

NEW YORK IMMIGRATION COALITION

Tax Compliance & Data Privacy Protections for Immigrant Communities

What You Should Know.



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Overview of The Situation

Since its first weeks in power, the new administration of President Donald Trump has sought to increase the role of several federal agencies, including the Internal Revenue Service (IRS), in immigration enforcement practices. On April 7th, 2025, an MOU was made public between the IRS and DHS/ICE to facilitate data sharing for criminal investigations about people who “willfully fail to leave after receiving a final removal order.” This is a significant shift from the IRS’s previous position, which, for years, ensured that immigrants’ tax data was safe and would not be shared with immigration enforcement. The weaponization of the tax system for immigration enforcement raises significant concerns about data privacy, financial security, tax collection, and the targeting of immigrant communities.

On February 16, The Washington Post reported that the Department of Government Efficiency (DOGE), led by Elon Musk, sought access to sensitive IRS data protected by federal law. Additionally, on February 27th, the Department of Homeland Security requested the addresses of over 700,000 people suspected of being undocumented.

On March 7th, several organizations filed a lawsuit against the IRS to prevent the unlawful disclosure of tax return information to immigration enforcement. As a part of this lawsuit, on April 7th, a Memorandum of Understanding was filed detailing the agreement between the IRS and DHS/ICE regarding data sharing “For the Exchange of Information for Nontax Criminal Enforcement.”

The MOU establishes a framework for DHS and the IRS to share taxpayer information for criminal investigations related to “willful failure to depart after receiving a final removal order.” This marks a significant departure from the IRS’s long-standing position of protecting the security of immigrant taxpayers’ data and refraining from sharing it with immigration enforcement agencies.

Taxpayer confidentiality plays a critical role, ensuring that individuals, including immigrants independent of their immigration status, can comply with tax requirements without fear of immigration enforcement. Thanks to this separation between tax enforcement and immigration enforcement, the IRS has allowed individuals without access to a Social Security number to file taxes using an Individual Taxpayer Identification Number (ITIN). This has benefitted tax collection by the federal and state governments. Undocumented immigrants contribute 96.7 billion dollars in taxes federally and over 3 billion dollars to the State of New York.

The MOU and the weaponization of the IRS for immigration enforcement raise significant concerns about data privacy, financial security, tax collection, and the targeting of immigrant communities by the new administration.

Current Legislation & Privacy Protections

The tax system contains several strict protections for taxpayer information. The Internal Revenue Code (IRC) §6103 – created by Congress in response to controversial abuses of power by President Nixon – clearly states that tax return and tax return information are confidential and cannot be disclosed by the IRS except under specific, legally defined circumstances. The unauthorized disclosure of tax return information is a felony punishable by fine and imprisonment, as evidenced in the recent case of an IRS contractor sentenced to five years of prison for disclosing thousands of unauthorized tax returns

Moreover, 26 U.S.C. § 7217 prevents the President and other top executive officials from targeting a particular taxpayer or interfering with an ongoing audit. Violating this law is punishable by fine or imprisonment.

Finally, the Privacy Act of 1974 prohibits agencies from sharing personally identifiable information without the individual's consent except under specific exemptions. It also entitles individuals to sue the government if their information is improperly disclosed.

Key Concerns

DOGE and DHS's unlawful attempts to access sensitive taxpayer information raise serious concerns. They challenge existing legal protections and set a dangerous precedent for misusing data for immigration enforcement purposes.



Privacy Risks. Immigrant taxpayers contribute \$96.7 billion to the U.S. economy. And more than \$3 billion to New York State. Given the critical information that the IRS holds, unauthorized use of IRS data could severely put taxpayers at risk. Additionally, accessing a group of people's sensitive information weakens general protections for all. It undermines the credibility and trustworthiness of the IRS as a whole, jeopardizing the entire tax revenue system.



Adverse Effects on Tax Collection. If trust in the tax system as a whole is undermined because undocumented immigrants think that their data can expose them to immigration consequences, many may choose not to file, slashing revenue collection. In New York, where undocumented immigrants contribute more than 3 billion dollars to the economy, this would be catastrophic.



