

# IMMIGRANTS RISING

TRANSFORMING LIVES THROUGH EDUCATION

## **Basic Facts About Entrepreneurship**

# The ITIN, EIN and SSN

The Internal Revenue Service (IRS) issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain, a Social Security number (SSN) from the Social Security Administration (SSA).

ITINs are intended primarily to facilitate federal tax reporting. Having an ITIN does not authorize work in the U.S. However, work authorization is not required to earn a living as an independent contractor or business owner in the U.S.

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Individuals may choose to apply for an EIN to identify a business entity and hire employees. An ITIN may be used to obtain an EIN.

An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the Internal Revenue Service.

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**The IRS issues ITINs regardless of immigration status, because both citizens and noncitizens may have a U.S. tax filing or reporting requirement under the Internal Revenue Code.**

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**ITINs allow individuals ineligible for an SSN to (1) report their earnings to the IRS, (2) open interest-bearing bank accounts with certain banks and, (3) conduct business in the U.S.**

# Independent Contracting

**All immigrants regardless of immigration status are able to earn a living as independent contractors, or start a business using an ITIN or SSN.**

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**As mandated by IRCA ([federal law](#)), an individual or entity (client) is NOT required to obtain Form I-9, or otherwise inquire about immigration status from independent contractors or sporadic domestic workers.**

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**[Federal Law](#) prohibits an individual or entity from knowingly engaging an unauthorized individual to provide services as a contractor.**

## **An independent contractor:**

- Is a self-employed person who produces a specific type of work product in a determined amount of time. The general rule for being an independent contractor is that the payer has the right to control only the result of the work, not what will be done or how it will be done.
- Receives all profits and is held liable for all losses and debts.
- Must pay [self-employment tax and income tax](#). An independent contractor may use an ITIN, or EIN to file and pay taxes instead of a SSN.

If a DACA beneficiary were to lose his or her work permit, the company that hired them would not be able to contract with him or her. In the case of DACA getting revoked, a DACA beneficiary could pursue independent contract work or start a business using his or her assigned SSN, as long as he or she contracts with any other entity besides the one that is aware of the expired work authorization.

Regardless of the possible termination of DACA, DACA beneficiaries may continue to use their SSN to work as an independent contractor or start a business; both options do not require work authorization.

# Paying Taxes as an Independent Contractor

If you are an independent contractor, you should submit a [W9 Form](#) instead of the I-9 Form to each client you provide independent contractor services to. Fill out a W-9 at the start of work and make sure your client keeps it on record.

A payer (client) must file a [1099 Form](#) for each independent contractor paid \$600 or more. A copy of the 1099 is mailed to the independent contractor at the end of the year and he or she becomes responsible for paying taxes thereafter.

How much you make, and how you file (single, married filing jointly, married filing separately), will determine how much you need to pay in taxes.

The IRS allows business expenses to be deducted from your earnings; expenses must be business expenses and not personal.

**An independent contractor must pay [self-employment tax and income tax](#). An independent contractor may use an ITIN, or EIN to file and pay taxes instead of a SSN.**

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**There are federal and state tax brackets depending on how much money you make and how you file.**

# Choosing a Business Structure

## Sole Proprietor

- In most cases, you may use your SSN or ITIN to start a sole proprietorship. Only in certain circumstances, such as hiring an employee, would you have to apply for an [EIN](#) (which you may get using an ITIN).
- With a sole proprietorship, you may use a trade name or a business name other than your own legal name to do business; you must check for availability of your business name and file a Doing Business As (DBA) statement with a local government agency, such as the county clerk's office.

## Partnership

- Similar to a sole proprietorship, each partner may use his or her SSN or ITIN. A partnership may use the surnames of the individual partners or may use a fictitious business name.
- A partnership must file an annual information return to report the income, deductions, gains, losses, etc., from its operations, but it does not pay income tax. Instead, it “passes through” any profits or losses to its partners. Each partner includes his or her share of the partnership's income or loss on his or her tax return.

**A sole proprietorship is a type of business entity owned and run by one individual where there is no legal distinction between the owner and the business.**

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**Working as a sole proprietor still means that you are working as an independent contractor, so you are held liable for all debts incurred by the business.**

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**A partnership is the relationship existing between two or more persons who join to carry on a trade or business.**

# Choosing a Business Structure (Cont.)

## Corporations

- Immigrants, regardless of legal status, are able to form C corporations, but not S corporations.
- A corporation is formed under the laws of the state in which it is registered.
- To form a corporation you'll need to establish your business name and register your legal name with your state government.
- Even though employment authorization is not required to form a corporation, there may be additional requirements in the formation process that may require a SSN. Check with a trusted attorney and your local city clerk for specific requirements.
- Although requirements vary across different jurisdictions, C corporations are required to file state, income, payroll, unemployment, and disability taxes. Be on the lookout for double taxation.

**A corporation conducts business, realizes net income or loss, pays taxes and distributes profits to shareholders.**

**You must obtain an EIN to start a corporation (which you may get with an ITIN).**

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**A Limited Liability Company (LLC) is a business structure allowed by state statute that provides the limited liability features of a corporation and the tax efficiencies and operational flexibility of a partnership.**

# Choosing a Business Structure (Cont.)

## LLCs/Worker Co-ops

- Owners of an LLC are called members (not employees). However, if its workers do not have significant ownership and control over the management of the business, they will likely be considered employees.
- Immigrants, regardless of legal status, and even entities based outside of the U.S. may form and own a LLC in the U.S. However, additional information or licenses may be required by your state or local jurisdiction.
- Businesses who hire a worker cooperative are hiring the cooperative, not a single member. The work being done by the worker cooperative does not qualify as independent contract work and, therefore, does not need to abide by the independent contractor IRS rules.

**A worker cooperative is a business comprised of members who are both workers and owners of the business.**

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**Members can control the structure and practices of the work environment.**

# Choosing a Business Structure (Cont.)

- Businesses that hire a LLC are not typically required to obtain any information about the worker-owners of the LLC. In other words, as a worker-owner of a LLC, you should not be required to provide any personal information (your name or even an ITIN) to that business.
- Even though employment authorization is not required to form a LLC, there may be additional requirements in the formation process that may require a SSN. Check with a trusted attorney and your local city clerk for specific requirements.
- Depending on the state that the LLC is established in, there are taxes to be paid. In California a LLC is taxed at the entity level, which means an \$800/ year minimum franchise tax is imposed on every LLC, regardless of gross receipts or net income.