

Taxes and DACA: What do you need to know?



March 18, 2015



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National Immigration Law Center (NILC)

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





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?

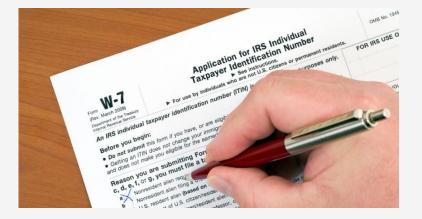




Paying Taxes without a SSN: Using an ITIN

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?

- •<u>Form W-7</u> + 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





Basic Tax Forms Overview





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

| | | Cut here and give I | Form W-4 to your employ | yer. Keep the t | top part for your re | ecords. | | |
|----------|---|---|----------------------------------|------------------------|---------------------------|-----------|-----------------|---------------------|
| Form | W-4 | Employe | e's Withholding | g Allowar | nce Certific | ate | 1 | OMB No. 1545-0074 |
| | tment of the Treasury al Revenue Service | the Treasury ► Whether you are entitled to claim a certain number of allowances or exemption from withholding is 2009 | 2009 | | | | | |
| 1 | Type or print your | first name and middle initial. | Last name | 20 | | 2 You | ır social sec | urity number |
| | Home address (nur | mber and street or rural route) | | | | | | |
| <u> </u> | City or town, state, | , and ZIP code | | | | | | |
| 5 | Total number of | allowances you are clain | ning (from line H above o | r from the app | licable worksheet | on page | 2) 5 | |
| 6 | Additional amou | unt, if any, you want with | held from each paycheck | < | | | 6 | \$ |
| 7 | I claim exemption | on from withholding for 20 | 009, and I certify that I me | eet both of the | following conditio | ns for ex | xemption. | |
| | | | | | | | | |
| | If you meet bot | h conditions, write "Exem | pt" here | | 🕨 | 7 | | |
| Emp | loyee's signature | | d this certificate and to the be | est of my knowled | dge and belief, it is tru | | | ete. |
| (Form | n is not valid unless | | | | | Date 🕨 | | |
| 8 | Employer's name a | and address (Employer: Comple | ete lines 8 and 10 only if send | ling to the IRS.) | 9 Office code (optional) | 10 Em | ployer identifi | cation number (EIN) |
| For I | Privacy Act and F | Paperwork Reduction Act | Notice, see page 2. | | Cat. No. 10220Q | | F | orm W-4 (2009) |

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W-2: From your Employer

<u>Form W-2</u>:

- 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

| d Control number a E | mployee's social security number | | 1 Wages, tips, other cor | npensatio | on | 2 Federal in | come tax withheld | | |
|---|---|----------|--------------------------|----------------------|------------------|--------------|---------------------|--------------|-------------|
| 123456789 | nployee's social security number 123 - 45 - 6789 | | | 19, | 404.31 | | | 2,1 | 11.65 |
| c Employer's name, address, and ZIP code | b Employer identification num | nber | 3 Social security wages | | | 4 Social sec | curity tax withheld | | |
| | 95-600614 | 3 | | | 665.00 | | | | 41.23 |
| UC, LOS ANGELES | | | 5 Medicare wages and | ips o | 000 75 | 6 Medicare | tax withheid | 2 | 00.00 |
| - | LAUTER DIVE #C | 20 | | 20, | 923.75 | | | 3 | 03.39 |
| PAYROLL OFC, 10920 WI | | 20 | 9 Advance EIC paymen | t | | 10 Depende | ent care benefits | | |
| LOS ANGELES, CA 90024 | | | | | | | | | |
| e Employee's name, suffix f E | nployee's address and ZIP code | | 12 See Instrs. for Box 1 | 2 | | 14 Other | a a | 1 510 | 4.4 |
| TO OPPUTINE DEVITIN | | | | | | DCP- | CAS | 1,519 | .44 |
| JOSEPHINE BRUIN | | | | | | | | | |
| 825 WESTWOOD BLVD. LOS ANGELES, CA 90024 | | | | | | | | | |
| LOS ANGELES, CA 90024 | | | | | | | | | |
| This information is being furnished to the Infern | al Devapue Service 1 | 1 Nona | ualified plans | | 1_ | | | | |
| This mornador is being furnished to the mean | | 13 Statu | | ind parts | Form | W-2 | Wage an Statem | id Tax 🧿 | nvv |
| | | Employ | yee Plan s | ird-party ick pay | | VV-2 | Statem | nent 🖌 | |
| OMB No. 1545-0008 Department of the Treasu | ry-Internal Revenue Service | | х | \square | | | | | |
| | | | | | Copy B, To B | e Filed With | Employee's FEDER | AL Tax Retur | n. |
| 15 State Employer's state I.D. No. | 16 State wages, tips, etc. | 17.5 | State income tax | 18 L | ocal wages, tips | elc. | 19 Local income ta: | x | 20 Locality |
| CA 95-6006143 | 19,629.58 | | 750.29 | | | | | | |
| | | | | | | | | | |

KA, UMALCA ITC DICOM

Which Tax Form Should I File?

| | 1040 | 1040EZ | 1040A |
|--|------|--------|-------|
| Income is below \$100,000 | | Х | Х |
| single or married filing jointly | | Х | |
| No dependents | | Х | |
| Dependents | Х | | |
| claim adjustments for student loan interest | | | Х |
| You claim itemized deductions | Х | | |

Read more about which form to use in <u>IRS Publication 17</u>, Your Federal Individual Income Tax.

