

The Facts about the Individual Tax Identification Number (ITIN)

There is a great deal of confusion about Individual Tax Identification Numbers (ITINs), a tool used by the IRS to ensure that people pay taxes even if they don't have a Social Security number. Despite the fact that ITINs have no bearing on legal status, some people point to the ITIN program as some type of benefit that gives quasi-legal status to people in the U.S. illegally. This fact sheet explains what ITINs are, who has them, and the purposes for which they are used.

What is an ITIN?

- **Created for tax purposes.** The ITIN was created by the Internal Revenue Service (IRS) in July 1996 so that foreign nationals and other individuals who are not eligible for a Social Security number (SSN) can pay the taxes they are legally required to pay.
- **ITINs are not cards like SSNs.** The ITIN is sent to the recipient in a letter, and it is important to save that letter. An ITIN is a nine-digit number that always begins with the number 9 and has a 7 or 8 in the fourth digit, for example 9XX-7X-XXXX.
- **Many legal immigrants have ITINs.** There are several reasons why an individual who must file U.S. taxes may not have a Social Security number. People who must pay taxes but who may not be eligible for an SSN include:
 - Non-resident alien filing a U.S. tax return and not eligible for a SSN; if you are not a U.S. citizen, you are considered a “nonresident alien” unless you meet one of two tests: the “green card” test or the “substantial presence” test for the calendar year. An example of a non-resident alien who needs to file taxes is a person who owns or invests in a U.S. business and receives income from that U.S. business, but lives in another country.
 - U.S. resident alien (based on days present in the United States) filing a U.S. tax return and not eligible for a SSN (for example, a foreign-born student in the U.S.).
 - Dependent or spouse of a U.S. citizen or legal permanent resident.
 - Dependent or spouse of a legal immigrant on a temporary visa.

ITIN holders pay taxes.

- ITINs let more people pay into the system, which builds the tax base. Between 1996 and 2003, more than 7.2 million ITINs were issued. More than **\$300 million was collected in taxes in 2001 alone** from ITIN filers—a large portion of whom are undocumented.
- **ITIN holders are not eligible for all of the tax benefits and public benefits that U.S.**

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citizens and other taxpayers can receive. For example, an ITIN holder is not eligible for Social Security benefits or the Earned Income Tax Credit (EITC). However, if that person becomes eligible for Social Security in the future (through legalizing his or her status, for example), the earnings reported with an ITIN may be counted toward the amount he or she is eligible to receive.

ITINs do NOT provide immigration benefits.

- **An ITIN does not provide legal immigration status.** It is not a document that can be used to prove legal presence in the U.S.
- **An ITIN does not provide work authorization** and it cannot be used to prove work authorization on an I-9 form.

How does one apply for an ITIN?

- Applicants must fill out a W-7 application form and submit it along with a completed tax return.
- Applicants are required to submit supporting documents which verify identity and foreign status. The IRS has issued a list of 12 documents that will be accepted.
- There are IRS Acceptance Agents and Taxpayer Assistance Centers available to help persons apply.

What other purposes can an ITIN serve?

- **Opening an interest-bearing bank account.** The Patriot Act includes provisions that require banks to collect information on the identity of their customers, and allows individuals to use ITINs to open interest-bearing accounts.
- **Securing a driver's license.** Some states have allowed the ITIN to be used instead of a SSN in order to receive a driver's license, driver's permit, or state identification card.

Is the ITIN a way for the government to track illegal immigrants?

- **The ITIN is not an immigration-enforcement tool because it is designed to facilitate tax payments.** ITIN holders are people who cannot use a Social Security card to file taxes. Whether they are here legally or illegally, the application process is designed to facilitate tax payment. Privacy is highly critical to the success of the program because applicants provide the IRS with a great amount of personal information.
- **Taxpayer privacy is an important cornerstone of the U.S. tax system.** Section 6103 of the Internal Revenue Code states that the IRS is **not authorized** to release taxpayer information to other government agencies except for providing information to the Treasury Department for investigations that pertain to tax administration, or under a court order related to a non-tax criminal investigation. Expanding information-sharing beyond this would require a new law—an issue that arises often during legislative debates.

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The IRS has stated that it has “not shared any information from applicants with any other agency.” The IRS understands that releasing information on ITIN holders would put the success of the ITIN program in jeopardy, since individuals clearly would not participate if they feared harmful immigration consequences.

- There have been a few disturbing reports of ITIN information being used for immigration purposes. For example:
 - A Treasury Inspector General of Tax Administration in Kentucky used ITIN information to prosecute persons for immigration violations. The agent initiating the charges is under investigation.
 - In October of 2008, a prosecutor in Colorado seized thousands of tax records from a tax preparation business. The prosecutor claims that this information was not confidential because it was not under the control of the IRS and therefore not covered under section 6103. Many of those records seized were those of ITIN holders—and more than 70 of them are now facing criminal charges and charges in immigration court. Some individuals have already been deported as a result of the incident. Two judges have ruled that the seizure was illegal because there was no probable cause. The case is being appealed to the state Supreme Court.

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