC Changes

The child tax credit (CTC) provides a credit of up to \$1,000 per child under age 17. If the CTC exceeds taxes owed, families may receive some or all of the credit as a refund, known as the additional child tax credit (ACTC) or refundable CTC.

HR 1 The Tax Cuts and Jobs Act:

- **Denies the Child Tax Credit** (both refundable and non-refundable portions) **to immigrant children without a Social Security Number (SSN)**. As with many of the individual tax provisions, this change expires on December 31, 2025.
- For these purposes, a **SSN must be issued before the due date for the filing** of the return for the taxable year.
- However, children who would otherwise qualify for the CTC, except that they lack a SSN, **ARE eligible for the new non-refundable \$500 family tax credit**.
- **DOES NOT GO INTO EFFECT UNTIL 2019 TAX FILING SEASON**

The Individual Mandate

- The Affordable Care Act generally requires U.S. residents to have comprehensive health insurance or pay a “shared responsibility payment” (penalty)
 - There are multiple exceptions, including exceptions for people who are not considered ‘lawfully present’ under the ACA
- Compliance with the mandate is tracked by the IRS
 - People report that they had insurance, or claim exemptions, on their tax returns



The Individual Mandate and the Tax Law

- The Tax Law eliminated the ‘shared responsibility payment’ by zeroing out the penalty amount
- The obligation to have insurance, and the reporting requirements, were not changed
 - Awaiting guidance from IRS
- The change goes into effect in 2019
 - The penalty remains in effect for 2017 and 2018



ITIN renewal requirements

1.2 Million ITINs Expired Dec. 31: Must be Renewed to File Taxes

Two Categories of ITINs Will Expire:

- Any ITIN Not Used to File a Tax Return for last three years (2014, 2015 or 2016), and
- ITINs with **middle digits 70, 71, 72 or 80**
(*Ex. 9NN-70-NNNN, or 9NN-71-NNNN*)
IRS sent notification letter in August 2017

Expiring ITINs Can be Renewed

When:

- During 2018 tax filing season
- Before any new filing season
- ITINs “78”, and “79” expired last year, *can still be renewed*

Tax Returns Filed with Expired ITIN:

- Refunds from tax credits and dependent exemptions will be held until ITIN is renewed

How Are ITINs Renewed?

- Same Process as Application for New ITIN
 - Except: Renewal application does not require a tax return to be attached
 - If tax return is filed using an expired ITIN, IRS will send the filer a notice on how to renew
- Use IRS Form W-7 (rev. 9/16)
- Check “Renew Existing ITIN” Box

Identification Documents Required for ITIN Renewal

- Same as for new applications
 - Identity and foreign status documents, i.e. passport, national ID card (w/photo), birth certificate
 - For dependent ITINs, proof of residency in U.S. (or Mexico, Canada)
- See detailed list in instructions for W-7

Where to Apply for Renewal

- Mail application to IRS: must include original documents (or certified copies), or
- Some IRS offices can verify identity documents, by appointment
- Certified Acceptance Agents can help with application and verify certain documents to avoid sending originals

Who Doesn't Need to Renew Now?

- Filed a return in last three years, and ITIN middle # is not “70,” “71”, “72” or “80”
- Anyone not required to file tax return. Expiration does not affect ITINs used for:
 - Bank accounts, mortgages, loans
 - Driver’s licenses, health records

IRS Renewal Letters

- IRS mailed about 867,000 letters to ITIN holders with “70”, “71”, “72” or “80” digits who were recent tax filers.
 - Top states: CA, TX, IL, GA, NC
 - Spreadsheet showing number of letters sent for each state -- sorted by community and zip code.
- Contact wancheck@cbpp.org**

ITIN Renewal Resources

- IRS August 2017 Notice: <https://www.irs.gov/pub/irs-pdf/p5257.pdf>
- IRS ITIN Info Page: <https://www.irs.gov/individuals/additional-itin-information>
- IRS ITIN Renewal FAQ: <https://www.irs.gov/individuals/itin-expiration-faqs>
- Understanding IRS letter: <https://www.irs.gov/individuals/understanding-your-cp48-notice>
- Acceptance Agents for ITINs <https://www.irs.gov/individuals/international-taxpayers/acceptance-agent-program>
- Free VITA sites that are Acceptance Agents: <https://www.irs.gov/individuals/vita-sites-that-offer-caa-services>
- IRS Offices for ITIN Renewal www.irs.gov/uac/tac-locations-where-in-person-document-verification-is-provided
- IRS Application Form W-7 <https://www.irs.gov/pub/irs-pdf/fw7.pdf>
- W7 Instructions <https://www.irs.gov/pub/irs-pdf/iw7.pdf>
- CBPP outreach site (includes links to IRS flyers, etc.): <http://www.eitcoutreach.org/learn/tax-filing/itin/itin-renewals/>
- ITIN resources page: <http://unidos.us/itin> (in English and Spanish)

Thank you!

Questions?



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