

**MSP
#16****INDIVIDUAL TAXPAYER IDENTIFICATION NUMBERS (ITINs): The IRS's Failure to Understand and Effectively Communicate With the ITIN Population Imposes Unnecessary Burden and Hinders Compliance****RESPONSIBLE OFFICIALS**

Ken Corbin, Commissioner, Wage & Investment Division

TAXPAYER RIGHTS IMPACTED¹

- *The Right to Be Informed*
- *The Right to Quality Service*
- *The Right to a Fair and Just Tax System*

DEFINITION OF PROBLEM

Individual Taxpayer Identification Numbers (ITINs) allow individuals with a tax filing obligation who are ineligible for Social Security numbers (SSNs) to file required returns and pay taxes.² IRS administrative policies have made it difficult for taxpayers to apply for and receive ITINs; yet, the IRS has not made necessary changes such as allowing ITIN applications from all applicants year-round and providing adequate alternatives to submitting original documents. These problems have been discussed extensively in past Annual Reports to Congress.³ The multitude of ITIN problems has many drivers, but two in particular stand out. The IRS fails to adequately:

1. Analyze the characteristics of and understand the ITIN population, including where applicants live, how they file their taxes, what language they speak, and what kind of community resources are available to them; and
2. Communicate with ITIN taxpayers by providing sufficient notices in the taxpayer's language and by conducting outreach through multiple channels to target groups of underserved taxpayers.

These two shortcomings result in a host of negative repercussions, including:

- A substantial decrease in ITIN applications, paired with only 176,000 renewal applications at the close of the filing season and over 152,000 returns with a math error for an expired ITIN, reflects that taxpayers may be unaware of the need to apply for ITINs or are choosing not to.

1 See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR are now listed in the Internal Revenue Code (IRC). See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 401(a) (2015) (codified as IRC § 7803(a)(3)).

2 IRC § 6109; Treas. Reg. § 1.6109-1. Taxpayers who require ITINs include international business persons, foreign students, foreign workers, and any other individual who does not have a Social Security number (SSN). All U.S. citizens and U.S. residents for tax purposes are required to file and pay U.S. taxes on their worldwide income and need a Taxpayer Identification Number (TIN) to do so. See, e.g., IRC § 61. Individuals considered nonresident aliens under the IRC are required to file and pay tax on income derived from sources within the United States. See IRC §§ 1, 2, 871, 7701(b).

3 See e.g., National Taxpayer Advocate 2016 Annual Report to Congress 239-52; National Taxpayer Advocate 2012 Annual Report to Congress 154-179.

- Taxpayers may be unaware of the requirement to have ITINs issued by the tax return due date to claim certain credits, as evidenced by the over 50,000 returns with math errors for failure to have an ITIN issued timely.
- Taxpayers may not receive their original documents or other ITIN correspondence from the IRS, including over five thousand passports that the IRS sent to embassies in 2016 because it could not find a better address to return them to taxpayers.

ANALYSIS OF PROBLEM

The IRS Does Not Analyze the Characteristics of the ITIN Population and Fails to Understand Their Needs

The Protecting Americans from Tax Hikes (PATH) Act of 2015 made many changes to the ITIN program, laying out rules for how to apply, when an ITIN must be issued to receive certain credits, and when an ITIN expires.⁴ The PATH Act required the IRS to conduct a study on the effectiveness of the ITIN application process.⁵ The IRS Research, Applied Analytics, and Statistics office delivered a draft report to internal stakeholders in early 2017. We understand the report addresses many of the issues included in this discussion. However, despite repeated requests, the IRS declined to share the draft report with TAS or even provide high-level information about its scope until December 21, 2017, immediately before the Annual Report to Congress went to press.⁶ Accordingly, we have not had sufficient time to evaluate the scope and extent of the IRS's research of the ITIN population that is included in this report. In light of our publication deadline and because the draft report has not been cleared for public release, we do not discuss it here. To the extent that the IRS has addressed the concerns described in this Report, it can identify those efforts in its response to our recommendations. TAS is statutorily required to assist taxpayers in resolving problems with the IRS,⁷ and works over a thousand cases related to ITINs each year.⁸ TAS also oversees the Low Income Taxpayer Clinics (LITCs), which are statutorily required to conduct outreach and education to taxpayers for whom English is a second language.⁹ Excluding TAS from the study team indicates the IRS is not committed to understanding the ITIN population and meeting its needs.

During the last five years, following a 2012 overhaul of ITIN application procedures,¹⁰ the IRS has compiled ITIN data specific to Form W-7, *Application for Individual Taxpayer Identification Number* only one time.¹¹ This data compilation meets some of the requirements of the PATH Act study, but leaves out key information such as the number of dependents, average refund, withholding, gross income, and

4 Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 203(d) (2015) (hereinafter PATH Act).

5 PATH Act § 203(d).

6 IRS response to TAS information request (Oct. 12, 2017).

7 IRC § 7803(c)(2).

8 TAS Inventory Report, Year to Date (YTD) Receipts to Sept. 23, 2017 by Primary Case Issue Code (PCIC) and Special Case Code (Sept. 25, 2017).

