

# ITIN Filer Data Gap: How Changing Laws, Lack of Data Disaggregation Limit Inclusive Tax Policy

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EMMA SIFRE

Like U.S. citizens, noncitizens who live, work, or invest in the United States must file local, state and federal taxes. But in order to file personal income taxes, they must first be issued a processing number called an Individual Taxpayer Identification Number (ITIN) by the IRS. These numbers are issued to both legal permanent residents and nonresidents who are not eligible for Social Security numbers (SSNs). ITINs do not imply immigration status, nor can they be used for immigration enforcement purposes, but they can be used to create burdensome barriers<sup>1</sup> that make it difficult for ITIN holders to file taxes and to impose additional eligibility restrictions on benefits that exclude ITIN filers. The time is now to focus on integrating all ITIN filers, regardless of immigration status, into our tax policies. But a lack of information on the ITIN population creates large gaps in our understanding of these filers and the role they play in the U.S. tax system.

Measuring the ITIN population is important for several reasons. First, ITIN filers represent a diverse population of people who do not have SSNs, including undocumented immigrants, foreign spouses, and dependents of U.S. citizens. Such a population is likely to vary widely in age, education, earnings, and geography, and will necessarily interact with the U.S. tax system in complex ways.

Second, recent decades have seen several significant changes to federal law that specifically target ITIN filers. Notably, the 1996 Personal Responsibility and Work Opportunity Act (PRWORA) barred authorized immigrants from receiving federal aid to which they had previously been entitled, such as TANF and Medicaid. More recently, the 2017 Tax Cuts and Jobs Act (TCJA) restricted eligibility for the Child Tax Credit (CTC) to only children who have a SSN. Prior to its enactment, ITIN filers could claim the CTC for children with either an SSN or an ITIN. This change alone excluded an estimated 1 million<sup>2</sup> immigrant children from the CTC. With ITIN filers at the center of tax policy developments like these, understanding the ITIN population is a necessary step in analyzing the impact of these policy changes on American taxpayers.

In the context of these policy debates, advocates continue the push to restore benefits to authorized immigrants, extend benefit eligibility for U.S. citizens in mixed-status households, and make the tax code more inclusive of undocumented immigrants. For example, there is a push to expand state Earned Income Tax Credit (EITC) benefits to ITIN filers and to restore CTC benefits to households with ITIN filers. In addition, while the first two rounds of COVID economic stimulus payments were wrongfully denied to U.S. citizens in households with ITIN filers, the most recent round in the American Rescue Plan (ARP) was available to U.S. citizens in mixed-status households who were otherwise eligible.

These policy changes signal a recognition that the population of potential ITIN filers and their families are an important part of the U.S. economy and can play a vital role in its recovery; but perhaps more broadly, that all residents in the United States are equally deserving of aid, regardless of citizenship status. The ability to identify and measure the ITIN population—both currently filing and potential filers—is, therefore, a critical starting point for creating a more inclusive and just tax code.

## WHAT WE KNOW

In general, the number of ITIN returns makes up a small proportion of total returns filed each year. In tax year 2019, the National Taxpayer Advocate reported that the IRS had received over 2 million<sup>3</sup> returns filed by a primary taxpayer with an ITIN. This figure represents roughly 1.6% of the total number of returns received by the IRS that year. From 2005 to 2014, available data indicates that the percentage of ITIN filers has ranged from about 1.0% to 3.5% of total filers. These figures do not distinguish whether the ITIN number belonged to the primary filer, secondary filer, or dependent children.

There is also evidence to suggest that the number of ITIN filers has been decreasing over the past 10 years, that this trend is expected to continue over the next few years, and that this decrease in ITIN use appears to be related to specific policy changes implemented by Congress and the IRS. For example, between 2011 and 2014, ITIN filings dropped by 58%<sup>4</sup> following changes to IRS processing requirements, and more recent reports expect ITIN filings to plummet<sup>5</sup> following changes in CTC eligibility in the TCJA. Other possible policy changes that may have further disincentivized would-be ITIN filers from filing taxes or claiming credits for which they would be eligible include recent backlogs that have left many ITIN applicants without their only official identity documents for up to a year, the PATH Act (2015)—which purged ITIN rolls—and the Trump administration’s Public Charge Rule.

