Taxes and DACA: What do you need to know?

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Founded in 1979, the National Immigration Law Center is the only national legal advocacy organization in the U.S. exclusively dedicated to defending and advancing the rights of low-income immigrants and their families. We envision a U.S. society in which all people — regardless of their race, gender, immigration or economic status — are treated equally, fairly, and humanely, have equal access to justice, education, government resources and economic opportunities, and are able to achieve their full potential as human beings.
Before we get started

Questions?
Got DACA! Now What?!
What we’ll cover:

I. Taxes as a DACA-mented Dreamer / Immigrant

II. Taxes 101

III. The Affordable Care Act “Obamacare” & Taxes
Taxes as a DACA-mented Dreamer
Why Should I pay Taxes?

Everyone needs to pay taxes

Required by law

Could help on your immigration case
Should I be Scared of Filing Taxes?

NO
Paying Taxes without a SSN: Using an ITIN

What is an ITIN?
• Individual Taxpayer Identification Number
• 9-digit number that begins with “9”
• Does not provide work authorization

Who should apply for an ITIN?
• Anyone else who does not have SSN should pay their taxes using an ITIN.
• You may have family members who need an ITIN.
Paying Taxes without a SSN: Using an ITIN

How to apply for an ITIN?

• [Form W-7](#) + tax return
• 6 to 10 weeks for processing
• Documents proving foreign status and identity (i.e., passport, USCIS photo ID, U.S. driver’s license, birth certificate, medical records, etc.)
SSN or ITIN? Which do I use?

To file taxes, you must use a **valid SSN** (or an ITIN)

**STOP** using your ITIN to file once you receive a valid SSN
What do I do about previous tax years?

- **Amend** past returns if any incorrect information
- Payment of back taxes are NOT REQUIRED for DACA (or DAPA—though discretionary)
TAXES 101: FORM, TERMS, CREDITS
Tax Filing Date

DEADLINE: APRIL 15TH
W-4: When you get Hired

**Form W-4:** Fill this out when you get hired
- Determines correct amount of taxes to withhold
- Shows government dates of employment and amount paid to Social Security Trust Fund
**W-2: From your Employer**

**Form W-2:**
- Get it from employer by the end of January of coming tax year.
- Shows wages, income taxes withheld, and payroll taxes (Social Security and Medicare withholdings)
- Employer is *required* by law to provide it to you. If you do not get it you have a right to demand it.

![W-2 Sample Form](image-url)
### Which Tax Form Should I File?

<table>
<thead>
<tr>
<th>Condition</th>
<th>1040</th>
<th>1040EZ</th>
<th>1040A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income is below $100,000</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Single or married filing jointly</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>No dependents</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dependents</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Claim adjustments for student loan interest</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>You claim itemized deductions</td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Read more about which form to use in [IRS Publication 17](https://www.irs.gov/pubs/p17), Your Federal Individual Income Tax.
**Basic Tax Terms**

**Exemptions**: Personal exemptions as well as for spouse and dependents. Reduce taxable income.

**Dependents**: qualifying child or qualifying relative (can include siblings, parents, nieces/nephews, aunts/uncles and others). MUST meet certain criteria.

**Example: 1040**

![Image of 1040 tax form section for exemptions and dependents]
Basic Tax Terms

**Credits**: Reduce amount of taxes owed (sometimes refundable, like the Child Tax Credit and Earned Income Tax Credit)

**Deductions**: Specific expenses (i.e., home mortgage interest and charitable donations) that reduce taxable income.
1. File on your own
2. Volunteer Income Tax Assistance (VITA) Program

Offer free tax help if:
- Income under $53,000
- Disabled
- Elderly
- Limited English speakers

Find a VITA site near you:
Where to get help filing

3. Paid in-person Tax Services (ie. Tax accountants)

Private tax accountants
**Earned Income Tax Credit (EITC):**

- Only for SSN holders (*both* parents and qualifying child)
- Maximum 2014 credit ($496 for no qualifying children and $6,143 for 3+ qualifying children).

