Taxes and DACA: What do you need to know?

March 2, 2016
Zenen Jaimes Perez  
Policy & Advocacy Analyst, United We Dream
Ellen Sittenfeld Battistelli
Policy Analyst, National Immigration Law Center
Angel Padilla,
Health Policy Analyst, National Immigration Law Center
the only national legal advocacy organization dedicated to defending and advancing the rights of low-income immigrants and their families.

Committed to equal access to justice, education, government resources and economic opportunities for all individuals regardless of their race, gender, immigration or economic status.
Before we get started

Questions?
Got DACA! Now What?!
1. Since you got DACA have you:
   ● Gotten a new job
   ● Kept the same job
   ● Earning more money
   ● any other answers?
What we’ll cover:

I. Taxes as a DACA-mented Dreamer / Immigrant

II. Individual Taxpayer Identification Numbers (ITINs)

III. The Affordable Care Act “Obamacare” & Taxes
Taxes as a DACA-mented Dreamer
Survey Question 2

2. Have you filed Taxes before?

- Yes, I have filed before with an ITIN,
- Yes, I have filed with new SSN after DACA
- Yes, Both a & b
- No, I have never filed taxes before

NOTE: THIS IS WRITTEN ON THE SLIDE, BUT IT WILL BE SHOW TO PARTICIPANTS USING THE WEBINAR FEATURE< THEY WILL NOT SEE THIS SLIDE
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
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.
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)
Free tax preparation if you qualify

Volunteer Income Tax Assistance (VITA) Program

Offer free tax help if:

• Income under $54,000
• Disabled
• Elderly
• Limited-English speakers

Find a VITA site near you:

IRS toll-free at (800) 906-9887

Or you can do it yourself!

The IRS offers free tax filing software if your income is below $64,000

...and there are also commercial, for-profit options
Legal help for tax problems

You may qualify for free or low-cost assistance if:

- you are a low-income taxpayer
- or
- you speak English as a second language and need help understanding your taxpayer rights and responsibilities

Find out about eligibility and locations of

Low-Income Taxpayer Clinic

http://www.irs.gov/Advocate/Low-Income-Taxpayer-Clinics/Low-Income-Taxpayer-Clinic-Map
Beware of *notario* fraud!

- Untrained and dishonest tax preparers may promise large refunds

- Know that in case of errors, the taxpayer, not the tax preparer, must pay any additional taxes and interest owed and may be subject to penalties
Tax Filing Date

DEADLINE: APRIL 15TH
More about ITINs

[insert picture]
ITIN Renewal Requirements

ITINs issued after December 31, 2012 will remain in effect unless the taxpayer does not file taxes for three consecutive years.

ITINs issued before January 1, 2013 will remain in effect until whichever comes earlier:

-A taxpayer does not file for three consecutive years

-A date specified in the legislative text based on when the taxpayer received the ITIN. This schedule phases in over four years.
<table>
<thead>
<tr>
<th>IF THE ITIN WAS ISSUED</th>
<th>THE ITIN MUST BE RENEWED BY</th>
</tr>
</thead>
<tbody>
<tr>
<td>before January 1, 2008</td>
<td>January 1, 2017</td>
</tr>
<tr>
<td>in 2008</td>
<td>January 1, 2018</td>
</tr>
<tr>
<td>in 2009 or 2010</td>
<td>January 1, 2019</td>
</tr>
<tr>
<td>in 2011 or 2012</td>
<td>January 1, 2020</td>
</tr>
</tbody>
</table>
Barriers in the ITIN application process

Requirement for original or certified copies

Too few Certifying Acceptance Agents (CAAs) and Taxpayer Assistance Centers (TACs)

IRS processing delays

Inadequate tracking system of applications
THE AFFORDABLE CARE ACT ("OBAMACARE")
Survey Question 3

3. Have you been told you needed to pay a penalty for as a result of Obamacare?

- Yes
- No

NOTE: THIS IS WRITTEN ON THE SLIDE, BUT IT WILL BE SHOW TO PARTICIPANTS USING THE WEBINAR FEATURE< THEY WILL NOT SEE THIS SLIDE
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**
5. Do you have family members who are lawfully present or eligible for the Obamacare law?
- Yes, I have eligible siblings
- Yes, I have eligible dependents
- Yes, my parents
- No
- I qualify for the ACA

NOTE: THIS IS WRITTEN ON THE SLIDE, BUT IT WILL BE SHOW TO PARTICIPANTS USING THE WEBINAR FEATURE< THEY WILL NOT SEE THIS SLIDE
Can DACAmented sign-up for Obamacare?

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

- NOT REQUIRED TO HAVE HEALTH INSURANCE
- DON’T HAVE TO PAY TAX PENALTY
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>a Name of Individual</th>
<th>b SSN</th>
<th>c Exemption Certificate Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<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>a Name of Individual</th>
<th>b SSN</th>
<th>c Exemption Type</th>
<th>d Full Year</th>
<th>e Jan</th>
<th>f Feb</th>
<th>g Mar</th>
<th>h Apr</th>
<th>i May</th>
<th>j June</th>
<th>k July</th>
<th>l Aug</th>
<th>m Sept</th>
<th>n Oct</th>
<th>o Nov</th>
<th>p Dec</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Joe Smith</td>
<td>123-456-789</td>
<td>C</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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”
Remember, this year the penalty is much higher!

The TAX PENALTY will be much higher than last year....

...for tax year 2015, the penalty is $325 (half this amount per child) or a percentage of their income (whichever is greater) for the full year.

So if you have DACA or are undocumented, and have paid the penalty, **you should amend your return to get that money back!**
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?
Resources

National Immigration Law Center: [www.nilc.org](http://www.nilc.org)
United We Dream: [www.unitedwedream.org/taxes](http://www.unitedwedream.org/taxes)


Know your rights:

- DACA and workplace rights: [www.nilc.org/dacaworkplacerights](http://www.nilc.org/dacaworkplacerights)
- Facts about IRS “No-Match” letters: [www.nilc.org/irs-nomatch](http://www.nilc.org/irs-nomatch)

Factsheets from NILC:

- [FAQ – Immigrants, ACA, and Taxes](http://www.nilc.org/)
- [Immigrants & Exemptions from the Individual Mandate](http://www.nilc.org/)
- [DACAmented and Undocumented and the Obamacare Tax Penalty](http://www.nilc.org/)

Healthcare and DACA in California: [www.e4fc.org/resources/healthresourcesinca.html](http://www.e4fc.org/resources/healthresourcesinca.html)