



## Frequently Asked Questions re: ITINs

**Table of Contents:** Click on the question to be taken directly to that section.

- [What is an ITIN?](#)
- [What is an ITIN used for?](#)
- [Who should apply for an ITIN?](#)
- [Who cannot apply for an ITIN?](#)
- [Does the IRS keep ITIN information confidential?](#)
- [Does an ITIN help an immigrant to become legal in this country?](#)
- [Can a tax return with an ITIN be e-filed?](#)
- [How do I decide if a taxpayer is a nonresident alien or a resident alien?](#)
- [What are the required documents for an ITIN application/renewal?](#)
- [Who must renew their ITIN?](#)
- [Can I renew my family member's ITIN, even if it is not expiring?](#)
- [When an individual renews their ITIN, will they retain the same ITIN or receive a new one?](#)
- [If someone files a return in tax season without renewing, what kind of correspondence will they receive?](#)
- [Do I need to renew my ITIN if I won't be filing a tax return or claim for refund?](#)
- [I only use my ITIN on information returns, like Forms 1099. If my ITIN is expiring, do I need to renew it?](#)
- [I have a Social Security Number \(SSN\) and no longer need my ITIN that will be expiring. Do I need to renew my ITIN?](#)
- [How do I file Forms 4868 or 1040-ES without a SSN or ITIN?](#)

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### ➤ **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, example 9XX-7X-XXXX. IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain, a Social Security Number (SSN) from the Social Security



Administration (SSA). Individuals must have a filing requirement and file a valid federal income tax return with the ITIN application (W-7), unless they meet an exception.

Formerly, the ITINS were issued as cards, but because they looked too much like Social Security cards, the IRS now issues a light green letter with the ITIN number.

➤ **What is an ITIN used for?**

An ITIN is issued by the IRS to allow those without Social Security Numbers to file taxes, or to allow taxpayers to claim dependents without SSNs. ITINS are also being legally used for a variety of other reasons by public and private organizations (getting a driver's license, obtaining a car loan, opening a bank account, applying for a mortgage, etc.).

An ITIN DOES NOT allow a person to work in the United States. When a taxpayer with an ITIN presents a W-2 with a SSN on it, you will enter the ITIN throughout the return and the SSN only when entering the W-2 information. An ITIN DOES NOT change an immigrant's legal status in the US. An ITIN does not allow access to government benefits such as welfare, food stamps, or Medicaid. ITIN holders are also not eligible for certain tax credits such as the Earned Income Tax Credit (EITC).

An ITIN DOES NOT necessarily mean that a person is in the country illegally (student visas, tourist visas, foreign investors, family abroad, etc.).

➤ **Who should apply for an ITIN?**

Anyone who is required to file US taxes, but is not eligible for a social security number, should apply for an ITIN. A taxpayer's spouse who is not eligible for a SSN should apply for an ITIN. Qualifying dependents living in the US, Canada, or Mexico without SSNs are also eligible for ITINs.

➤ **Who cannot apply for an ITIN?**

Anyone who has, or is eligible for, a Social Security Number. Anyone not appearing on the attached tax return. Dependents not living in the US, Mexico, or Canada.

➤ **Does the IRS keep ITIN information confidential?**

The IRS does not report ITIN information to immigration authorities unless the client is under investigation for a crime. Federal agencies requesting information on an ITIN holder must first get a court order from a federal court.

➤ **Does an ITIN help an immigrant to become legal in this country?**

No, not at this time. However, showing that you have been filing taxes is often beneficial (or required) during the legalization process, as it shows that an applicant has been working and following US laws.



➤ **Can a tax return with an ITIN be e-filed?**

A tax return for a taxpayer with an existing ITIN can be e-filed; a tax return including Form W-7 for an application or renewal of an ITIN cannot be e-filed. It must be a paper return.

