

Summary

Anyone who is required to file a tax return must file a tax return and pay the taxes due, but doing so now may be much riskier than it has been in recent years if you use an ITIN. All tax returns must be filed under a unique ID number. For people without social security numbers (SSN), the IRS can issue Individual Taxpayer Identification Numbers (ITINs) instead. While tax information is usually highly confidential, a recent agreement between the IRS and ICE will allow the IRS to share some otherwise confidential tax information. How much risk this poses depends on the facts of your specific situation.

What are ITINs, and who uses them?

- ITINs are used by people who don't have an SSN to file taxes, and sometimes other things.
- Not everyone who has an ITIN is undocumented, as many people with valid but temporary immigration status do not qualify for an SSN. Even people who are simply waiting for their SSN to be issued must use an ITIN.
- Not everyone who has an ITIN is working without authorization. For example, ITINs are required for spouses and children of a citizen or other person with an SSN (e.g. a guest worker), even if they have never been to the U.S., if those people are included in a tax return of someone who has earned income in the U.S.
- People use ITINs for many reasons other than filing their taxes, i.e. anything that would otherwise require a SSN – rental applications, getting bank accounts, etc.
- In 2022, undocumented workers used the ITIN program to pay \$59.4 billion in federal income taxes. Undocumented workers also pay \$25.7 billion in Social Security taxes and \$6.4 billion in Medicare taxes, programs for which they are statutorily ineligible to receive benefits.¹

There are risks in getting an ITIN and filing a tax return.

- Until now, except a few isolated rogue IRS agents who were later disciplined for violating confidentiality law, the strong confidentiality laws protecting info held by the IRS have protected the information of ITIN filers.
- However, the IRS and DHS / ICE have recently reached an agreement where the IRS will give tax information to DHS / ICE.
- The details of the agreement have not yet been made fully public, so we don't know what information they may release, or whose information may be released.
- Tax returns can tell a lot about you – where you live, where you work, your family composition, etc. If released to ICE, this information can be used to aid in deportation and other negative immigration actions.

There are also risks in not getting an ITIN, or not filing a tax return.

- If you have made enough money to have a filing requirement, the law requires that you file taxes.
- Filed tax returns can be helpful in proving at least two years of continuous residence, to avoid expedited removal proceedings.
- Intentional failure to file or pay taxes can be a criminal issue that affects immigration status.
- Failure to file or pay taxes can have negative effects on applications to adjust to permanent resident status or to naturalize as a US citizen.
- Not filing taxes means that mixed status families cannot receive the additional child tax credit.

So do I file or not?

- Everyone's situation is different. The risks of filing vs not filing will be different based on your individual circumstances. Consult an immigration attorney to get advice about the risks in your specific situation.

¹ Debu Ghandhi et al., Trump's Rash Immigration Actions Place Cruelty and Spectacle Above Security, Ctr. for Am. Progress, Feb. 27, 2025, <https://www.americanprogress.org/article/trumps-rash-immigration-actions-place-cruelty-and-spectacle-above-security/>