Adverse Effects on Employment. Increased targeting of small businesses owned by immigrants or suspected of hiring undocumented immigrants could lead to job losses and economic instability. If employers believe they are at risk of stringent fiscal oversight, they may prefer not to hire workers who rely on ITIN, increasing the financial pressure produced by already heightened prices. This can also lead to collateral consequences, further marginalizing vulnerable immigrants. Increased underground

employment activity, which is not reported to the IRS, is more prone to wage theft and other labor exploitation.



Negative social effects and effects on poverty. Millions of mixed-status families (documented/undocumented) rely on tax benefits (like the Child Care Tax Credit or the Earned Income Tax Credit) for basic necessities. If these families fear their sensitive data can be used to target them, they may not claim critical services designed to support them.

Policy Recommendations

To ensure the continued well-being of society as a whole:

- ▶ Congress should issue a statement condemning the unlawful attempt to weaponize the tax system and strengthen the legal protections for taxpayers by reaffirming that IRS data cannot be used for immigration enforcement purposes and clarifying the legal consequences of unauthorized access to tax records.
- ▶ Congress should call an oversight hearing to evaluate executive attempts to access taxpayer information unlawfully. The hearing should examine the broader implications for privacy and tax collection and the potential consequences of targeting law-abiding working households.
- ▶ Congress should demand transparency and accountability about any existing or potential agreements between the IRS and other executive agencies regarding tax information sharing.
- ▶ Congress should request assurance from the Treasury Secretary that it will respect the law and that no taxpayer information will be shared for immigration enforcement.

Questions and Answers

Immigration Concerns Regarding ITIN and Data Privacy

QUESTION

What is an ITIN?

ANSWER: ITIN (Individual Taxpayer Identification Number) numbers were initially created for tax identification numbers only. However, since their launch in 1996, they have gained increased relevance for immigrant communities, given their increased functionalities and usage.

Today, ITIN numbers allow people not eligible for a Social Security Number to demonstrate they comply with federal tax laws, access the

banking system, and get loans and mortgages. In New York State, an ITIN number allows people to receive certain tax benefits, apply for a driver's license, or receive in-state tuition college rates.

However, an ITIN number does not make individuals eligible for Social Security benefits or the Earned Income Tax Credit. It does not provide or change immigration status or authorize people to work in the United States.

QUESTION

Why is an ITIN important?

Answer: Federal law requires most people in the United States to file taxes regardless of their immigration status. (You can review if you are required to pay taxes [here](#).) An Individual Taxpayer Identification Number, or ITIN, is a 9-digit tax processing number issued by the Internal Revenue Service (IRS). It allows individuals to file taxes when they are not eligible for a Social Security number (SSN).

QUESTION

I have heard that DOGE/ICE/DHS/Immigration Enforcement wants to access tax data. What is happening?

Answer: Since the first weeks of his second administration, President Donald Trump has issued a series of statements outlining the role of the IRS in his immigration strategy, including deputizing IRS criminal investigators and other Treasury Department Personnel to perform immigration enforcement.

On April 7th, as a part of a lawsuit from organizations trying to stop data sharing between the IRS and DHS, a [Memorandum of Understanding](#) was filed detailing the agreement between the IRS and DHS/ICE regarding data sharing "For the Exchange of Information for Nontax Criminal Enforcement. The MOU creates a framework for ICE and the IRS to share taxpayer information for criminal investigations related to "willful failure to depart after receiving a final removal order."

If you have any questions about your immigration status, personal information, and taxes, you should seek specialized counsel. The risk of DHS accessing your information is based on many individual factors, including your immigration status and the information already available in government databases.

QUESTION**Can the government legally share my personal tax information with other agencies?**

Answer: This issue is being contested. Section 6103 of the Internal Revenue Code prevents the IRS from sharing your tax information unless a specific legal exception exists. This should prevent the government from accessing your information. However, the IRS and DHS agreement seeks to stretch the definition of exceptions to include the enforcement of immigration rules as criminal offenses.