➤ **How do I decide if a taxpayer is a nonresident alien or a resident alien?**

The IRS has different rules than other federal agencies for what makes someone a resident:

*You will be considered a U.S. resident for tax purposes if you meet the substantial presence test for the calendar year. To meet this test, you must be physically present in the United States on at least:*

*31 days during the current year, and*

*183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:*

- *All the days you were present in the Tax Year, and*
- *1/3 of the days you were present in the prior year, and*
- *1/6 of the days you were present two years ago.*

If the client passes the substantial presence test, they are a resident alien for tax purposes. If they fail the substantial presence test, they must file a 1040NR and are out of scope for VITA.

**\*An important exception to the substantial presence rule:** Do not count the following as days of presence in the United States for the substantial presence test for these exempt individuals (and their immediate family members):

- An individual temporarily present in the United States as a foreign government-related individual under an "A" or "G" visa, other than individuals holding "A-3" or "G-5" class visas.
- A teacher or trainee temporarily present in the United States under a "J" or "Q" visa, who substantially complies with the requirements of the visa.
- A student temporarily present in the United States under an "F," "J," "M," or "Q" visa, who substantially complies with the requirements of the visa.
- A professional athlete temporarily in the United States to compete in a charitable sports event.

**\*These individuals usually fail the substantial presence, meaning they need to file a 1040NR are out of scope for VITA.**

*Note: Only the primary taxpayer must pass the substantial presence test in order to be considered a resident alien and be eligible to file a 1040. Dependents and spouse are not subject to the test, although you can't claim a person as a dependent unless that person is a U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada or Mexico, and that person meets all other tests to be claimed as a dependent.*

If, at the end of your tax year, a couple is married and one spouse is a U.S. citizen or a resident alien and the other is a nonresident alien, they can choose to treat the nonresident spouse as a U.S. resident. If you make that special election to file as **married filing jointly**, the nonresident alien spouse agrees to be



treated as a resident alien for tax purposes. Both spouses must report their combined worldwide income and deduct their combined allowable worldwide expenses. Once the election is made, it applies to all later years until it's properly terminated. See Pub 54 for further reading.

If the nonresident alien spouse does not elect to be treated as a resident alien, the taxpayer uses the **married filing separately** filing status. If the nonresident alien elects not to be treated as a resident alien, the taxpayer (who is the U.S. citizen or resident alien) may be considered unmarried for **head of household** purposes if the taxpayer has a qualifying person (which cannot be the nonresident spouse) and meets the other tests to be eligible to file head of household.

➤ **Who must renew their ITIN?**

Beginning in 2016, ITINs not used on a tax return for three consecutive years will expire. (E.g. ITINs not used on a tax return in 2015, 2016, and 2017 will expire on 12/31/2018.) Second, ITINs of certain middle digit combinations will expire each year. ITINs with middle digits 78 and 79 (e.g. 9XX-78-XXXX and 9XX-79-XXXX) expired on 12/31/2016. ITINs with middle digits 70, 71, 72, and 80 expired on 12/31/2017. And ITINs with middle digits 73, 74, 75, 76, 77, 81, and 82 expire on 12/31/2018. If an ITIN is set to expire at the end of the year, the ITIN holder can submit a renewal with just a W7 and the supporting documentation. Once an ITIN has expired, the ITIN will have to be renewed before a tax return can be filed for any year. In summary, ITINs with middle digits 70, 71, 72, 78, 79, and 80 that were not already renewed will need to be renewed before a tax return can be filed for any year. ITINs with middle digits 73, 74, 75, 76, 77, 81, and 82 will expire at the end of 2018 and can be renewed now or after they have already expired. It is recommended ITIN holders renew their ITINs before they have expired to benefit from faster processing times and to avoid processing and refund delays during the filing season. (An ITIN application/renewal must be processed before the tax return is processed and refund issued.)

➤ **Can I renew my family member's ITIN, even if it is not expiring?**

If one person in the tax household must renew his/her ITIN, everyone in the household can renew their ITINs at the same time, regardless of when they expire. Otherwise, you must wait until your ITIN is up for renewal.