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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

| Exemptions | 6a Vourself. If someone c b Spouse | Boxes checked on 6a and 6b No. of children | | | |
|----------------|---|--|--|--|---|
| | c Dependents: (1) First name Last name | (2) Dependent's social security number | (3) Dependent's relationship to you | (4) ✓ if child under age 17 qualifying for child tax credit (see instructions) | on 6c who: lived with you did not live with |
| | | | | | you due to divorce or separation (see instructions) |
| ependents, see | | | | | Dependents on 6c not entered above |
| check here 🕨 🛄 | d Total number of exemption | Add numbers on lines above > | | | |



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.

| Form 1040 (2014 | 1) | | | | Page 2 |
|-----------------------------|-----|---|--|----|--------|
| - | 38 | Amount from line 37 (adjusted gross income) | | 38 | |
| Tax and Credits | 39a | Check if: You were born before January 2, 1950, Spouse was born before January 2, 1950, | Blind. } Total boxes Blind. checked ► 39a | | |
| | b | If your spouse itemizes on a separate return or you were a dual-sta | tus alien, check here > 39b | | |
| Standard | 40 | Itemized deductions (from Schedule A) or your standard dedu | 40 | | |
| Deduction for- | 41 | Subtract line 40 from line 38 | 41 | | |
| People who | 42 | Exemptions. If line 38 is \$152,525 or less, multiply \$3,950 by the number of | 42 | | |
| check any box on line | 43 | Taxable income. Subtract line 42 from line 41. If line 42 is more | 43 | | |
| 39a or 39b or | 44 | Tax (see instructions). Check if any from: a Form(s) 8814 b | 44 | | |
| who can be claimed as a | 45 | Alternative minimum tax (see instructions). Attach Form 6251 | 45 | | |
| dependent, | 46 | Excess advance premium tax credit repayment. Attach Form 89 | 46 | | |
| see instructions. | 47 | Add lines 44, 45, and 46 | | 47 | |
| All others: | 48 | Foreign tax credit. Attach Form 1116 if required | 48 | | |
| Single or Married filing | 49 | Credit for child and dependent care expenses. Attach Form 2441 | 49 | | |
| separately, \$6,200 | 50 | Education credits from Form 8863, line 19 | 50 | | |
| Married filing | 51 | Retirement savings contributions credit. Attach Form 8880 | 51 | | |
| jointly or Qualifying | 52 | Child tax credit. Attach Schedule 8812, if required | 52 | | |
| widow(er), \$12,400 | 53 | Residential energy credits. Attach Form 5695 | 53 | | |
| Head of | 54 | Other credits from Form: a 3800 b 8801 c | 54 | | |
| household, | 55 | Add lines 48 through 54. These are your total credits | | 55 | |
| \$9,100 | 56 | Subtract line 55 from line 47. If line 55 is more than line 47, ente | r-0 🕨 | 56 | |

Where to get help filing

1. File on your own





Where to get help filing

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)





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Common Tax Credits

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.



SSN ≠ LAWFULLY PRESENT



Can DACAmented sign-up for Obamacare?

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

NOT REQUIRED TO HAVE HEALTH INSURANCE

DON'T HAVE TO PAY TAX PENALTY



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.



| Form 8965 Department of the Treasury Internal Revenue Service | Health Coverage Exemptions Attach to Form 1040, Form 1040A, or Form 1040EZ. Information about Form 8965 and its separate instructions is at www | | OMB No. 1545-0074 |
|---|--|------------------------|-------------------|
| Name as shown on return | 1 | Your social security n | umber |
| Joe Smitl | | 123 | 3-456-789 |

Complete this form if you have a Marketplace-granted coverage exemption or you are claiming a coverage exemption on your return.

| | Name | a of Individual | | | | b SN | | | Exem | ption C | c ertifica | ste Nur | mber | |
|-------------------|-----------------------------|--------------------|-------------------------------|------------------------|-----------------|-----------------------|-------------------|-----------|-----------|----------|---------------|---------------|----------|---------|
| 1 | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | |
| 4 | | | | _ | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | |
| 6 Part I 7a | Coverage Exempti | | | | | | | | | | _ | Yes | | No |
| | Are you claiming a hardship | examption becaus | e your gross i uals Claime | ncome is b | elow t ur Re | he filing turn: If | thresho you ar | d? | | | | Yes our ta | | No |
| | a Name of Individual | b SSN | c Exemption Type | d Full e Year an | t | g | h i Apr May | j June | k July | l Aug | m Sept | n Oct | o Nov | p De |
| 8 | Joe Smith | 123-456-7 | ⁸⁹ C | \checkmark | | | | | | | | | | |



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 (<u>1040X</u>) 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?



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Resources

National Immigration Law Center: <u>www.nilc.org</u> United We Dream: <u>www.unitedwedream.org/taxes</u>

IRS: <u>http://www.irs.gov/Filing</u> Know your rights:

- DACA and workplace rights: <u>www.nilc.org/dacaworkplacerights</u>
- Facts about IRS "No-Match" letters: <u>www.nilc.org/irs-nomatch</u>

Factsheets from NILC:

- <u>FAQ Immigrants, ACA, and Taxes</u>
- <u>Immigrants & Exemptions from the Individual Mandate</u>
- DACA and DAPA Access to Federal Health and Economic Support
 <u>Programs</u>

Healthcare and DACA in California:

www.e4fc.org/resources/healthresourcesinca.html