Generally, you should know that your tax data may be disclosed to law enforcement agencies to investigate non-tax crimes or to the Social Security Administration to determine Social Security and Medicare tax liability.

QUESTION**What is the Privacy Act of 1974, and how does it protect me? What are my privacy rights?**

Answer: The Privacy Act of 1974 was created to prevent the misuse of personal information held by the government. It ensures that federal agencies safeguard your data, including your tax information such as an ITIN number and other information shared with the IRS, maintain its accuracy, and only share it under legally defined circumstances. You also have the right to review and correct your data held by federal agencies. Violations of the Privacy Act of 1974 entitle individuals to sue the government.

QUESTION**Can an agency create a new system using my personal information without consent?**

Answer: No. Under the Privacy Act, any new government system that collects personal data must be disclosed, published in the Federal Register, and made available for public comment before implementation. Extracting personal data from existing systems without authorization may be a violation of the Privacy Act.

QUESTION**How can I find out if my personal data is being shared?**

Answer: Federal agencies must disclose how they use and share data, typically through publicly available records. You can also request access to your own records under the Privacy Act to see what information is being stored about you.

QUESTION**What happens if a federal agency violates the Privacy Act, IRC Section 6103, or IRC Section 7217?**

Answer: Agencies or individuals who violate these laws can face legal consequences, including civil and criminal penalties. For instance, unauthorized disclosure of IRS tax data can result in imprisonment. Violations of the Privacy Act entitle individuals to sue the government if their information is improperly disclosed.

QUESTION**What happens, or what are the consequences if I do not file my taxes?**

Answer: Filing taxes helps an individual stay compliant with federal tax laws. Filing taxes may help demonstrate good moral character and physical presence in the United States. Failure to file taxes may cause immigration complications. Failure to file tax returns can result in penalties, interests on unpaid taxes, and loss of potential tax returns.

QUESTION**When is the deadline for filing taxes? Can I request for an extension?**

Answer: The deadline for filing taxes is April 15, 2025. And yes, you can request an extension by filing Form 4868 with the IRS. This will give you an additional six months (until October 15) to file your return. Keep in mind that an extension only applies to filing your return, not to paying any taxes owed. To avoid penalties and interest, you should estimate and pay any taxes due by the original April deadline.

If you don't have an ITIN number by the tax deadline, you can still request an extension using Form 4868. When filing, you should write "ITIN to be requested" in the SSN field to indicate that your ITIN application is in progress. The IRS allows you to file your tax return once your ITIN is assigned.

QUESTION**How can I protect my personal information?**

Answer: When applying for an ITIN, you can avoid sending original documents to the IRS by using IRS-certifying Acceptance Agents like La Victoria Foundation. Certifying agents can help people authenticate and return documents immediately, avoiding sending them to the IRS. <https://lavictoriafoundation.org/>

Stay informed about your Rights in the Privacy Act, IRC Section 6103, and IRC Section 7217. If you believe personal data has been misused, you can file a complaint with the appropriate agency, such as the IRS or Social Security Administration. Organizations such as the New York Civil Liberties Union provide guidance around protecting privacy and autonomy.

Additional Resources

For more information, visit:

- ▶ Privacy Act of 1974: <https://www.justice.gov/opcl/privacy-act-1974>
Privacy Act Request: [Office of Privacy and Civil Liberties | DOJ Privacy Act Requests](#)
- ▶ You can review if you are required to pay taxes in the following link: [Check if you need to file a tax return | Internal Revenue Service](#)
- ▶ IRS Taxpayer Bill of Rights: <https://www.irs.gov/taxpayer-bill-of-rights>
- ▶ IRS-certifying Acceptance Agents like La Victoria Foundation can help you authenticate and return your documents immediately, avoiding sending them to the IRS: <https://lavictoriafoundation.org/>
- ▶ IRS- How to extend your filing date, form, and instructions: <https://www.irs.gov/pub/irs-pdf/f4868.pdf>
- ▶ Social Security Privacy Policies: <https://www.ssa.gov/privacy/>
- ▶ NYCLU - Protecting Privacy and Autonomy: [Protecting Privacy & Autonomy - NYCLU](#)