**Child Tax Credit (CTC) and Additional Child Tax Credit (ACTC):**

- ITIN holders are eligible (up to $1,000 per qualifying child)
THE AFFORDABLE CARE ACT ("OBAMACARE")
What is the Affordable Care Act?

• Affordable Care Act (ACA) = “Obamacare”

• Created “Marketplace” to buy health insurance

• “Individual mandate” - All eligible persons must be covered by health insurance or pay a tax penalty
Immigrant Eligibility for Obamacare

- Must be “lawfully present” in the U.S. (for purposes of the ACA) to be eligible for coverage.

**ITIN ≠ UNDOCUMENTED**

**SSN ≠ LAWFULLY PRESENT**
Can DACAmented sign-up for Obamacare?

NO, DACA recipients are **NOT eligible** because they are not lawfully present for purposes of ACA

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**NOT REQUIRED TO HAVE HEALTH INSURANCE**

**DON’T HAVE TO PAY TAX PENALTY**

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Affordable Care Act: DACA & Mixed Status Families

If you’re part of a mixed-status family, important to remember:

- DACA recipients may apply for ACA coverage on behalf of eligible family members
- DACA recipients may be counted in the household size
- Individuals who receive ACA subsidies MUST file taxes
No Tax Penalty

DACA recipient = NO ACA Tax Penalty

• File IRS Form 8965 with your taxes to “claim exemption”
• Indicate “code C” on the form

• Doesn’t require you to disclose immigration status.
• If you don’t file taxes because you don’t make enough, you don’t need to file this exemption.
Complete this form if you have a Marketplace-granted coverage exemption or you are claiming a coverage exemption on your return.

**Part I**

**Marketplace-Granted Coverage Exemptions for Individuals:** If you and/or a member of your tax household have an exemption granted by the Marketplace, complete Part I.

<table>
<thead>
<tr>
<th></th>
<th>Name of Individual</th>
<th>SSN</th>
<th>Exemption Certificate Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
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<td></td>
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<td>3</td>
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<td>5</td>
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<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Part II**

**Coverage Exemptions for Your Household Claimed on Your Return:**

7a. Are you claiming an exemption because your household income is below the filing threshold?  
   Yes □ No □

7b. Are you claiming a hardship exemption because your gross income is below the filing threshold?  
   Yes □ No □

**Part III**

**Coverage Exemptions for Individuals Claimed on Your Return:** If you and/or a member of your tax household are claiming an exemption on your return, complete Part III.

<table>
<thead>
<tr>
<th></th>
<th>Name of Individual</th>
<th>SSN</th>
<th>Exemption Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Joe Smith</td>
<td>123-456-789</td>
<td>C</td>
</tr>
</tbody>
</table>

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If you were incorrectly charged the tax penalty.…

AND if you are a DACA grantee or are exempt, you can fix an incorrect tax penalty by filing an amended return:

1. File an Amended Return (1040X) line 9
2. File Form 8965 claiming code “C”
Recap Main Points

1. Don’t be scared!
2. File by April 15th!
3. **STOP** using your ITIN to file once you receive a valid SSN
4. You don’t have to pay the ACA’s tax penalty
5. Need to file TWO forms (1040 and 8965) and claim exemption code “C”
6. You can go back and fix incorrect tax forms to claim an ACA exemption
Questions?
National Immigration Law Center: www.nilc.org
United We Dream: www.unitedwedream.org/taxes

IRS: http://www.irs.gov/Filing

Know your rights:
• DACA and workplace rights: www.nilc.org/dacaworkplacerights
• Facts about IRS “No-Match” letters: www.nilc.org/irs-nomatch

Factsheets from NILC:
• FAQ – Immigrants, ACA, and Taxes
• Immigrants & Exemptions from the Individual Mandate
• DACA and DAPA Access to Federal Health and Economic Support Programs

Healthcare and DACA in California:
www.e4fc.org/resources/healthresourcesinca.html