

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.601: Rules and regulations.
(Also Part I, §§ 6109; 1.6109-2.)

Rev. Proc. 2010-41

SECTION 1. PURPOSE

The purpose of this revenue procedure is to (1) describe the procedures foreign persons and U.S. citizens without a social security number due to conscientious religious objection must follow to obtain a preparer tax identification number (PTIN) and (2) provide temporary relief during the 2011 filing season for these individuals who experience delay in obtaining PTINs.

SECTION 2. BACKGROUND

On September 30, 2010, the Treasury Department and the IRS published final regulations in the Federal Register, T.D. 9501, 75 FR 60309, requiring paid tax return preparers who prepare all or substantially all of a tax return or claim for refund to

register with the IRS to obtain PTINs. The IRS also announced that the online PTIN application system and paper application, Form W-12, IRS Paid Preparer Tax Identification Number (PTIN) Application, are available for tax return preparers to apply for a PTIN.

Both the online system and the Form W-12 generally require an individual to submit a valid social security number to obtain a PTIN. The IRS recognizes, however, that some tax return preparers required to obtain a PTIN may not have a social security number. In particular, a foreign person (who, for example, may prepare returns for United States taxpayers living in a foreign country) may not have a social security number and may not be eligible to obtain one. Similarly, a U.S. citizen may not have a social security number due to a conscientious religious objection to applying for and receiving a social security number.

SECTION 3. SCOPE

This revenue procedure supplements the final regulations under section 1.6109-2, which require a paid tax return preparer to register with the IRS and obtain a PTIN, by providing a mechanism by which a foreign person and a U.S. citizen without a social security number due to conscientious religious objection may obtain a PTIN. For purposes of this revenue procedure, a foreign person is an individual who does not have, and is not eligible to obtain, a social security number and is neither a citizen of the United States nor a resident alien of the United States as defined in section 7701(b)(1)(A). For purposes of this revenue procedure, a U.S. citizen without a social security number due to conscientious religious objection is a member of a recognized

religious group. A recognized religious group is a religious group conscientiously opposed to its members applying for, and receiving, social security numbers that has existed continuously since December 31, 1950. Section 4 of this revenue procedure only applies to tax return preparers who are foreign persons or U.S. citizens without a social security number due to conscientious religious objection. Section 5 of this revenue procedure only applies to tax return preparers who are foreign persons or U.S. citizens without a social security number due to conscientious religious objection during the 2011 filing season.

SECTION 4. GENERAL PTIN PROCEDURES FOR TAX RETURN PREPARERS WHO ARE FOREIGN PERSONS OR U.S. CITIZENS WITHOUT A SOCIAL SECURITY NUMBER DUE TO CONSCIENTIOUS RELIGIOUS OBJECTION

Tax return preparers who are foreign persons or U.S. citizens without a social security number due to conscientious religious objection may apply for a PTIN using a two-part process. Both parts of the process must be completed before a PTIN will be issued. To obtain a PTIN, a tax return preparer who is a foreign person or a U.S. citizen without a social security number due to conscientious religious objection first must complete either the online PTIN application or the paper Form W-12. Second, a foreign person must provide a completed Form 8946, PTIN Supplemental Application for Foreign Persons Without a Social Security Number, which is a paper form. A U.S. citizen without a social security number due to conscientious religious objection must provide a completed Form 8945, PTIN Supplemental Application for U.S. Citizens Without a Social Security Number Due To Conscientious Religious Objection, which is a

paper form. Additional documentation must be submitted with the Forms 8945 and 8946, as required by the instructions to the forms. Forms W-12, 8945 and 8946 and the accompanying instructions are available on <http://www.IRS.gov>.

SECTION 5. RELIEF FOR 2011 FILING SEASON

The IRS expects tax return preparers who are foreign persons or U.S. citizens without a social security number due to conscientious religious objection to apply for PTINs as soon as reasonably possible. The IRS recognizes, however, that the two-step application process for these individuals may take substantially more time to complete than the application process available for tax return preparers with social security numbers. In some cases, circumstances outside of the control of the foreign person or U.S. citizen without a social security number due to conscientious religious objection may delay the ability to submit a timely, complete application. For example, it may be difficult for these tax return preparers to obtain the additional documentation required to complete the Forms 8945 or 8946.

Accordingly, for purposes of the 2011 filing season, tax return preparers who are foreign persons or U.S. citizens without a social security number due to conscientious religious objection will be considered to have complied with the requirement to obtain a PTIN set forth in the final regulations under section 1.6109-2 if they complete the online application or submit a completed paper Form W-12 by the later of (1) January 31, 2011, or (2) 10 days after the first day on which they prepare all or substantially all of a U.S. tax return for compensation, and they submit a completed PTIN supplemental application, Form 8945 or Form 8946, including any required additional documentation,

within 60 days after the completion of the online application or submission of the paper Form W-12. The applicable PTIN user fee must be submitted with the online application or paper Form W-12. Tax return preparers who are foreign persons or U.S. citizens without a social security number due to conscientious religious objection who have not obtained a PTIN but are considered to be in compliance with section 6109 under this revenue procedure may prepare and sign U.S. tax returns and claims for refund as a paid tax return preparer without furnishing a PTIN or other identifying number for returns prepared on or before October 31, 2011.

SECTION 6. EFFECTIVE DATES

This revenue procedure is effective October 26, 2010. Section 5 of this revenue procedure will be obsolete after October 31, 2011.

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Matthew D. Lucey of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue procedure contact Matthew D. Lucey on (202) 622-4940 (not a toll free call).