

Who is the IRS?

The part of the United States government that deals with taxes is called the Internal Revenue Service (IRS). You report your income to the IRS along with an IRS form, this is called "Filing a Tax Return". Are you and/or your spouse working and receiving a paycheck? Did your employer withhold income taxes from your paycheck? You may be entitled to a refund of taxes overpaid.

Why should I file a return?

- You may get a cash refund of overpaid taxes.
- For most immigration applications, such as naturalization, family based petitions, work authorization and adjustment of status, you need to show that you filed tax returns.
- For immigration matters, filing your income tax returns is evidence of "good moral character" and "continuous presence". You must prove both of these for most immigration benefits. If you owe taxes, it is against the law not to file an income tax return.

Who Can Get A Tax Refund?

You can apply for a tax refund if you are living and working in the United States. You will be eligible for a tax refund if the income tax withheld by your employer is more than the tax you owe on the income earned.

You may get a refund even if you do not have legal permission to live and work in the U.S.

You do not need a valid social security number (SSN) to file a tax return or get a refund due you. You do need to file for an Individual Taxpayer Identification Number (ITIN). This is a number issued by the IRS to process tax returns for people who cannot get a Social Security Number.

How do I get other tax benefits?

Your eligibility for other tax benefits depends on your individual situation. IRS rules about legal status are different from the rules used by the Bureau of Citizenship and Immigration Services (BCIS), formerly INS.

Under IRS rules, people who are not U.S. citizens are called aliens. There are two kinds of aliens – resident and nonresident.

Resident Aliens may be legal aliens or undocumented aliens. *Most* resident aliens can claim the Earned Income Tax Credit (EITC), the Child Tax Credit, Child Care Credit, Education credit, Elderly Credit, Foreign Tax Credit and Adoption Credit.

Nonresident Aliens may get a refund of their income taxes. Nonresident Aliens may get some tax benefits, but special rules apply.

Resident Aliens

You are a resident alien if you are a lawful *permanent* resident of the United States *at any time* during the year. You generally have this status if the BCIS has issued you a "green card" .

Substantial Presence You are also a resident alien for tax purposes, if you have lived in the United States for 31 days during the current year and 183 days during a three-year period.

The three-year period includes all the days you were present in the year before the current year and 1/6 of the days present in the second year before the current year. You also meet this test if you lived in the U.S. 365 or all of the current year

Non Resident Aliens

You are a nonresident alien if you do not have a green card or you are not substantially present in the U.S.

Can I Get The Earned Income Tax Credit As A Resident Alien?

Under the Earned Income Tax Credit (EITC) program, the IRS pays money to some single workers and families who earn low wages. A *permanent* legal resident who is not a U.S. citizen may be eligible for the Earned Income Tax Credit.

EITC Eligibility Rules

If you are at least 25 years old or under 65 without children in the home and you earned less than \$13,440 (\$18,440 if filing married jointly), you may get an EITC of up to \$457*
If you are any age, raising one child, who meets the

eligible child requirements, who lives in your home and you earned less than \$35,463 (\$40,463 if filing jointly as married), you may get an EITC of up to \$3,043*.

If you are any age, raising two or more children, who meet the eligible child requirements, who live in your home and you earned less than 40,295 (45,295 if filing married jointly), you may get an EITC of up to \$5,028*.

**2009 Figures*

You must have earned income (wages or self-employment) to qualify for the EITC. For more information on the EITC see IRS publication 596.

Can I Get The Earned Income Tax Credit Without A Social Security Number?

To get the EITC, you, your spouse and qualifying children must have Social Security Numbers (SSN). The SSN must be valid for employment. You cannot claim the EITC using an Individual Taxpayer Number (ITIN).

If you later get a valid SSN, you can go back three years and amend or file an original tax return to claim the EITC.

Do I Need A Social Security # To File A Tax Return?

You do not need a SSN to file a tax return and get a refund of your income tax. You can get an Individual Taxpayer Identification Number (ITIN) if you are not eligible for a SSN. The IRS issues ITINs for income tax purposes only!

Can I File A Joint Tax Return With My Nonresident Spouse?

If at the end of the tax year you are married and you are a U.S. citizen, legal resident or resident alien and your spouse is a nonresident alien, you can file a joint tax return and treat your nonresident alien spouse as a resident alien. You must file a joint tax return. You must also attach a statement declaring that one spouse was a U.S. citizen or resident alien and the other spouse was a nonresident alien. The statement must include the name, address, and identification number of each spouse.

Where Can I Get Help With My Tax Return?

In most communities you can get free help from people trained by the IRS. Call 1-800-829-1040 to get the location of the nearest Volunteer Income Tax Assistance (VITA).

Will Using An ITIN Get Me In Trouble With The BCIS (Formerly INS)?

The IRS cannot generally request the names of taxpayers using an ITIN. The BCIS can use the ITIN as proof of illegal Status if there is an “ongoing investigation” of your immigrant status or proof of terrorist activities.

What If I Filed My Tax Return And The IRS Sent Me A Letter Or Bill?

If you get a notice or bill from the IRS and you don't understand it or want help in resolving a tax issue, contact Community Legal Services of Mid-Florida, Low-Income Taxpayer Clinic at 1-866-886-1799.

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TAXATION OF NEW U.S.TAXPAYERS



PLEASE NOTE: WE DO NOT ASSIST WITH TAX PREPARATION (unless there is an underlying issue requiring tax preparation and filing)

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