ITINs and Filing a Tax Return: Advocating for your Client during the ITIN Application Process
What is an ITIN?

- Individual Taxpayer Identification Number
- Established in 1996 to facilitate tax return filing by individuals without a Social Security Number (SSN)
- 9 digit number beginning with 9
What an ITIN is Not

• Cannot be used for purposes other than tax administration
• Does not authorize an individual to work in the U.S.
• Does not permit claims for the Earned Income Tax Credit
Who Needs an ITIN?

- Individuals who have a U.S. tax return filing requirement but are not eligible for a social security number (SSN)
-IRC § 7701 “Person”
- Both resident and nonresident aliens (not tied to immigration status)
Resident Aliens

- Resident aliens generally taxable on their worldwide income (IRC § 61)
- Residency based on the substantial presence test (IRC § 7701(b)(3))
Nonresident Aliens

- Nonresident aliens taxable on income from sources within the U.S., and on certain income connected with a trade or business in the U.S. (IRC §§ 864, 871)
- Nonresidents needing an ITIN to claim a tax treaty benefit or a reduced withholding rate
- See Publications 519 and 515
Spouses and Dependents

- Must furnish ITINs to be able to file joint returns or be included on returns of primary taxpayers
- Required for nonresident and resident alien spouses and dependents of primary taxpayers
When to Apply for an ITIN

- During the filing season with a paper return
- Limited Exceptions for some applicants
Exceptions to Filing with a Return

- Persons claiming the benefits of a tax treaty who are exempt from withholding or eligible for a reduced rate of withholding
- Persons with income, payments, or transactions subject to third party reporting or withholding
## Supporting Documentation

<table>
<thead>
<tr>
<th>Supporting Documentation</th>
<th>Can be used to establish:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Foreign status</td>
</tr>
<tr>
<td>Passport (the only stand-alone document)</td>
<td>x</td>
</tr>
<tr>
<td>U.S. Citizenship and Immigration Services (USCIS) photo identification</td>
<td>x</td>
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<tr>
<td>Visa issued by U.S. Department of State</td>
<td>x</td>
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<tr>
<td>U.S. driver's license</td>
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<tr>
<td>U.S. military identification card</td>
<td></td>
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<tr>
<td>Foreign driver's license</td>
<td></td>
</tr>
<tr>
<td>Foreign military identification card</td>
<td>x</td>
</tr>
<tr>
<td>National identification card (must be current and contain name, photograph, address, date of birth, and expiration date)</td>
<td>x</td>
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<tr>
<td>U.S. state identification card</td>
<td></td>
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<tr>
<td>Foreign voter's registration card</td>
<td>x</td>
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<tr>
<td>Civil birth certificate</td>
<td>x*</td>
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<tr>
<td>Medical records (valid only for dependents under age 6)</td>
<td>x*</td>
</tr>
<tr>
<td>School records (valid only for dependents under age 14 (under age 18 if a student))</td>
<td>x*</td>
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</tbody>
</table>

* Can be used to establish foreign status only if they are foreign documents.
Original Documents or Certified Copies Required

- Original documents
- Documents certified by the issuing agency
Alternatives to Submitting Original Documents

1. Certifying Acceptance Agent
   (but dependents still must send in original documents even if using a CAA)

2. Taxpayer Assistance Centers (TACs) and U.S. Tax Attaches

3. Exceptions for military spouses and dependents, Student and Exchange Visitor Program participants, and nonresident aliens claiming tax treaty benefits
Certifying Acceptance Agents (CAAs)

- Certify accuracy of documents through face-to-face or live video electronic interview
- Attach Certificate of Accuracy (COA)
- Attach copies of the supporting documentation (original documentation for dependents)
How to Become a CAA

- Open season: May 1 – August 31
  - Mandatory CAA training
  - Application Form 13551
  - Preparer Tax Identification Number (PTIN)
  - Forensic training and certificate of completion
Select Taxpayer Assistance Centers

- Can certify documents for primary, secondary, and dependent taxpayers
- Only passports and national ID cards
U.S. Tax Attaches

- 4 Locations
  - Beijing, China
  - Frankfurt, Germany
  - London, England
  - Paris, France

- Can certify all 13 types of approved ITIN ID for all applicants appearing in person
Exceptions – Military Spouses and Dependents

• Do not have to provide original documents

• Provide a copy of the spouse or parent's U.S. military identification, or apply from an overseas APO/FPO address.
Exceptions - Student and Exchange Visitor Program (SEVP)

- Can apply through a university, college or other SEVP-approved institution
- Includes applications for the primary applicant, the applicant’s spouse, and dependents
Exceptions – Tax Treaty Benefits

- Applies to nonresident aliens applying for ITINs to claim tax treaty benefits
- Allows them to submit notarized copies
- Allows them to forgo sending in documentation if a CAA certifies documentation
- Does not apply if the ITIN application accompanies a U.S. tax return
Expiration of ITINs

- ITINs issued 2013 and later
- 5 year expiration date
How CAAs can Assist Clients

• Discuss their client’s ITIN application matters with the IRS
• Ask for reasons why the application was suspended
Suspension and Rejection Notices

- CP 566 Notice, ITIN Suspension Notice
- CP 567 Notice, ITIN Rejection Notice
Reasons for Suspension

• 38 reasons codes
  – Provided in IRM 3.21.263.4.8.1 (07-25-2011)
  – Identify which document was invalid
• Unclear that income belonged to the applicant
How TAS can help:

- Determine the status of claim and whether timeframes are being met
- Ask IRS to reconsider a suspension or to review at a higher level
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>The taxpayer is experiencing economic harm or is about to suffer economic harm.</td>
</tr>
<tr>
<td>2</td>
<td>The taxpayer is facing an immediate threat of adverse action.</td>
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<tr>
<td>3</td>
<td>The taxpayer will incur significant costs if relief is not granted (including fees for professional representation).</td>
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<tr>
<td>4</td>
<td>The taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted.</td>
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Contact IRS

• Contact IRS

• *Asking tax questions* - Call the IRS with tax questions at 1-800-829-1040

• *TeleTax topics* - Call 1-800-829-4477 to listen to pre-recorded messages covering various tax topics

• Visit IRS website at IRS.gov
Contact TAS

- www.TaxpayerAdvocate.irs.gov
- www.youtube.com/tasnta
- www.facebook.com/YourVoiceAtIRS
- twitter.com/YourVoiceatIRS
- Call 877.777.4778
- File Form 911, *Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance order)*