We know from prior research that there is a substantial portion of the potential ITIN population that complies with income tax filing requirements, regardless of changing laws or eligibility requirements. But the data suggests that the broader eligible population may be responsive to policy changes and the larger policy environment. This raises potentially important questions about the implications of policy surrounding ITIN processing, renewals, and filing.



# CHALLENGES OF ESTIMATING ITIN FILERS

Unfortunately, these questions may remain unanswered as we grapple with the limitations of ITIN data. What data points we do have are only snapshots of ITIN returns, and a lack of consistent administrative data makes it difficult to get a clear and current measure of ITIN taxpayers.

For example, in 2014, the IRS reported<sup>6</sup> that roughly a quarter of the 21 million ITINs in circulation, or about 5.25 million, were being used to file tax returns. Five years later, in tax year 2019, the IRS reported that it had received over 2 million<sup>7</sup> returns filed by a primary taxpayer with an ITIN. The IRS did not release any data in the intervening years that may explain the difference of 3 million returns. So while we may presume that some policy changes are likely driving these trends, it is hard to say with certainty what might have caused such a precipitous decline.

A second challenge is that the data do not typically distinguish between households where the ITIN filer was the primary filer, secondary filer, or belongs to a dependent child. This creates additional challenges for estimating the impact of policies on mixed-status families.

And finally, even if the IRS reported consistent and robust data on ITIN filers, the fact that it contains the undocumented population necessarily means that it is subject to all the data limitations associated with a notoriously hard-to-measure population. Undocumented residents are consistently undercounted by national surveys, and there exists no authoritative government count of undocumented people in the United States with the kind of rich social, demographic, and economic characteristics that help inform policy research.

As the Biden administration makes “Establishing an Equitable Data Working Group” a central goal in its plan towards advancing racial equity<sup>8</sup>, there is a clear opportunity for the government to make available tax data disaggregated by ITIN status. Until such data exist for public use, research aimed at understanding the impact of policy proposals on ITIN filers will be limited in what it can and cannot say. But as the drive toward more inclusive tax policy continues, the ITIN population will remain an important piece of the tax policy puzzle.



## ENDNOTES

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- 3 Taxpayer Advocate Service. "NTA Blog: Most Taxpayers Needing a New ITIN are Prohibited from Filing Electronically, Causing Unnecessary Refund Delays," April 13, 2021. <https://www.taxpayeradvocate.irs.gov/news/nta-blog-most-taxpayers-need-ing-a-new-itin-are-prohibited-from-filing-electronically-causing-unnecessary-refund-delays/>
- 4 Internal Revenue Service. "Immigration and Taxation," 2014. <https://www.irs.gov/pub/irs-utl/20-Immigration%20and%20Taxation.pdf>
- 5 Taxpayer Advocate Service. "Fiscal Year 2019 Objectives Report to Congress," 2020. [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/JRC19\\_Volume1.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/JRC19_Volume1.pdf)
- 6 Internal Revenue Service. "Unused ITINs to Expire After Five Years; New Uniform Policy Eases Burden on Taxpayers, Protects ITIN Integrity," June 30, 2014. <https://www.irs.gov/newsroom/unused-itins-to-expire-after-five-years-new-uniform-policy-eases-burden-on-taxpayers-protects-itin-integrity>
- 7 Taxpayer Advocate Service. "NTA Blog: Most Taxpayers Needing a New ITIN are Prohibited from Filing Electronically, Causing Unnecessary Refund Delays," April 13, 2021. <https://www.taxpayeradvocate.irs.gov/news/nta-blog-most-taxpayers-need-ing-a-new-itin-are-prohibited-from-filing-electronically-causing-unnecessary-refund-delays/>
- 8 Schieder, Jessica. "Disaggregating Data Illuminates a Path to Equitable Policy," Institute on Taxation and Economic Policy, January 27, 2021. <https://itep.org/disaggregating-data-illuminates-a-path-to-equitable-policy/>