9 IRC § 7526(b)(1)(A)(ii)(II).

10 See National Taxpayer Advocate 2013 Annual Report to Congress 214-227 for a discussion of the application changes.

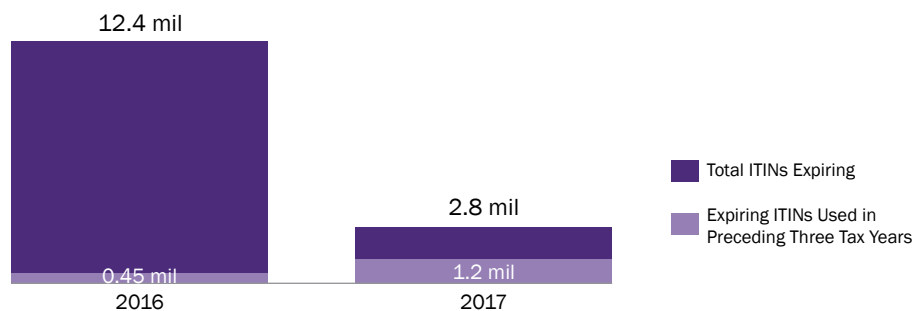
11 IRS response to TAS information request (Oct. 12, 2017). The IRS Research, Applied Analytics, and Statistics office delivered a draft report of the ITIN study required by the PATH Act to internal stakeholders in early 2017. We understand the report addresses many of the issues included in this discussion. However, despite repeated requests, the IRS declined to share the draft report with TAS or even provide high-level information about its scope until December 21, 2017, immediately before the Annual Report to Congress went to press. Accordingly, we have not had sufficient time to evaluate the scope and extent of the IRS's research of the ITIN population that is included in this report. In light of our publication deadline and because the draft report has not been cleared for public release, we do not discuss it here. To the extent that the IRS has addressed the concerns described in this Report, it can identify those efforts in its response to our recommendations.

reason for applying for an ITIN.¹² In addition, it only analyzes a single tax year — 2014 — even though there may be large differences between the activities of taxpayers during the first tax year they needed an ITIN versus a later year. For example, most ITIN taxpayers file a paper return for their first year because the ITIN application must be generally attached to a paper tax return during the filing season, but these taxpayers may prefer to file electronically in subsequent years.

The IRS also analyzed zip code data for taxpayers with expiring ITINs to identify locations for Certified Acceptance Agent (CAA) recruitment based on proximity to existing CAAs and Taxpayer Assistance Centers (TACs) offering ITIN services.¹³ This is important because as shown in Figure 1.16.1, even though a smaller number of ITINs will expire at the end of 2017 versus 2016 (2.8 million versus 12.4 million), a greater number of the ITINs expiring at the end of 2017 have been used on a return recently (1.2 million versus 450,000 expiring at the end of 2016), indicating a likely need for them to be renewed.¹⁴

FIGURE 1.16.1¹⁵

ITINs Expiring in 2016-2017 Used on a Return in Preceding Three Tax Years



Between December 2015 and August 2017, the IRS increased the number of CAAs by almost ten percent,¹⁶ but the IRS could do more to recruit CAAs in the most needed areas by compiling and using comprehensive data about ITIN taxpayers, including applicants, current filers, and past filers.¹⁷ TAS

12 The compilation compares mail applications versus applications submitted through a Taxpayer Assistance Center (TAC), Acceptance Agent (AA), or Certifying Acceptance Agent (CAA), and applications submitted before and after the 2012 application changes. These comparisons were requirements of the PATH Act study. PATH Act § 203(d). The compilation also looks at refundable credits and other characteristics that could potentially identify “noncompliant activities.”

13 IRS response to TAS information request (Oct. 12, 2017). CAAs and certain TACs can certify an ITIN applicant’s original documents so the applicant can send in copies instead of original documents to the IRS. IRS, *Instructions for Form W-7* (Nov. 2017).

14 *Id.* ITINs are considered used on a return recently if they have been used on a return for at least one of the last three tax years.

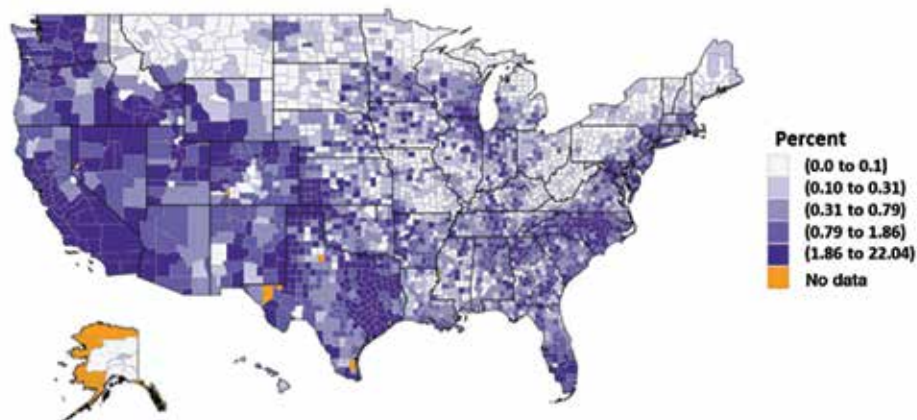
15 *Id.*

16 As of October 2017, there are 3,676 CAAs. *Id.*

17 The IRS Research, Applied Analytics, and Statistics office delivered a draft report of the ITIN study required by the PATH Act to internal stakeholders in early 2017. We understand the report addresses many of the issues included in this discussion. However, despite repeated requests, the IRS declined to share the draft report with TAS or even provide high-level information about its scope until December 21, 2017, immediately before the Annual Report to Congress went to press. Accordingly, we have not had sufficient time to evaluate the scope and extent of the IRS’s research of the ITIN population that is included in this report. In light of our publication deadline and because the draft report has not been cleared for public release, we do not discuss it here. To the extent that the IRS has addressed the concerns described in this Report, it can identify those efforts in its response to our recommendations.

conducted some preliminary research into the ITIN population. The below map shows the percent of ITIN returns in each county.