➤ **When an individual renews their ITIN, will they retain the same ITIN or receive a new one?**

Once an ITIN is assigned, it belongs to that taxpayer unless the ITIN has been revoked. When an individual renews their ITIN, the previously assigned number is renewed.

➤ **If someone files a return in tax season without renewing, what kind of correspondence will they receive?**

A return filed with an expired ITIN will be processed. However, certain tax credits and/or any claimed exemptions applicable to the expired ITIN will not be allowed. The taxpayer will receive a notice from the IRS explaining the change(s) made to their tax return and that you, your spouse, and/or your dependent(s) ITIN expired. Once the ITIN is renewed, any exemptions and/or credits previously



disallowed will be reconsidered at that time. Until the ITIN is renewed, the taxpayer will be subject to interest and penalties for any tax owed as a result of disallowed exemptions and credits.

➤ **What are the required documents for an ITIN application/renewal?**

A successful ITIN application will include the following documents

1. A completed **tax return** (required for applications but not for renewals)
2. Form **W-7** Application for an ITIN number
  - a. One W-7 must be completed for each person on the tax return who is applying for or renewing their ITIN.
  - b. The form W-7SP can also be used if the client prefers to receive correspondence in Spanish.
3. Supporting **Identification Documents**
  - a. A passport or a combination of two identifying documents must be provided.
  - b. See section on eligible documents below.
  - c. Originals or certified copies OR a certificate of accuracy from a certified acceptance agent must be included.

An ITIN application/renewal must be presented with supported documentation to prove identity and foreign status. An original or certified copy of an UNEXPIRED passport is the only document that is accepted for both identity and foreign status. If you do not have a passport, you must provide a combination of current documents that contain expiration dates (with the exception of the birth certificate). The documents must also show your name and photograph and support your claim of foreign status. If it is a medical record, school record, or documentation to prove a dependent’s residency in the US, it must have been issued within the last 12 months.

Supporting Documentation	Can be used to establish:	
	Foreign status	Identity
Passport (the only stand-alone document*)	x	x
U.S. Citizenship and Immigration Services (USCIS) photo identification	x	x
Visa issued by the U.S. Department of State	x	x
U.S. driver's license		x
U.S. military identification card		x
Foreign driver's license		x
Foreign military identification card	x	x
National identification card (must contain name, photograph, address, date of birth, and expiration date)	x	x
U.S. state identification card		x
Foreign voter's registration card	x	x
Civil birth certificate	x**	x
Medical records (valid only for dependents under age 6)	x**	x
School records (valid only for dependents under age 18 if a student)	x**	x

\* Applicants claimed as dependents who need to prove U.S. residency must provide additional documentation if the passport doesn't have a date of entry into the United States. See *Proof of U.S. residency for applicants who are dependents*, below.  
 \*\* May be used to establish foreign status only if documents are foreign.



➤ **Do I need to renew my ITIN if I won't be filing a tax return or claim for refund?**

No, however in the future if you file a U.S. tax return or claim for refund, the ITIN (including for a dependent) will need to be renewed at that time.

➤ **I only use my ITIN on information returns, like Forms 1099. If my ITIN is expiring, do I need to renew it?**

No, if your ITIN is only used on information returns and you will not be filing a tax return or claim for refund you do not need to renew your ITIN.

➤ **I have a Social Security Number (SSN) and no longer need my ITIN that will be expiring. Do I need to renew my ITIN?**

No, you should not renew your ITIN if you have or are eligible for a SSN. You can visit a local IRS office or mail a letter (see [here](#) for the CTC template and instructions) explaining you have now been assigned a SSN and want your tax records combined. The IRS will void the ITIN so it cannot be used by anyone in the future and associate all prior tax information filed under the ITIN with the SSN.

➤ **How do I file Forms 4868 or 1040-ES without a SSN or ITIN?**

If you're filing an application for an extension of time to file (using Form 2868) or making an estimated tax payment using Form 1040-ES, enter "ITIN TO BE REQUESTED" wherever your SSN or ITIN is requested. An ITIN will be issued only after you file a tax return and meet all other requirements.