



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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MEMORANDUM FOR ASSOCIATE DISTRICT COUNSEL
ROCKY MOUNTAIN DISTRICT
CC:WR:RMD:SLC
ATTN:

FROM: Heather C. Maloy
Acting Assistant Chief Counsel (Income Tax & Accounting)
CC:DOM:IT&A

SUBJECT: Significant Service Center Advice

This responds to your request for Significant Advice dated April 5, 1999, in connection with a question posed by the Rocky Mountain Fed/State coordinator and two customer walk-in service units.

ISSUE

Whether the Service should issue an individual taxpayer identification number (ITIN) to an individual who requests the ITIN solely for the purpose of obtaining a driver's license.

CONCLUSION

The Service should issue an ITIN to an individual who requests an ITIN for use in connection with filing requirements under the Internal Revenue Code (Code). The Service should not issue an ITIN to a taxpayer who requests the ITIN solely for the purpose of obtaining a driver's license.

FACTS

Utah Code Section 53-3-205, regarding driver's license identification, was amended in 1999. The amended statute provides that an applicant for a driver's license may now obtain this identification without a social security number, if the applicant has an ITIN. As a result of this amendment to the state statute, a large number of individuals who do not qualify for social security numbers have been

requesting ITINs from customer walk-in units for the purpose of obtaining drivers' licenses. The Philadelphia Service Center has advised these customer walk-in units that in order for them to accept the Form W-7, Application for IRS Individual Taxpayer Identification Number, from an individual, they must first determine the reason the individual is requesting the ITIN. If the individual is requesting the identification number solely to obtain a driver's license, the customer walk-in units have been advised to refuse the application.

DISCUSSION

Section 6109(a) of the Code provides that when required by regulations prescribed by the Secretary, any person required under the authority of the Code to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.

Section 301.6109-1(d)(3)(i) of the Regulations on Procedure and Administration provides, in part, that an ITIN is issued to an alien individual by the Service upon application, for use in connection with filing requirements under the Code. Section 301.6109-1(d)(3)(ii) of the Regulations provides, in part, that any individual who is not eligible to obtain a social security number and is required to furnish a taxpayer identifying number must apply for an ITIN on Form W-7. The individual must furnish the information required by the form and accompanying instructions, including the individual's name, address, foreign tax identification number (if any), and specific reason for obtaining an ITIN.

Based on the above regulations, the Service should issue an ITIN for use in connection with filing requirements under the Code. Further, an individual must specify on the Form W-7 the reason for requesting an ITIN. Obtaining a state driver's license is not related to filing requirements under the Code. Accordingly, the Service should not issue an ITIN if the sole purpose for requesting an ITIN is to obtain a driver's license. If, however, an individual obtains an ITIN for use in connection with filing requirements under the Code, there is nothing in the Code or Regulations that prohibits the individual from using the ITIN for other purposes, such as obtaining a driver's license.

If you have any further questions regarding this matter, please contact

HEATHER C. MALOY

By:_____