FIGURE 1.16.2, Percent of Tax Returns in U.S. Counties That Include One or More ITINs, Filed in Calendar Year 2017¹⁸



Source: Compliance Data Warehouse data retrieved Oct. 19, 2017

Our analysis showed a large number of ITINs in western U.S. counties with a high agricultural output or high proportion of Hispanic individuals. ITIN taxpayers may be underserved in counties with a relatively high number of ITIN returns, few Volunteer Income Tax Assistance (VITA) sites, and high agricultural output.¹⁹ For example, Grant county in east-central Washington, a rural county with a 40 percent Hispanic population²⁰ and high agricultural output²¹ had only two VITA sites. In this county, there were approximately 5,000 ITIN returns, comprising about 13 percent of all returns. Despite the lack of VITA sites, only 63 percent of ITIN returns were prepared by a paid preparer, which is lower than the average for ITIN returns. As depicted on Figure 1.16.3, in the adjacent Douglas county, Washington, there were no VITA sites and only 43 percent of ITIN returns were prepared by a paid preparer.

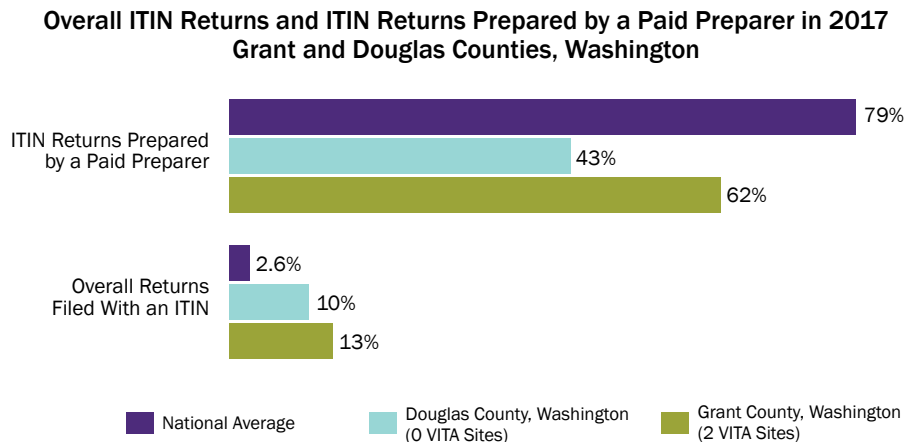
18 TAS Research, Compliance Data Warehouse (CDW) (data drawn Oct. 19, 2017).

19 For a detailed discussion of how the IRS could improve access to the Volunteer Income Tax Assistance (VITA) program, see Most Serious Problem: *VITA/TCE Programs: IRS Restrictions on Volunteer Income Tax Assistance (VITA) and Taxpayer Counseling for the Elderly (TCE) Programs Increase Taxpayer Burden and Adversely Impact Access to Free Tax Preparation for Low Income, Disabled, Rural, and Elderly Taxpayers*, *supra*.

20 United States Census Bureau, <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmmk>, (data drawn Nov. 08, 2017).

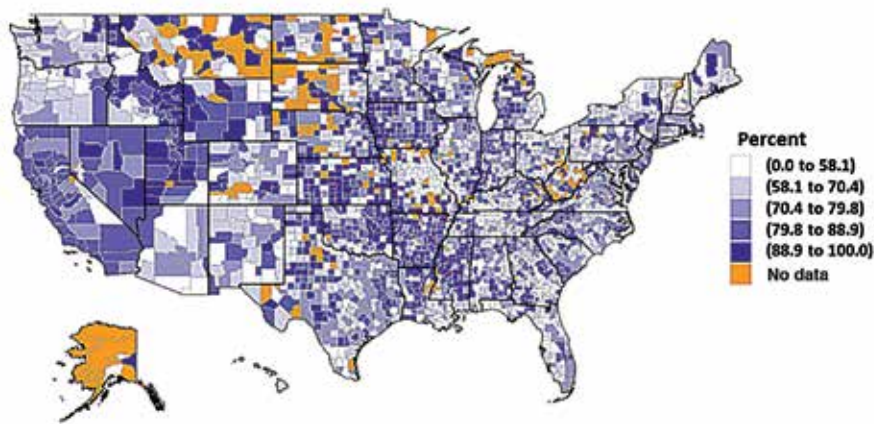
21 Elizabeth Sieverkropp, *2011 Grant County, Washington Irrigated Agriculture: Economic Impact Analysis* (May 1, 2013), <http://www.sieverkroppconsulting.com/wp-content/uploads/2013/04/2011-Irrigated-Agriculture-Report.pdf>.

FIGURE 1.16.3, Comparison of percent of ITIN returns and ITIN returns prepared by a paid preparer in Grant County, Washington and Douglas County, Washington²²



TAS’s research also showed several metropolitan areas such as Los Angeles and Houston with a large Hispanic population, a high ratio of ITIN returns to VITA sites, and a high percentage of ITIN taxpayers using a paid preparer. Using paid preparers may be beneficial to ITIN taxpayers who do not understand the tax system and have limited English proficiency, but it also may signal a lack of access to free tax preparation for low income taxpayers.

