



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224  
May 22, 2000

OFFICE OF  
CHIEF COUNSEL

Number: **INFO 2000-0075**  
Release Date: 6/30/2000

UIL No. 151.03-00

The Honorable Arlen Specter  
United States Senator  
Room 102, Post Office Building  
5<sup>th</sup> & Hamilton Streets  
Allentown, PA 18101

Attention: Ms. Mary Jo Bier

Dear Senator Specter:

I am responding to your April 7, 2000, letter asking us to address the concerns expressed by one of your constituents, [REDACTED], in his [REDACTED] memorandum to your office. [REDACTED] states that he has religious objections to obtaining social security numbers (SSN) for his dependent children. [REDACTED] questions raise two issues.

### Issues

1. Whether a taxpayer may claim the dependency exemption for his children if he does not provide their SSNs on his return.
2. Whether a taxpayer's daughter needs to include her SSN on her income tax return.

### Conclusions

1. With three limited exceptions discussed below, Internal Revenue Code ("IRC") section 151(e) denies the dependency exemption for a minor child unless the taxpayer claiming the exemption includes the child's SSN on the taxpayer's return.
2. With two limited exceptions discussed below, IRC section 6109(a)(1) requires individual taxpayers to include their SSNs on their income tax returns.

## Discussion

### 1. TIN to Support Dependency Exemption

IRC section 151(e) states:

No exemption shall be allowed under this section with respect to any individual unless the TIN [taxpayer identifying number as defined in IRC section 6109] of such individual is included on the return claiming the exemption.

The Congress first legislated the TIN requirement under IRC section 6109(a) for purposes of the IRC section 151 dependency exemption in the Tax Reform Act of 1986. IRC section 151(e) of the Code was enacted by section 1615 of the Small Business Job Protection Act of 1996, Pub. L. No. 104-188, 110 Stat. 1755, 1853 (1996). IRC section 151(e) clearly denies the dependency exemption under IRC section 151(a) with respect to any individual unless the TIN of such individual is included on the return claiming the exemption. Congress viewed the TIN requirement as an enforcement mechanism for ensuring that the same dependent was not claimed on more than one tax return. See 132 Cong. Rec. S7892 (June 19, 1986) (floor debate discussing the purpose of the TIN requirement).

Section 301.6109-1(a)(1) of the Regulations on Procedure and Administration recognizes four types of TINs. IRC section 6109(d) provides that, unless regulations otherwise prescribe, an individual's SSN is that individual's TIN. Aside from the SSN, the other three TINs are the individual taxpayer identification number (ITIN); the adoption taxpayer identification number (ATIN); and the employer identification number (EIN). Under specific circumstances, a taxpayer claiming a dependency exemption for a minor child may provide the child's ITIN or ATIN, rather than the child's SSN, as the TIN required by IRC section 151(e).

#### ■ ITIN Exception

An ITIN is a nine-digit number issued to an alien individual who is not eligible to obtain an SSN. See Treas. Reg. sections 1.6109-1(d)(3) and (4). For example, an alien individual legally employed in the United States is required to file an income tax return. The alien individual must apply for an ITIN on Form W-7, Application for IRS Individual Taxpayer Identification Number. See Treas. Reg. section 301.6109-1(a)(1)(ii)(B).

- ATIN Exception

An ATIN is a temporary nine-digit number issued to a child who is placed for adoption but is unable to get an SSN before the adoptive parents file their tax returns. A child receives an ATIN by filing Form W-7A, Application for Taxpayer Identification Number for Pending U.S. Adoptions. When the adoption is final and the child can obtain an SSN, the child must discontinue using the ATIN. See Treas. Reg. section 301.6109-3.

An EIN is a nine-digit number assigned to sole proprietors, corporations, partnerships, estates, trusts, and other employers. A taxpayer applies for this type of TIN by filing a Form SS-4, Application for Employer Identification Number. The EIN is used only in connection with employment and business activities. An individual is not permitted to use an EIN, instead of an SSN, to claim a personal dependency exemption. See Treas. Reg. section 301.6109-1(d)(2).

- IRC Section 1402(g) Exception

A limited exception exists for taxpayers who, due to their religious objections to participating in the social security system, waive out of the social security system and claim exemption from self-employment and medicare taxes under IRC section 1402(g). A taxpayer must file Form 4029, Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits, to claim IRC section 1402(g) exemption. Pursuant to IRC section 1402(g), taxpayers must waive all benefits and other payments under Title II and XVII of the Social Security Act, as well as all benefits and other payments to taxpayers on the basis of wages and self-employment income of any other person.

An exemption under IRC section 1402(g) may be granted only if the Commissioner of Social Security finds: 1) the individual's religious sect has established teachings that are opposed to the acceptance of private or public insurance; 2) it is the practice of the individual's sect, and has been for a period of time, for members of such sect to make provisions for their dependent members; and 3) such sect has been in existence at all times since December 31, 1950.

The Commissioner of Social Security evaluates applications for the IRC section 1402(g) waiver, including information about the individual applicant's religious group. The Internal Revenue Service does not participate in the evaluation or maintain a list of religious organizations approved by the Commissioner of Social Security. From discussions with Social Security Administration analysts, we understand that the Social Security Administration has approved approximately 2,000 groups under the Form 4029 process.

The Social Security Administration processes the Form 4029. Instructions accompanying Form 4029 provide taxpayers with detailed information regarding

submission and processing. Form 4029, along with the accompanying instructions, may be found at [www.irs.gov](http://www.irs.gov).

## 2. TIN/SSN on Taxpayer's Return

IRC section 6109(a)(1) requires a taxpayer to include the taxpayer's TIN on all returns filed with the Internal Revenue Service. Under IRC section 6109(d), an individual taxpayer's TIN is his or her SSN. (Corporations, trusts, partnerships, and other legal entities usually file under an EIN).

Individual taxpayers ineligible for an SSN may file under an ITIN. A child with a separate filing requirement, although a highly unusual situation, could file under an ATIN before his or her adoption is finalized.

Individual taxpayers may not file without an SSN under the exception for Form 4029 filers. That exception is applicable only to children claimed as dependents on another individual's return.

We hope this information is helpful. If you have further questions, please contact Elizabeth Kaye, Badge No. 50-12305, at (202) 622-4910.

Sincerely,

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Lewis J. Fernandez  
Deputy Assistant Chief Counsel  
(Income Tax & Accounting)