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



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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





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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





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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)





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Resident Aliens

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





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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





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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





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When to Apply for an ITIN

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





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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





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Form W-7

Form **W-7**
(Rev. January 2012)
Department of the Treasury
Internal Revenue Service

Application for IRS Individual Taxpayer Identification Number

► For use by individuals who are not U.S. citizens or permanent residents.
► See instructions.

OMB No. 1545-0074

An IRS individual taxpayer identification number (ITIN) is for federal tax purposes only.

FOR IRS USE ONLY				

Before you begin:

- Do not submit this form if you have, or are eligible to get, a U.S. social security number (SSN).
- Getting an ITIN does not change your immigration status or your right to work in the United States and does not make you eligible for the earned income credit.

Reason you are submitting Form W-7. Read the instructions for the box you check. Caution: If you check box b, c, d, e, f, or g, you must file a tax return with Form W-7 unless you meet one of the exceptions (see instructions).

- a Nonresident alien required to get ITIN to claim tax treaty benefit
- b Nonresident alien filing a U.S. tax return
- c U.S. resident alien (based on days present in the United States) filing a U.S. tax return
- d Dependent of U.S. citizen/resident alien } Enter name and SSN/ITIN of U.S. citizen/resident alien (see instructions) ►
- e Spouse of U.S. citizen/resident alien
- f Nonresident alien student, professor, or researcher filing a U.S. tax return or claiming an exception
- g Dependent/spouse of a nonresident alien holding a U.S. visa
- h Other (see instructions) ►

Additional information for a and f: Enter treaty country ► and treaty article number ►

Name (see instructions) Name at birth if different ►	1a First name	Middle name	Last name
	1b First name	Middle name	Last name
Applicant's mailing address	2 Street address, apartment number, or rural route number. If you have a P.O. box, see separate instructions.		
	City or town, state or province, and country. Include ZIP code or postal code where appropriate.		
Foreign (non-U.S.) address (if different from above) (see instructions)	3 Street address, apartment number, or rural route number. Do not use a P.O. box number.		
	City or town, state or province, and country. Include ZIP code or postal code where appropriate.		
Birth information	4 Date of birth (month / day / year)	Country of birth	City and state or province (optional) 5 <input type="checkbox"/> Male <input type="checkbox"/> Female
	6a Country(ies) of citizenship		
Other information	6b Foreign tax I.D. number (if any)		6c Type of U.S. visa (if any), number, and expiration date
	6d Identification document(s) submitted (see instructions) <input type="checkbox"/> Passport <input type="checkbox"/> Driver's license/State I.D. <input type="checkbox"/> USCIS documentation <input type="checkbox"/> Other		
	Issued by: No.: Exp. date: / / Date of entry into the United States (MM/DD/YYYY) / /		
	6e Have you previously received a U.S. temporary taxpayer identification number (TIN) or employer identification number (EIN)? <input type="checkbox"/> No/Do not know. Skip line 6f. <input type="checkbox"/> Yes. Complete line 6f. If more than one, list on a sheet and attach to this form (see instructions).		
Sign Here	6f Enter: TIN or EIN ► and Name under which it was issued ►		
	6g Name of college/university or company (see instructions) City and state Length of stay		
	Under penalties of perjury, I (applicant/delegate/acceptance agent) declare that I have examined this application, including accompanying documentation and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I authorize the IRS to disclose to my acceptance agent returns or return information necessary to resolve matters regarding the assignment of my IRS individual taxpayer identification number (ITIN), including any previously assigned taxpayer identifying number.		
Keep a copy for your records.	Signature of applicant (if delegate, see instructions)		Date (month / day / year) Phone number
	Name of delegate, if applicable (type or print)		Delegate's relationship to applicant <input type="checkbox"/> Parent <input type="checkbox"/> Court-appointed guardian <input type="checkbox"/> Power of Attorney
Acceptance Agent's Use ONLY	Signature		Date (month / day / year) Phone Fax
	Name and title (type or print)		EIN Office Code

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 10229L

Form **W-7** (Rev. 1-2012)



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Supporting Documentation

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

* Can be used to establish foreign status only if they are foreign documents.



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Original Documents or Certified Copies Required

- Original documents
- Documents certified by the issuing agency





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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



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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)





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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





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Select Taxpayer Assistance Centers

- Can certify documents for primary, secondary, and dependent taxpayers
- Only passports and national ID cards
- <http://www.irs.gov/uac/TAC-Locations-Where-In-Person-Document-Verification-is-Provided>





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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





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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.





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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





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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



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Expiration of ITINs

- ITINs issued 2013 and later
- 5 year expiration date





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How CAAs can Assist Clients

- Discuss their client's ITIN application matters with the IRS
- Ask for reasons why the application was suspended





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Suspension and Rejection Notices

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





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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





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Taxpayer Advocate Service

- 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





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TAS Criteria

Criteria	Description
1	The taxpayer is experiencing economic harm or is about to suffer economic harm.
2	The taxpayer is facing an immediate threat of adverse action.
3	The taxpayer will incur significant costs if relief is not granted (including fees for professional representation).
4	The taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted.



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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



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Contact TAS

- www.TaxpayerAdvocate.irs.gov
- www.youtube.com/tasnta
- www.facebook.com/YourVoiceAtIRS
- twitter.com/YourVoiceatIRS
- www.taxpayeradvocate.irs.gov/2012-Annual-Report
- Call 877.777.4778
- File Form 911, *Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance order)*