FIGURE 1.16.4, Percent of ITIN Returns Prepared by a Paid Preparer in U.S. Counties, Filed in Calendar Year 2017²³



Source: Compliance Data Warehouse data retrieved Oct. 19, 2017

22 TAS Research, CDW (data drawn Oct. 19, 2017).

23 *Id.*

The Government Accountability Office calculated the overclaim error rate for ITIN taxpayers claiming the Child Tax Credit (CTC) and Additional Child Tax Credit (ACTC) in 2009-2011 to be 32 percent, versus 10 percent for all claimants.²⁴ Given the high overclaim rates for ITIN returns claiming refundable credits, and the high percentage of ITIN returns prepared by a paid preparer, it makes sense that the IRS should use this data to identify communities in which to conduct more preparer and taxpayer outreach.²⁵

Another area the IRS appears to overlook is language preference or ability. The majority of ITIN taxpayers come from Spanish speaking countries,²⁶ and over half of Hispanic taxpayers speak exclusively Spanish at home.²⁷ However, the IRS data compilation on ITIN filers does not include any statistics about language. Furthermore, our analysis showed similar change of address rates for ITIN returns and the individual taxpayer population as a whole.²⁸ This does not support the IRS's reasoning that it is infeasible to provide notice to all taxpayers with expiring ITINs due to "the transient nature of the ITIN population and our reduced ability to contact them at a last known address."²⁹

TAS estimated there were approximately 8,700 expired ITINs at the beginning of 2017 that were not renewed or used on a Form 1040 but were used on a third-party information return, suggesting they may need to be renewed in future years.³⁰ The IRS could use the addresses of these taxpayers listed on the information returns to directly notify them about the need to renew their ITINs prior to filing an individual return.³¹ Although not an exhaustive list, these are examples of helpful data points that could be analyzed in a comprehensive study of ITIN taxpayers.

The IRS could communicate more effectively with the ITIN population and conduct better outreach

Applying Data to Conduct More Targeted Outreach

In advance of the mass ITIN deactivations at the end of 2016 and 2017, the IRS launched public outreach campaigns, initially meeting with key stakeholders such as the Congressional Hispanic Caucus,

24 Government Accountability Office, *Refundable Tax Credits: Comprehensive Compliance Strategy and Expanded Use of Data Could Strengthen IRS's Efforts to Address Noncompliance* 16-475, 51 (May 2016).

25 The IRS Research, Applied Analytics, and Statistics office delivered a draft report of the ITIN study required by the PATH Act to internal stakeholders in early 2017. We understand the report addresses many of the issues included in this discussion. However, despite repeated requests, the IRS declined to share the draft report with TAS or even provide high-level information about its scope until December 21, 2017, immediately before the Annual Report to Congress went to press. Accordingly, we have not had sufficient time to evaluate the scope and extent of the IRS's research of the ITIN population that is included in this report. In light of our publication deadline and because the draft report has not been cleared for public release, we do not discuss it here. To the extent that the IRS has addressed the concerns described in this Report, it can identify those efforts in its response to our recommendations.

26 In 2014, 50 percent of ITIN applicants came from Mexico and another seven percent came from Guatemala. National Taxpayer Advocate 2015 Annual Report to Congress 199.

27 Forrester Research, Inc., *The Taxpayer Advocate Service: Hispanic Underserved Analysis*, Q4 2014, 13 (Dec. 2014).

28 TAS Research, CDW (data drawn Nov. 13, 2017). Further research may be necessary to learn whether ITIN taxpayers really are more transient than the general taxpayer population, but are failing to change their addresses with the IRS.

29 IRS response to TAS Information request (Nov. 29, 2016).

30 TAS Research, CDW (data drawn Nov. 2, 2017). ITINs need to be renewed in order to be used on a Form 1040 or other individual return filed by the ITIN holder, but do not need to be renewed if they are only used on information returns filed by third parties.

31 This notification could take the form of an informative bilingual mailer, so there would be no IRC § 6103 disclosure.

La Raza organization, and national English and Spanish media outlets.³² Between 2016 and Fall 2017, the IRS conducted approximately 250 ITIN outreach events, about 60 percent of which were delivered to practitioners.³³ However, only five outreach events involved community based organizations or nonprofit stakeholders.³⁴ The IRS conducted only one event for military partners and a single foreign language television broadcast.³⁵ Despite the prevalence of English as a Second Language (ESL) speakers within the ITIN population, only 10 of the approximately 250 events were delivered to an ESL audience. To its credit, the IRS did prepare helpful materials for stakeholders to share with their communities.³⁶

The IRS could create a more targeted outreach strategy and focus on specific areas or populations. For example, Sonoma County in California had over 14,000 ITIN returns filed in 2017, representing about seven percent of all returns in that county, with 88 percent prepared by a paid preparer.³⁷ Of the approximately 250 ITIN outreach events in the last two years, none were in Sonoma county.³⁸ Although the IRS provided outreach in the counties with the most ITIN returns, applying data regarding paid preparers and language preferences could help the IRS better reach the population.³⁹ For example, it could conduct outreach in counties where ITIN returns constitute ten percent or more of the individual tax return population.

Communicating ITIN Program Changes

The IRS made some significant changes to the ITIN program with little publicity. During early 2017, the IRS increased the number of TACs that certify ITINs from 186 to 310 (out of 371 total TACs), but TAS is unaware of any related press releases with this information, leaving taxpayers and practitioners having to frequently visit the IRS's web page that lists the certifying TACs to monitor any changes.⁴⁰ The IRS reversed its policy of prohibiting CAAs from assisting taxpayers abroad, but did not include

