

Cross-Border Tax Alert

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Changes re Issuance of Individual Taxpayer Identification Numbers by IRS

For those of you who do not follow US tax matters on a regular basis, late in 2003 the Internal Revenue Service announced several steps to strengthen controls over the issuance of Individual Taxpayer Identification Numbers ("ITIN"). Such steps were put in place to ensure that ITINs are issued for their intended tax administration purpose for administering the tax code and not for other reasons, such as providing personal identification.

The ITIN, a nine-digit number that begins with the number 9, was created for use on tax returns for those taxpayers who do not qualify for a Social Security Number.

New ITIN applicants must use a revised Form W-7¹, Individual Taxpayer Identification Number Application. ITIN applicants also must provide proof that the ITIN will be used for tax administration purposes. For applicants seeking an ITIN in order to file a tax return, the return must be filed along with the W-7.

Specifically, the changes put in place by the IRS with regards to the ITIN program, include the following:

1. All new ITIN applicants will have to show a federal tax purpose for seeking the ITIN. For those seeking an ITIN to meet their income tax filing obligations, this will require attaching a federal tax return to the Form W-7 when they are ready to file their tax return with the IRS.
2. ITIN applications without proof of need for tax administration purposes will be rejected.
3. The IRS will reduce to 13 from 40 the number of documents it will accept as proof of identity to obtain an ITIN. The 13 acceptable documents are listed in the new Form W-7 instructions. In general, a valid passport is deemed acceptable.

¹ The revised version of such form was issued on December 17, 2003.

In lieu of a passport, numerous other documents may act as replacement for those lacking passports.

4. The IRS also will change the appearance of the ITIN from a card to an authorization letter to avoid any possible similarities with a Social Security Number card.

A small number of non-U.S. residents apply for an ITIN to report income under a tax treaty, or to report income from a U.S. bank or brokerage account. Such applicants will be required to file a tax return along with their ITIN application. Non-resident applicants will be required to furnish evidence of ownership of the asset that gave rise to the reporting obligation.

Using the Services of a Certified Acceptance Agent

An Acceptance Agent is an individual authorized by IRS to assist individuals in obtaining ITINs. Acceptance Agents review applicants' original documentation (for e.g. passport) to ensure its authenticity, complete a certificate of accuracy, and forward the certificate and application to the IRS for processing.

The obvious benefit in using the services of Certified Acceptance Agent is that the applicant can refrain from sending to the IRS via courier or post an original personal document (such as a passport) with their Form W7 duly completed. In lieu of such original document, a certified copy is sent.

Please note that the author of this article is a Certified Acceptance Agent with the IRS and can assist with such applications (See below for contact information).

Other general information on obtaining an ITIN for your clients and further clarification

What is an ITIN?

An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the Internal Revenue Service. IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain a Social Security Number (SSN) from the Social Security Administration (SSA).

ITINs are issued regardless of immigration status because both resident and nonresident aliens may have U.S. tax return and payment responsibilities under the Internal Revenue Code.

What is an ITIN used for?

ITINs are for federal tax reporting only, and are not intended to serve any other purpose. An ITIN does not authorize work in the U.S. or provide eligibility for Social Security

benefits or the Earned Income Tax Credit. As discussed above, ITINs are not valid identification outside the tax system.

IRS issues ITINs to help individuals comply with the U.S. tax laws, and to provide a means to efficiently process and account for tax returns and payments for those not eligible for Social Security Numbers.

Who needs an ITIN?

IRS issues ITINs to foreign nationals and others who have federal tax reporting or filing requirements and do not qualify for SSNs. A non-resident alien individual not eligible for an SSN, who is required to file a U.S. tax return only to claim a refund of tax under the provisions of a U.S. tax treaty, needs an ITIN.

Examples of certain individuals who may need ITINs :

1. Non-resident alien filing a U.S. tax return and not eligible for an SSN
2. U.S. resident alien (based on days present in the United States) filing a U.S. tax return and not eligible for an SSN
3. Dependent or spouse of a U.S. citizen/resident alien
4. Dependent or spouse of a non-resident alien visa holder

About North American Tax Services

Joseph Soussan founded *North American Tax Services* in 1998. Since 1997, he is a member of the Certified General Accountants' Association of Ontario. He completed the CICA In-Depth Tax Course in 2000, and obtained CPA certification in 1998 from the state of Delaware. His firm is dedicated to providing both U.S. and Canadian tax expertise (as applicable to international tax situations), tax-related educational services, and technical writing assistance to Canadian accounting and law firms. Joseph speaks frequently to organizations and companies on cross-border tax matters.

He currently practices exclusively in the areas of cross-border corporate, individual, and trust and estate related taxation. He has, to date, provided extensive consulting and compliance services to the following professional accounting firms in Toronto and Montreal: Deloitte and Touche, Ernst and Young, I.T.S.G, Cross-Border Tax Services, Horwath Orenstein LLP, and other local CA firms. In addition, he has provided tax advice and services to clients of many brokerage firms in Ontario.

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