

Taxes and DACA: What do you need to know?



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National Immigration Law Center (NILC)

- ▶ 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?!



Survey Question 1

1. Since you got DACA have you:

- Gotten a new job
- Kept the same job
- Earning more money
- any other answers?

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

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Why Should I pay Taxes?

Everyone needs to pay taxes



Required by law



Could help on your
immigration case

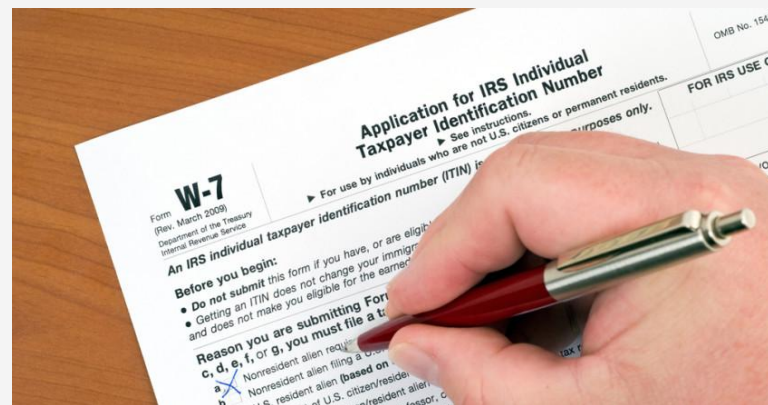
Should I be Scared of Filing Taxes?

NO

Until you have a Social Security Number Pay Taxes with 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.

How to apply for 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

OR



Find a VITA site near you:

IRS toll-free at (800) 906-9887

<http://www.irs.gov/Individuals/Free-Tax-Return-Preparation-for-You-by-Volunteers>



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!!!

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**



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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.

Dates for Required ITIN Renewal

IF THE ITIN WAS ISSUED	THE ITIN MUST BE RENEWED BY
before January 1, 2008	January 1, 2017
in 2008	January 1, 2018
in 2009 or 2010	January 1, 2019
in 2011 or 2012	January 1, 2020

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

A man with dark hair and a slight smile, wearing a blue button-down shirt, is looking off to the side. His hand is resting under his chin. The image is overlaid with a large, semi-transparent orange triangle that points from the top right towards the bottom left. The text is white and bold, positioned across the lower half of the image.

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

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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 \neq UNDOCUMENTED

SSN \neq LAWFULLY PRESENT



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Survey Question 5

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

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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

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.irs.gov/form8965.

OMB No. 1545-0074

2014Attachment
Sequence No. **75**

Name as shown on return

Joe Smith

Your social security number

123-456-789

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.

	a Name of Individual	b SSN	c Exemption Certificate Number
1			
2			
3			
4			
5			
6			

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 ☐ Nob 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.

	a Name of Individual	b SSN	c Exemption Type	d Full Year	e Jan	f Feb	g Mar	h Apr	i May	j June	k July	l Aug	m Sept	n Oct	o Nov	p Dec
8	Joe Smith	123-456-789	C	✓												

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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”

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!**

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: 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](#)
- [DACAmended and Undocumented and the Obamacare Tax Penalty](#)

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