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- 32 The PATH Act requires ITINs to expire after three years of non-use or on a staggered schedule based on the year they were issued. At the end of 2016, the IRS deactivated approximately 12.4 million ITINs. IRS response to TAS Information request (Nov. 29, 2016). At the end of 2017, the IRS estimates it will expire approximately 2.75 million ITINs. IRS response to TAS information request (Oct. 12, 2017).
- 33 IRS response to TAS information request (Oct. 12, 2017). Although these events include three web conferences held by the IRS's Stakeholder Partnerships, Education and Communication (SPEC) office, there may be additional events held by SPEC partners that focused on ITINs. The IRS does not track specific events that partners conduct. This count also excludes three outreach items described by the IRS as "various methods" and six items described as "emailed accounts" because TAS could not confirm these were actual events. IRS response to TAS fact check (Dec. 22, 2017).
- 34 This count of events excludes three outreach items described by the IRS as "various methods" and five described as "emailed accounts" because we were not able to confirm these were actual events. IRS response to TAS fact check (Dec. 22, 2017).
- 35 IRS response to TAS fact check (Dec. 22, 2017).
- 36 IRS, Pub. 5261 (June 2017).
- 37 TAS Research, CDW (data drawn Oct. 19, 2017).
- 38 This statement refers to the last two calendar years through September 29, 2017. IRS response to TAS information request (Oct. 12, 2017).
- 39 A review of the top ten counties with the most ITIN returns filed in 2017 shows the IRS conducted at least one outreach event in each of these counties during calendar year 2016 or 2017. IRS response to TAS information request (Oct. 12, 2017).
- 40 IRS, *Taxpayer Assistance Center (TAC) Locations Where In-Person Document Review is Provided*, <https://www.irs.gov/help/tac-locations-where-in-person-document-verification-is-provided> (Aug. 11, 2017 and Feb. 1, 2017). Although the IRS did issue a news release, *IRS Now Accepting Renewal Applications for ITINs Set to Expire by End of 2017*, IR-2017-109, (June 21, 2017), this news release only linked to the web page that lists the certifying TACs for each state, and did not inform taxpayers that the IRS had dramatically increased the number of certifying TACs. For a discussion of how TACs are not providing adequate in-person service, see Most Serious Problem: *Taxpayer Assistance Centers (TACs): Cuts to IRS Walk-In Sites Have Left the IRS With a Substantially Reduced Community Presence and Have Impaired the Ability of Taxpayers to Receive In-Person Assistance*, *supra*.

this information on its web page, *New ITIN Acceptance Agent Program Changes*, despite the confusion caused by the PATH Act.⁴¹

The IRS continues to be vague about the new PATH Act requirement that an ITIN be issued by the tax return due date (including extensions) in order to claim certain refundable credits.⁴² The Form W-7 instructions were not updated until nine months after the passage of the PATH Act to state “Failure to timely file the tax return with a complete Form W-7 and required documentation may result in the denial of refundable credits, such as the Child Tax Credit and the American Opportunity Tax Credit.”⁴³ However, this language is buried on page three and does not indicate that these credits will be permanently denied — even if the taxpayer later receives an ITIN.

Reaching ITIN Taxpayers Through Notices

The IRS failed to reach many ITIN taxpayers when it only sent expiration notices to a limited number of them and in a language they could not understand. In 2016, the IRS only directly notified 450,000 of 12.4 million taxpayers whose ITINs would expire. In 2017, the IRS sent out 874,657 ITIN deactivation notices, but only two were issued in Spanish, despite the prevalence of Spanish speaking taxpayers within the ITIN population.⁴⁴ TAS received a complaint on its Systemic Advocacy Management System (SAMS) about the CP 11 Math Error Notice for an expired ITIN not being issued in Spanish.⁴⁵ Although the IRS has a Spanish version of the CP 11 notice, it appears it is only issued to taxpayers who file a Form 1040PR, an annual tax return from a Puerto Rico resident.⁴⁶ Notices regarding ITIN applications are generated in Spanish if the taxpayer files an ITIN application in Spanish, but if the taxpayer files the English version, the language preference cannot be changed on the ITIN system.⁴⁷

In 2017, the IRS sent out 874,657 Individual Taxpayer Identification Number (ITIN) deactivation notices, but only two were issued in Spanish, despite the prevalence of Spanish speaking taxpayers within the ITIN population.

41 Applicants abroad can apply by mail or in-person to an IRS employee according to the PATH Act § 203(a). IRS, *New ITIN Acceptance Agent Program Changes*, <https://www.irs.gov/individuals/new-itin-acceptance-agent-program-changes> (June 20, 2017) and (Aug. 29, 2017). The IRS did issue an online news article about this change. IRS, e-News for Tax Professionals, 2017-16 (April 21, 2017). In addition, the web page *Obtaining an ITIN from Abroad* currently states that applicants abroad can use a CAA, although TAS was unable to determine when this information was added. IRS, *Obtaining an ITIN from Abroad* <https://www.irs.gov/individuals/international-taxpayers/obtaining-an-itin-from-abroad> (Dec. 12, 2017). Even though the IRS reversed the foreign CAA policy in April, a discussion on the American Bar Association Low Income Taxpayer Clinic List Serve reveals some practitioners were still not aware of the change as recently as November 2017. See November 2, 2017 post (on file with TAS).

42 PATH Act §§ 205, 206 (codified at IRC §§ 24(e), 25A(i)(6)).

43 IRS, *Instructions for Form W-7* (Sept. 2016).

44 See notes 26 and 27, *supra*. IRS, *Service-wide Notice Information Program (SNIP)* (Nov. 8, 2017).

45 Systemic Advocacy Management System (SAMS) record 36352 (Aug. 14, 2017).

46 IRS, CP 711 - *Spanish Math Error, Balance Due of \$5 or More*. The IRS Service-wide Electronic Research Program, Document 6209, which lists all notices and notice codes describes the CP 711 as “Balance Due on Form 1040PR Math Error.” (June 15, 2017). The IRS has an indicator for limited English proficiency on its system used to manage taxpayer account data known as the Integrated Data Retrieval System (IDRS), but TAS understands that the indicator does not actually generate Spanish notices and only the filing of forms that are specific to taxpayers in certain U.S. territories will generate Spanish notices. Email from Office of Taxpayer Correspondence to TAS (Nov. 6, 2017).

