# Data Privacy and Federal Taxes for Immigrant Taxpayers

## Introduction

Federal law requires people with federally taxable income over a certain amount to file taxes with the Internal Revenue Service (IRS).

**Tax information is protected by the strongest privacy laws in the federal government.** For decades, the IRS promised immigrant taxpayers that their information would not be used for immigration enforcement. But in July 2025, the IRS for the first time ever agreed to share the addresses of immigrant taxpayers, based on the terms of an agreement between IRS and the Department of Homeland Security (DHS).

While DHS asked for **7 million** addresses, the IRS shared **47,000** addresses for people that DHS said had stayed more than 90 days past a removal (deportation) order. **To date, according to legal filings by the government, that is the only information from immigrant taxpayers that has been sent by the IRS to DHS.**

## Q: Why is it important to file federal taxes?

**A:** Most people are required to file tax returns so long as they make enough income. Filing tax returns in a timely way helps to avoid more costs later, while failing to pay taxes on time can mean that a taxpayer will owe both those taxes and penalties.

For those who may be planning to adjust their immigration status now or in the future, filing taxes can be very important. Tax filings help show how long someone has lived in the United States, which must be demonstrated in many types of immigration applications. Filing taxes when legally required can also help to establish good moral character, which is a requirement for some immigration applications, especially in the process to become a U.S. citizen.

***This resource provides general information but is not legal advice specific to a taxpayer. Individuals should speak to an immigration lawyer and a tax expert about their situation as needed.***

## Q: Who is legally required to pay taxes?

**A:** Everyone living in the United States, even undocumented immigrants, are required to file taxes if they meet the minimum income requirements. The IRS provides information in multiple languages on its website about the amount of income that leads to families and individuals being required to file federal taxes.

For employees, an employer may "withhold" (or take out) income tax from their paycheck and pay it to the IRS in their name. This is true even if they work under another person's Social Security Number. One purpose of filing taxes is to ensure that the employer did not pay too much or too little on their behalf, and ensure the worker can get a refund if they paid too much in taxes during the year.

Those who own a business or are an "independent contractor" (such as someone who works for a ride share company) would be considered self-employed, and may not have someone withholding taxes from their paycheck. Even if they are self-employed, businesses and independent contractors are still required to file a tax return and pay taxes on their earnings so long as they meet the income requirements.

## Q: How do people without a Social Security Number (SSN) file taxes?

**A:** Those who are not eligible for an SSN can get an Individual Taxpayer Identification Number (ITIN) from the IRS, so their tax contributions can be tracked over time.

Those without an SSN will need to get an ITIN to file a tax return if they owe federal taxes. (This resource has more information on how to obtain an ITIN and all of the steps and considerations.) To get an ITIN, applicants must submit proof of identity, foreign nationality, and residency in the United States to the IRS or to a Certified Acceptance Agent (CAA), who will process the documents with a reader on-site. **It is recommended to find and use a CAA to avoid sending highly personal documents to the IRS in the mail.** A list of CAA's is here.

An ITIN does not provide any immigration status, authorize working, or provide access to benefits like Social Security. An ITIN may be a useful form of identification for other reasons (such as opening a bank account or getting a driver's license in some states).

***This resource provides general information but is not legal advice specific to a taxpayer. Individuals should speak to an immigration lawyer and a tax expert about their situation as needed.***

## Q: Can immigration enforcement access the information on tax returns?

**A:** Federal law generally protects the confidentiality of tax returns unless a specific exemption in the law (28 U.S.C. Section 6103) applies. For years, the federal government publicly promised that it would never use tax filings for immigration enforcement.

But in 2025, DHS asked the IRS to provide the last known addresses of immigrants who had an order of removal and were more than 90 days past the date of the order. In response to this request, the IRS shared a limited amount of information in July 2025. While DHS first asked for 7 million and then requested 1.28 million records, the IRS sent 47,000 addresses.

In November 2025, a federal judge ruled that what the IRS had done was illegal and blocked the IRS from any more data sharing. In February 2026, a different federal judge held that DHS's data request was illegal and that DHS could not continue to use any data it received from the IRS for immigration enforcement. One other case is pending on appeal that also challenges the DHS-IRS agreement to share immigrant taxpayer information.

## Q: Given these developments, how should immigrant taxpayers think about the risks in applying for or renewing an ITIN?

**A: The answer depends upon each person's situation:**

**Those considering applying for an ITIN should decide whether they might plan in the future to adjust their immigration status.** A record of paying federal taxes when required to do so will likely be an important factor, while an interruption in paying taxes may count against an applicant. In addition, having an ITIN can offer additional benefits, such as access to a bank account or driver's license.

**Those considering whether to apply for an ITIN for the first time also should factor in whether they are legally required to file taxes and weigh the risks of providing their address to the IRS.** If it is likely that DHS already has their current

address, then any additional risk from providing it to the IRS is low. For example, DHS may already have access to an individual's information if they have applied for an immigration benefit with the U.S. Citizenship and Immigration Services (USCIS). ICE may also already have this information if the individual has an "Alien Number" or "A Number," or if they have had any other immigration encounters with USCIS or other parts of DHS.

**For ITIN filers who previously paid taxes using their current address, even if the ITIN must now be renewed,** the IRS already has address information for taxpayers who filed taxes with their current address. Also, an employer may have shared a taxpayer's home address with the IRS in withholding taxes from a taxpayer's paycheck. In these situations, paying taxes is unlikely to significantly increase risk of disclosure to DHS.

**Those who owe taxes but must also renew their ITIN should pay attention to whether they have moved.** If their address has not changed since their last filing, there may be little additional risk, as prior IRS records would include their current address. A valid ITIN is required to file taxes, **so if someone's address *has* changed since their last tax filing**, they should weigh their options with an immigration attorney and review their future plans for adjusting their immigration status and whether their income legally requires them to file taxes. As with new ITIN applicants, one consideration is whether the federal government is already likely to have their current address.

**The process of getting an ITIN should be managed to reduce risks.** Obtaining an ITIN by mail requires an applicant to send personal identification documents (such as a foreign passport) to the IRS through the mail. To avoid being without identification, we recommend instead using a CAA who can transmit official images of documents. A list of CAA's is here.

***This resource provides general information but is not legal advice specific to a taxpayer. Individuals should speak to an immigration lawyer and a tax expert about their situation as needed.***

## Q: The big picture: Should immigrant workers and families file a federal tax return?

**A: No answer is right for everyone, but it is important to follow federal law.** Many working people have a legal requirement to file federal taxes. Anyone who does not have to file under federal law may want to talk to an immigration attorney to weigh the risks and benefits of filing taxes in light of their future plans.

**The bottom line:** for anyone with an active immigration case, who has an ITIN or who has filed taxes recently with their current address, and who owes federal taxes, **filing a tax return would not provide the IRS with any new information, while <u>not</u> doing so could have negative consequences.**

***This resource provides general information but is not legal advice specific to a taxpayer. Individuals should speak to an immigration lawyer and a tax expert about their situation as needed.***