

UNDOCUMENTED WORKERS AND TAXES – GET AN ITIN



What is an ITIN?

An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the Internal Revenue Service (IRS). It is a nine-digit number that always begins with the number 9 (i.e., 9XX-XX-XXXX).

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

How do I know if I need an ITIN?

- If you do not have a SSN and are not eligible to obtain a Social Security Number (SSN), but you have earned wages and are required to file a federal income tax return you must apply for an ITIN.

Who needs an ITIN?

The IRS issues ITINs to individuals who are required to file a U.S. tax return but who do not have and do not qualify for a SSN.

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

NOTE: once a person who has been issued an ITIN is eligible to apply for a SSN, he or she may no longer use the ITIN.

Why are ITINs issued?

Because everyone who earns wages in the U.S. is required to pay federal taxes, ITINs are issued to help individuals not eligible for SSNs comply with the U.S. tax laws.

- Without an ITIN, workers who receive settlement payments as a result of an employment dispute will be subject to the maximum tax withholding rate, overall resulting in less money for the worker.¹ For example, the withholding on back wages paid to a worker with an ITIN will take into account information previously provided to the IRS, such as family status and number of exemptions claimed. However, if the worker did not have an ITIN and did not file federal taxes, the withholding would be figured as if the worker were single with no exemptions. Furthermore, a worker with an ITIN ordinarily would not have withholding on nonwage payments, e.g., punitive damages, while a worker without an ITIN would.

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.²
- The IRS is generally prohibited from disclosing taxpayer information, including to other federal agencies. However, certain exceptions apply; 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.³

¹ <http://www.irs.gov/pub/irs-pdf/p1281.pdf>

² <http://www.law.cornell.edu/uscode/text/26/6103>

³ <http://www.law.cornell.edu/uscode/text/26/6103> (i)

How do I apply for an ITIN?

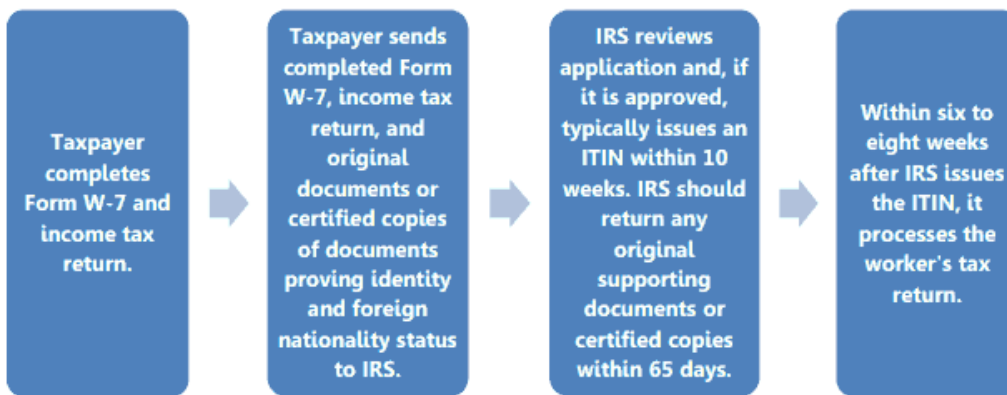
• Necessary Documentation

1. An applicant must complete a [Form W-7](#) (Application for Individual ID Number)
2. his or her **completed federal income tax return**, pending IRS acceptance, **AND**
3. Provide **proof of their identity** and their foreign nationality by providing a combination of original documents (see table at right) or certified copies of the documents (each copy must be certified by the agency that issued it, notarized copies are not acceptable).

Document that proves both identity and foreign status	Documents that prove only identity	Documents that prove identity or 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)

• Filing for an ITIN

- You can file for an ITIN by mail or in person
 - **By mail:** Because you are filing your tax return as an attachment to your ITIN application, you should send your tax return, Form W-7 and proof of identity and foreign status documents to:



Internal Revenue Service
Austin Service Center, ITIN Operation
P.O. Box 149342
Austin, TX 78714-9342

For assistance with the application:
You can call the IRS toll-free at 1-800-829-1040 if you are in the United States. If you are outside the United States, call 267-941-1000 (not a toll-free number) for information and help in completing your Form W-7 and your tax return or to check on the status of your application six weeks after submitting Form W-7

- **In person:** You may also apply using the services of an IRS-authorized [Acceptance Agent](#) (AA), a [Certifying Acceptance Agent](#) (CAA), or visit some key IRS [Taxpayer Assistance Center](#) in lieu of mailing your information to the IRS in Austin. Taxpayer Assistance Centers (TACs) in the United States provide in-person help with ITIN applications on a walk-in or appointment basis. The IRS's ITIN Unit in Austin issues all numbers through the mail.

• Receiving an ITIN

- After the ITIN application has been approved, the IRS will process the tax return within six to eight weeks.
- It can take six to ten weeks to receive an ITIN. If you have not received your ITIN or other correspondence six weeks after applying, call the IRS toll-free number at 1-800-829-1040 to request the status of your application if you are in the United States. If you are outside the United States, call 267-941-1000 (not a toll-free number).

When should I apply for an ITIN?

- You should complete Form W-7 as soon as you are ready to file your federal income tax return, since you need to attach the return to your application.
- You can apply for an ITIN any time during the year. However, if the tax return you attach to Form W-7 is filed after the return's due date, you may owe interest and/or penalties. You should file your current year return by the due date to avoid this situation.
- The IRS will not accept Forms W-7 submitted to reapply for the ITIN prior to January 1 of the year the ITIN expires. If Forms W-7 are submitted prior to this timeframe, all documents attached to the Form W-7 will be returned to the sender, and any tax returns attached to the W-7 will be processed using the currently assigned ITIN.

When does my ITIN expire?

- ITINs issued on or after January 1, 2013 will expire on December 31, five years after the ITIN was issued. The five years include the year the ITIN was issued. As of July 2014, ITINs issued prior to January 1, 2013 do not expire.

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in Washington, D.C. Because laws and procedures frequently change, the D.C. Employment Justice Center cannot ensure that the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your legal rights in your situation.