47 IRM 3.21.263.4.9, *ITIN Notices and Forms* (Oct. 1, 2016).

Notwithstanding the language issues, the IRS took positive steps in updating its ITIN suspense, rejection, and assignment notices in early 2017.⁴⁸ However, the math error notice for disallowances related to expired ITINs remains problematic because it does not explain why credits or exemptions are disallowed until the third page.⁴⁹ Although the second page of the notice does explain that a taxpayer should renew the expired ITIN if that was the reason for the disallowance, taxpayers may not read this last bullet, under the heading “If you disagree with the amount due” because they may agree that the ITIN was expired. Furthermore, the notice gives no deadline for renewing the ITIN, even though it must be renewed within the statutory limitations period for claiming a refund.⁵⁰ This notice would be more salient if the IRS were to clearly state on the first page that the credits or exemptions were disallowed due to an expired ITIN and the taxpayer can receive those credits or exemptions if he or she renews the ITIN within the applicable time period explained in the notice.

Finally, the IRS does not leverage partnerships with other federal agencies and state and local governments to share information for immigrant taxpayers. The IRS reported providing materials to organizations such as the Department of State, but it is unclear whether the IRS provided materials to the Department of Homeland Security, U.S. Citizenship and Immigration Services, or any state and local agencies to inform immigrants, temporary workers, or visitors of their tax filing obligations. Working with these agencies is vital because the majority of ITIN applicants reside in the United States.⁵¹

The Failure to Study, Understand, and Communicate with the ITIN Population Increases Taxpayer Burden and May Undermine Compliance and Taxpayer Rights

A substantial decrease in ITIN applications, paired with only 176,000 renewal applications at the close of the filing season and over 152,000 returns with a math error for an expired ITIN, reflects that taxpayers may be unaware of the need to apply for an ITIN or are choosing not to.

Without considering the characteristics of ITIN filers, the IRS maintains policies and procedures that result in taxpayers choosing not to apply for ITINs or being unaware of the need to apply. Additionally, some taxpayers may be unaware of confidentiality protections and fear the IRS will share information with other agencies for immigration purposes.⁵² ITIN applications have decreased substantially in recent years, as depicted in Figure 1.16.5 below.

48 See CP 565 - *ITIN Assignment Notice*, CP 566 - *ITIN Suspense Notice*, CP 567 - *ITIN Rejection Notice*. IRS response to TAS information request (Oct. 12, 2017).

49 IRS, CP 11 - *Math Error, Balance Due of \$5 or More*. For a discussion of salience and the behavioral research related to tax compliance, see National Taxpayer Advocate 2016 Annual Report to Congress 50-63. See IRS response to TAS fact check (Dec. 22, 2017) (“Math error notices have a standardized format that drives the location of the taxpayer notice code (TPNC) paragraphs to explain the specific disallowances. This is standard for all math error notices, regardless whether they are issued to an ITIN or an SSN.”).

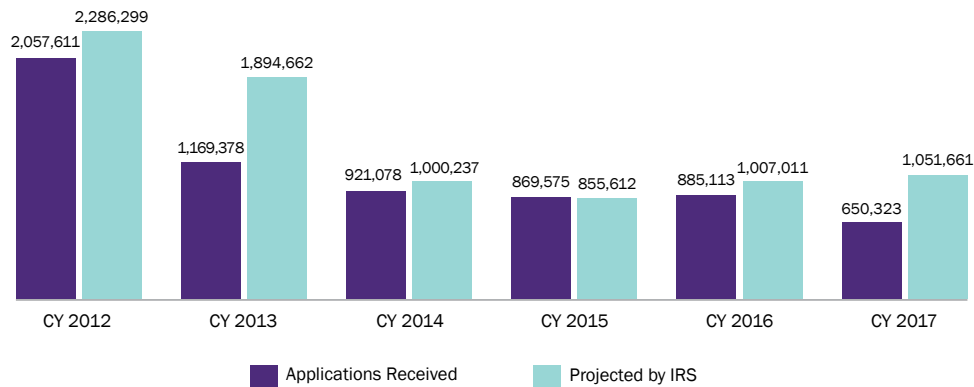
50 Generally, taxpayers must request a refund within three years from the date their return was filed, or two years from the time the tax was paid, whichever occurs later, or, if no return was filed, within two years from the time the tax was paid. IRC § 6511(a).

51 National Taxpayer Advocate 2015 Annual Report to Congress 199.

52 IRC § 6103 provides the general rule that returns and return information shall be kept confidential.

FIGURE 1.16.5, Number of Returns Including One or More ITINs for Calendar Years 2012–2017⁵³

ITIN Applications Received vs. ITIN Applications Projected, Calendar Years 2012-2017



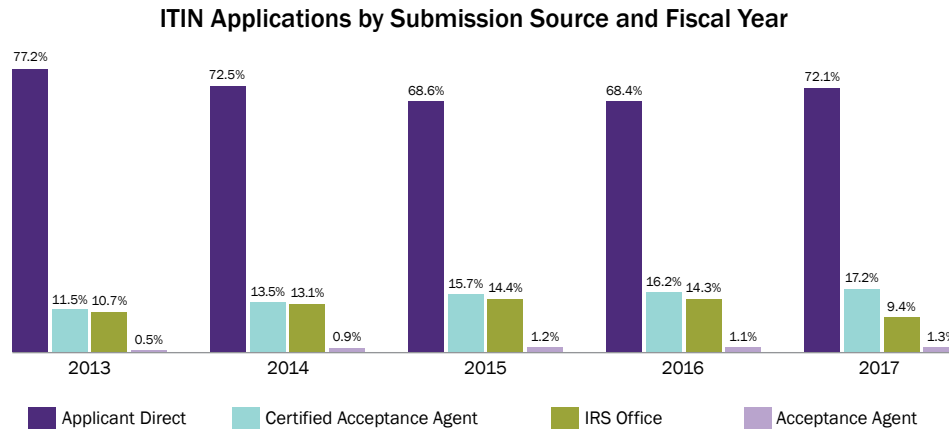
ITIN applications in 2017 were almost 40 percent lower than what the IRS projected.⁵⁴ Among other reasons, taxpayers may be failing to apply for ITINs because of the burdensome application procedures. Despite the IRS adding more TACs that can certify documents and permitting CAAs to certify some documents for dependents, the majority of ITIN applicants, approximately 72 percent, continue to mail in original documents or certified copies.⁵⁵ As shown in Figure 1.16.6 below, the percentage of applicants who apply by mail actually increased in 2017, indicating either that the IRS's expanded options did not help taxpayers or taxpayers were not aware of them.

