

# The U.S. TAXFAX

## TOPIC: APPLYING FOR INDIVIDUAL TAXPAYER ID NUMBER – FORM W-7

### Date of Issue: May of 1998

This edition of the U.S. TAXFAX will discuss the IRS requirement that non-residents of the United States apply for, and the steps required to successfully obtain, an **Individual Taxpayer Identification Numbers** ("ITIN").

Form W-7, Application for IRS Individual Taxpayer Identification Number, is a one page form that has caused taxpayers and their accountants more grief and frustration than any other form in recent memory. "What can go wrong?", you may ask. The answer is just about everything, so approach Form W-7 with caution. Your client relations may depend upon it.

### **Who is required to have an ITIN?**

Individuals must obtain an ITIN if they are required to file a U.S. tax return, or are claimed as a dependent on a U.S. tax return, and they do not have and cannot obtain a valid social security number (SSN). Even those individuals who have had U.S. temporary ID numbers for years must apply for an ITIN.

### **What if a return is filed without and ITIN?**

The IRS will no longer process a return without a valid ITIN. Returns submitted without an ITIN are immediately returned to the taxpayer with a W-7 form. Processing of the return (and refunds for that matter) will be delayed until the return is resubmitted with a valid identification number. The IRS may lend a sympathetic ear but is unbending on this point, even for taxpayers that have a single year filing requirement with no obligation to file in the future.

### **How to File Form W-7?**

Firstly, Form W-7 must be completed, and signed and dated by the applicant. The form requests general information such as the applicant's name and address, country of birth, citizenship and family information as well as the reason the form is being completed (i.e. nonresident alien filing a U.S. return, dependent of U.S. person, etc.) If the taxpayer previously had a temporary Taxpayer Identification Number ("TIN"), make sure this number is reflected on the form so historical and carryforward information is transferred to the new ITIN account.

There are a number of ways to submit the completed Form W-7. The easiest way is to visit a **Certifying Acceptance Agent (CAA)** who will review the form to ensure that it is completed correctly, and will also certify the documentation verifying the applicants true identity and Canadian residence (identity documents). This eliminates the requirement of mailing original identity documents or certified copies to the IRS for verification. As the CAA certifies the supporting documentation and not the IRS, this method ensures that the form is processed on the first attempt. The CAA can also submit the completed form by fax to the IRS which significantly speeds up the application process (presently two weeks). **Please note that Kotler van den Brink and Company has been accepted by the IRS as a Certifying Acceptance Agent.**

Another way to submit Form W-7 is to mail it along with the originals or certified copies of the identity documents to the IRS. The IRS has very specific requirements for what they will accept as identity documents and what they will accept as certified copies. Unfortunately, the instructions for completing Form W-7 are somewhat vague in this area and it is next to impossible to contact an IRS representative for clarification using the phone

numbers provided in the instructions. More often than not, clients have completed Form W-7 only to have it returned to them by the IRS because of unacceptable or incorrectly certified documentation.

The IRS normally requires at least **two** original or certified identity documents be submitted with Form W-7. One of these documents must be picture identification. Some examples of satisfactory identity documents include: driver's license, identity card, birth certificate, current passport, marriage license and/or school records.

A few of the more common scenarios and examples of identity documents that satisfy the IRS are as follows:

- a) Canadian resident requiring an ITIN to file a U.S. income tax return. A current driver's license or passport and birth certificate should suffice as identity documents.
- b) An individual filing a U.S. income tax return requires an ITIN for a dependent claimed as an exemption on the return. Documentation should include evidence that establishes the relationship between the individual and the dependent such as a birth certificate as well as proof of continued existence such as current school records.

The IRS will only accept **copies** of identity documents if they are certified by the U.S. consulate or a U.S. notary, or persons approved as certifying acceptance agents for ITIN applications (see above discussion). The IRS will not accept copies of documents that are certified only by a Canadian notary or lawyer.

If the applicant chooses to have the documents certified by the U.S. consulate, we recommend that they contact the consulate at (604) 685-4311 prior to going there. It can be frustrating to make the trip only to find out that it is closed because of a U.S. statutory holiday or because the hours of operation have changed. At the current time, the Consulate certifies documents between 8:30am and 12:00pm at a cost of \$US10.00 per document. Remember to bring exact change in U.S. dollars. The U.S. consulate is located at 1095 West Pender Street, Vancouver, B.C..

If the applicant resides outside the lower mainland or does not visit the lower mainland or the United States on a regular basis and needs an ITIN, the next option is also available. The applicant can first have a Canadian notary or lawyer who is **registered** with the U.S. consulate certify copies of the original identity documents. The applicant must then send the notarized copies to the U.S. consulate where they will certify that the Canadian notary's signature is registered with them (for a fee of course – currently \$10.00 per document). The Consulate will then return the copies to the applicant. We recommend that you contact the U.S. consulate for notaries or lawyers who are currently registered in your area. The phone number is (604) 685-4311.

Once you have completed form W-7 and gathered the documentation, the information may be submitted to the IRS in one of the following ways:

- a) Form W-7 and the **originals** or **certified** copies of the two pieces of identity documents may be mailed directly to the IRS. The IRS has stated that they will return originals within three days of receiving them. We do not recommend mailing the original documents on a journey that would include the Canadian postal service, the U.S. postal service, the IRS, and back again.
- b) The applicant may visit an IRS office and present them with Form W-7 and the originals of the identity documents. They will review the form and documents while you wait and forward the W-7 to Philadelphia for final processing. There is an IRS office located in Bellingham, WA, USA at 104 Magnolia Drive.

The IRS usually processes Form W-7 within 6 to 8 weeks of receipt. The processing time is significantly reduced if a Certifying Acceptance Agent submits Form W-7 to the IRS by fax.

Please remember, the information presented is general in nature and does not constitute professional advice. It is recommended that accounting, legal or other professional advice should be sought before acting upon any of the information contained.