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Federal Taxes Weekly Alert,

Updated procedures for ITIN program requirements take effect on Jan. 1, 2013

Fact Sheet 2012-11, November 2012, IR 2012-98

IRS has announced new modifications and documentation standards for the Individual Taxpayer Identification Number (ITIN) application process. Designed specifically for tax administration purposes, ITINs are only issued to people who aren't eligible to obtain a Social Security Number (SSN). The new procedures, which take effect on Jan. 1, 2013 and build on previously announced interim procedures, safeguard the integrity of the TIN system, while improving the refund process.

Background. ITINs, upon application, are issued by IRS to alien individuals who aren't eligible to obtain SSNs, for use in connection with tax filing requirements. Alien individual means an individual who isn't a U.S. citizen or national. (Reg. § 301.6109-1(d)(3))

ITINs are needed because the Social Security Administration limits its assignment of SSNs to individuals who are U.S. citizens and alien individuals legally admitted to the U.S. for permanent residence or under other immigration categories that authorize U.S. employment.

On June 22, 2012, IRS announced interim changes to its ITIN application requirements (see Weekly Alert ¶ 8 06/28/2012). On Oct. 2, 2012, IRS announced procedures for foreign students at educational institutions to be certified through the Student Exchange Visitors Program (SEVP).

New procedures. IRS will continue to require original documentation or copies certified by the issuing agency with the Form W-7 and federal return attached. It has finalized its earlier decision to no longer accept notarized copies of documents for ITINs. Documents subject to this requirement include passports, national I.D. cards, visas issued by U.S. Department of State, U.S. or foreign military identification card, civil birth certificates, medical and school records, U.S. state or foreign driver's licenses, U.S. state identification card, foreign voter's registration card and U.S. Citizenship and Immigration Services photo identification.

While most of its previous interim guidance has been made permanent, a key change is that, for the first time, new ITINs will expire after five years, rather than be issued for an indefinite period. This will provide additional

safeguards to the ITIN program. Taxpayers who still need an ITIN will be able to reapply at the end of the expiration period. IRS will also continue explore options, through engagement with interested groups, for deactivating or refreshing the information relating to previously issued ITINs.

Because IRS has recognized that it is difficult in some instances for individuals to be without documents such as passports for extended periods, it has provided alternatives to mailing in passports and other original documents. Trusted outlets other than its centralized ITIN processing site need to be available to review original documentation. While original documents or copies certified by the issuing agency are still required for most applicants, more options and flexibility are provided for people applying for an ITIN.

Certifying Acceptance Agents (CAAs), subject to new safeguards, will be required to review original documents or copies certified by the issuing agency. CAAs will be able to certify to IRS that they have verified the authenticity of the documents supporting the ITIN application. For certain ITIN applicants, original documents such as passports will not need to be mailed in, as previously required under interim procedures. However, ITIN applications for dependents submitted to IRS by CAAs will continue to require original documents or copies certified by the issuing agency.

New requirements for the CAA program will apply. For the first time, only those covered under Circular 230 will be eligible to serve as a CAA. Exceptions apply for CAA applicants from financial institutions, gaming facilities, Low-Income Taxpayer Clinics and Volunteer Income Tax Assistance (VITA) Centers. CAAs will be required to take formal forensic training to help them identify legitimate identification documents.

For dependent children, to adequately substantiate identity and foreign status and protect the child tax credit, ITIN applications submitted to IRS by a CAA will continue to be required to include original documentation. For children under six, one of the documents can include original medical records. For school-age children, the documentation can include original, current year school records such as a report card. CAAs will need to meet new requirements and face stronger due diligence standards to verify the accuracy of supporting documentation.

In addition to direct submission of documents to IRS's ITIN centralized site or use of CAAs, ITIN applicants will have other avenues for verification of their documents, including key IRS Taxpayer Assistance Centers (TACs); U.S. Tax Attaches in London, Paris, Beijing and Frankfurt; and Low-Income Taxpayer Clinics and Volunteer Income Tax Assistance (VITA) Centers that have CAAs. Foreign students at educational institutions can be certified through the SEVP.

The finalized procedures are effective Jan. 1, 2013—in time for the 2013 tax-filing season when many ITIN applications are submitted along with a taxpayer's income tax return. Later in January, participating IRS TACs will be available to review and certify passports and national identification cards in person for primary, secondary and dependent applicants.

Spouses and dependents of U.S. military personnel who need ITINs, and nonresident aliens applying for ITINs for claiming tax treaty benefits, aren't affected by these documentation changes.

References: For ITINs, see FTC 2d/FIN ¶ S-1508.1 ; United States Tax Reporter ¶ 61,094 ; TaxDesk ¶ 570,106 ; TG ¶ 1987 .

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