53 IRS, ITIN Production Reports (Dec. 29, 2012; Dec. 14, 2013; Dec. 31, 2014; Dec. 30, 2015; Dec. 24, 2016; Nov. 25, 2017).

54 Immigration trends may play a role in the decrease of ITIN applications but are unlikely to account for the entire decrease from 2012 to 2016 because the number of unauthorized immigrants in the United States remained fairly steady during this time period. Because the population of unauthorized immigrants may include a sizable number of new immigrants who are taking the place of those who have left, there may actually be a greater need for new ITINs than would appear so based on just the number of unauthorized immigrants. Pew Research Center, *5 facts about illegal immigration in the U.S. Overall Number of U.S. Unauthorized Immigrants Holds Steady Since 2009*, <http://www.pewresearch.org/fact-tank/2017/04/27/5-facts-about-illegal-immigration-in-the-u-s/> (Apr. 27, 2017) (noting a decrease of about 800,000 unauthorized immigrants from Mexico between 2009 and 2015 and 2016, and rise in unauthorized immigration from other countries that has mostly offset the decrease in unauthorized immigrants from Mexico).

55 TAS Research, CDW (data drawn Oct 26, 2017).

FIGURE 1.16.6, Number and Submission Source of ITIN Applications from Fiscal Years 2013–2017⁵⁶



Although the IRS estimated that approximately 450,000 taxpayers would apply to renew ITINs that expired at the beginning of 2017, the IRS had received only about 176,000 renewals at the close of the 2017 filing season.⁵⁷ ITIN renewals increased significantly after the IRS issued letters to approximately 1.2 million taxpayers (about 875,000 households) in August 2017.⁵⁸ However, between the beginning of August and mid-October, the IRS received less than 100,000 renewal applications, representing less than ten percent of the ITINs that would be expiring at the end of the year and which had been used recently (suggesting they may need to be renewed).⁵⁹ This trend is shown in Figure 1.16.7 below.

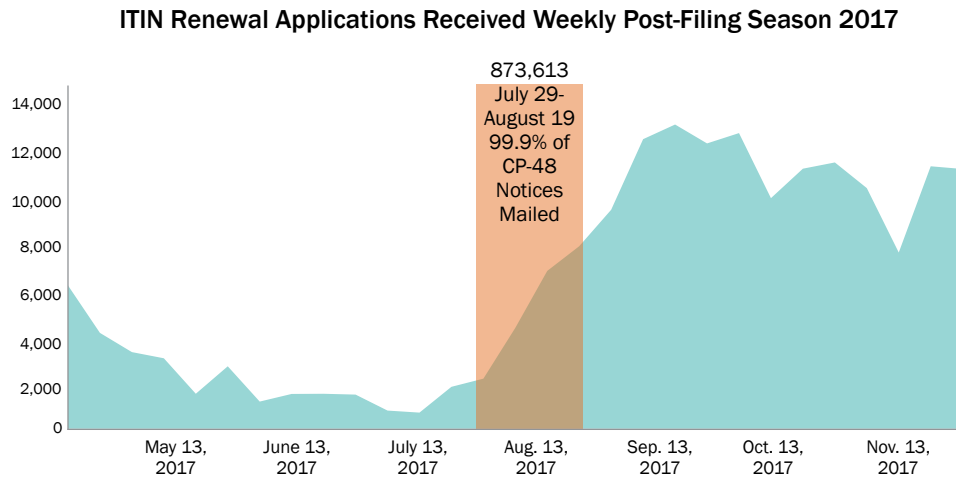
56 TAS Research, CDW (data drawn Oct 26, 2017).

57 IRS response to TAS information request (Nov. 29, 2016). IRS, Submission Processing (SP), Program Management/Process Assurance (PMPA) Branch, *Filing Season Statistics Report for Week Ending April 22, 2017*, 10. The 176,000 renewal applications received by the end of the filing season is based on the traditional filing season, which ended the week of April 17. Taxpayers living abroad receive an automatic two-month extension to file, and all taxpayers may request an extension until October 15. IRS, Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return* (Nov. 2017). However, because the majority of ITIN holders reside in the United States, and because we were not able to determine whether renewals received during the fall were for already expired ITINs or ones that would expire as part of the next batch at the end of the year, we only looked at the traditional filing season. National Taxpayer Advocate 2015 Annual Report to Congress 199.

58 IRS response to TAS information request (Oct. 12, 2017).

59 IRS, Submission Processing (SP), Program Management/Process Assurance (PMPA) Branch, *Filing Season Statistics Reports for Week Ending August 15, 2017 through Week Ending October 14, 2017*. IRS response to TAS information request (Oct. 12, 2017).

FIGURE 1.16.7, Number of ITIN Renewal Applications Received Weekly Post-Filing Season 2017⁶⁰



In calendar year 2017, there have been over 152,000 tax returns with at least one math error for an expired ITIN.⁶¹ Of these tax returns filed with expired ITINs, the IRS mailed an expiration notice to approximately one fifth of them, reflecting that the notices either did not reach taxpayers or were not effective. Furthermore, the math error notices themselves may have been ineffective because of the 152,000 tax returns that received a math error for an expired ITIN, taxpayers subsequently renewed the expired ITINs for only 33,056 (22 percent) of these returns.⁶²

Taxpayers may be unaware of the requirement to have ITINs issued by the tax return due date to claim certain credits, as evidenced by the more than 50,000 returns with math errors for failure to have an ITIN issued timely.

As explained above, the IRS does not adequately notify taxpayers about the requirement to have an ITIN issued by the tax return due date. As of November 14, 2017, there were approximately 51,000 tax returns with at least one math error for failure to have an ITIN issued by the tax return due date in order to claim the CTC or American Opportunity Tax Credit.⁶³ Because the tax return due date for the purposes of having an ITIN issued includes extensions, these taxpayers may have been able to request an extension and obtain an ITIN by the extended due date, had they been aware of the requirement and this option. Unlike math errors for expired ITINs, where a taxpayer can remedy the problem by renewing an ITIN, taxpayers who did not have an ITIN issued by the tax return due date or extended due date have no options once the date has passed.

60 IRS response to TAS fact check (Dec. 22, 2017).

61 TAS Research, CDW (data drawn Nov. 14, 2017).

62 To determine these numbers, TAS assumed a successful renewal occurred if the renewed ITIN was issued in the same or later month when the math error notice was generated. TAS Research, CDW (data drawn Nov. 14, 2017).

63 *Id.*

Unlike math errors for expired Individual Taxpayer Identification Numbers (ITINs), where a taxpayer can remedy the problem by renewing an ITIN, taxpayers who did not have an ITIN issued by the tax return due date or extended due date have no options once the date has passed.

Taxpayers may not receive their original documents or other ITIN correspondence from the IRS, including over five thousand passports that the IRS sent to embassies in 2016 because it could not find a better address to return them to taxpayers.

The IRS's lack of understanding of ITIN taxpayers, combined with its failure to effectively promote alternatives to sending in original documents such as passports and national I.D. cards, leads to delays in returning these documents to taxpayers, or worse, the permanent loss of these documents. The IRS Submission Processing and Lean Six Sigma Organization collaborated on a pilot to improve quality, fraud detection, and the handling of original identification documents. While this pilot was reported to reduce the risk of misplacing documents, it is difficult to gauge improvement because the IRS does not track the number of missing document requests.⁶⁴

From June 1, 2017 to September 15, 2017, the IRS was able to find a better address and return to taxpayers approximately 2,300 original documents that had been sent to the address listed on the ITIN application but were returned to the IRS as undelivered.⁶⁵ Nonetheless, the IRS returned about 5,400 passports to embassies in 2016 because it was not able to find a better address for the taxpayer.⁶⁶ For non-passport original documents, the IRS actually *destroys* these documents within six months if a better address is not found.⁶⁷ The IRS cited a study as the basis for its decision to retain documents for six months instead of the prior policy of a year, but provided TAS with no data in response to our request for information about the study.⁶⁸ Better communication with ITIN taxpayers could emphasize the importance of changing their addresses on file with the IRS, avoiding common address errors, or providing a pre-paid express envelope to receive their documents back.⁶⁹ To prevent the problems of lost documents to begin with, the IRS should adopt a more proactive approach by encouraging applicants to use alternatives to mailing original documents.

64 IRS response to TAS information request (Oct. 12, 2017).

65 *Id.*

66 In these cases, the taxpayer may have moved before the Form W-7 was processed. IRS response to TAS information request (Oct. 12, 2017); IRS response to TAS fact check (Dec. 22, 2017).

67 *Id.*

68 *Id.*

69 See IRS, *Instructions for Form W-7* (Sept. 2016).

The IRS returned about 5,400 passports to embassies in 2016 because it was not able to find a better address for the taxpayer. For non-passport original documents, the IRS actually *destroys* these documents within six months if a better address is not found.

CONCLUSION

In response to the PATH Act as well as a general need to improve the ITIN process, the IRS frequently makes changes to the ITIN program. However, without first understanding the ITIN population — who they are, where they live, what language they speak, what their needs are — the IRS will continue to overlook necessary changes and make others that create obstacles for taxpayers obtaining ITINs, filing their returns, and receiving tax benefits to which they may be entitled. Furthermore, without using its understanding of the ITIN population when developing its communication strategy, the IRS risks any positive changes not being effective because taxpayers do not understand or are not aware of them.

RECOMMENDATIONS

The National Taxpayer Advocate recommends that the IRS:

1. In collaboration with TAS, conduct a comprehensive study of ITIN taxpayers that includes data such as geographical location, distance to a CAA, TAC, or VITA site, country of origin, language usage, paid preparer usage, and filing characteristics over multiple years.
2. Create a comprehensive outreach plan that includes materials to distribute to preparers; local community organizations; non-profit organizations; and local, state, and federal government agencies, with a particular focus on communities where there are high concentrations of ITIN filers.
3. Use data regarding the geographic location of ITIN taxpayers to create a list of underserved communities in need of greater CAA, TAC, and VITA sites and apply resources to recruit and add more CAAs, VITA sites, and certifying TACs in these locations.
4. Use data regarding ITIN taxpayers who incorrectly claimed refundable credits via a paid preparer to provide targeted outreach to segments of the preparer community.
5. Update its systems to provide that when a limited English proficiency indicator is placed on a taxpayer's account, all IRS notices will be issued in the taxpayer's preferred language when available.
6. Update Form W-7 instructions and CAA outreach materials to emphasize the importance of informing the IRS about a change of address.
7. Update Form W-7 instructions to explain on the first page the requirement to apply for an ITIN by the tax return due date in order to receive certain refundable credits.
8. Develop a system for tracking missing document requests and the actions the IRS has taken to address the missing document.