
26 CFR 301.6109-1: Guidance for qualification as an acceptance agent, and execution of an agreement between an acceptance agent and the Internal Revenue Service relating to the issuance of certain taxpayer identifying numbers.

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SECTION 1. PURPOSE

This revenue procedure describes the application procedures for becoming an acceptance agent and the requisite agreement that an acceptance agent must execute with the Internal Revenue Service (IRS). Persons may wish to become an acceptance agent for purposes of facilitating the issuance of (1) IRS individual taxpayer identification numbers (ITINs) to alien individuals who are ineligible to obtain social security numbers (SSNs), or (2) employer identification numbers (EINs) to foreign persons.

SECTION 2. BACKGROUND

Section 301.6109-1(d)(3) of the Income Tax Regulations (Regulations) provides general procedures for obtaining an ITIN which require the submission of an application form (Form W-7), together with documentation considered as evidence of the alien individual's identity and alien status. Section 301.6109-1(d)(2) of the Regulations provides general procedures for obtaining an EIN which require the submission of an application form (Form SS-4), together with any supplementary statement as may be required. The regulations require an applicant for an ITIN or an EIN to furnish the information required by the form, the accompanying instructions, and any applicable regulations. An applicant may either submit the application form for an ITIN or an EIN directly to the IRS or, as provided in § 301.6109-1(d)(3)(iv) of the Regulations, apply for an ITIN or an EIN by using an acceptance agent.

SECTION 3. DEFINITIONS

For purposes of this revenue procedure, the terms listed below are defined as follows.

.01 An *acceptance agent* is a person (i.e., an individual or an entity) who, pursuant to a written agreement with the IRS, is authorized to assist alien individuals and other foreign persons in obtaining ITINs or EINs from the IRS. An acceptance agent acting in its capacity as an acceptance agent does not act as an agent of the IRS, nor is it authorized to hold itself out as an agent of the IRS.

.02 An *alien individual* is an individual who is not a citizen or a national of the United States.

.03 A *foreign person* is a nonresident alien individual, a foreign corporation, a

foreign partnership, a foreign trust, a foreign estate, or any other person that is not a U.S. person, the U.S. government, or a U.S. state or the District of Columbia.

.04 *Alien status* refers to an individual's status as a non-U.S. citizen or non-U.S. national.

.05 *Identity* refers to the fact of being the same individual as is represented, claimed, or described.

.06 *TIN* (taxpayer identifying number) refers to both ITINs and EINs.

SECTION 4. ACCEPTANCE AGENT

.01 *Role of acceptance agent.* (1) *In general.* The role of an acceptance agent is to facilitate the application process and the issuance of TINs to alien individuals and foreign persons. An acceptance agent performs this duty by forwarding the completed Form W-7 (together with the required documentary evidence) to the IRS, Philadelphia Service Center to obtain ITINs, or by forwarding the completed Form SS-4 (together with any supplementary statement if required) to the IRS, Philadelphia Service Center to obtain EINs, or by calling Tele-TIN: (215) 574-2400 to obtain EINs.

(2) *Certifying acceptance agent.* In the case of obtaining an ITIN, if permitted under the agreement with the IRS, a person may assume greater responsibility as a certifying acceptance agent. In that case, the acceptance agent may review the documentation required to accompany Form W-7 and certify to the IRS that it has reviewed the required documentation and to the best of its knowledge and belief, the documentation is authentic, complete, and accurate. See section 6 of this revenue procedure for further information.

.02 *Application process for acceptance agent.* (1) *Eligible persons.* Persons eligible to become acceptance agents include, but are not limited to, a financial institution defined in section 265(b)(5) of the Internal Revenue Code (Code) or § 1.165-12(c)(1)(v) of the Regulations, a college or university that is an educational organization defined in § 1.501(c)(3)-1(d)(3)(i) of the Regulations, a federal agency defined in section 6402(f) of the Code, and persons that provide professional assistance to taxpayers in the preparation of their tax returns. An eligible person may be a U.S. or a foreign person.

(2) *Pre-application conference.* Prior to submitting a formal application, a person interested in becoming an acceptance agent may request a conference with the IRS, which may be held in person or by telephone, to explore informally the benefits and burdens associated with the role of an acceptance agent. Requests for pre-application conferences should be directed to the Assistant Commissioner (International), Foreign Payments Division (telephone: (202) 874-1800, not a toll-free number).

(3) *Written application.* (a) Where to apply. A person may apply to become an acceptance agent by submitting a written request to:

Assistant Commissioner
(International)

Foreign Payments Division CP:IN:-
OO:WT

950 L'Enfant Plaza South, SW
Washington, DC 20024
FAX: (202) 874-1984

(b) Content of application. The application shall indicate that the person is requesting permission to execute an agreement with the IRS pursuant to § 301.6109-1(d)(3)(iv) of the Regulations, and in accordance with this revenue procedure. The application shall include the information listed below.

(i) The applicant's complete name, address, and EIN. If the applicant does not have an EIN, a completed Form SS-4 must be included to obtain such number.

(ii) The reason that the applicant wishes to become an acceptance agent, and the type of responsibilities the applicant expects to assume.

(iii) A description of the applicant, including the entity status of the applicant (e.g., bank, university, governmental agency, etc.) and the state (or if outside the United States, the country) under whose laws the applicant is created or organized.

(iv) A list of the applicant's employees who will be responsible parties for performance under the acceptance agent agreement, including their title and position description.

(v) A list of the offices or branches, if any, intended to be covered by the agreement and their location, including mailing address.

(vi) The business relationship the applicant has with the persons whom it expects to assist in obtaining TINs.

(vii) An estimate of the number of Forms W-7 and/or Forms SS-4 it expects to submit to the IRS per year.

(viii) The name and telephone number of a person the IRS can contact regarding the application.

(4) *IRS review of application.* (a) Request for additional information. Upon review of the application, the IRS may request additional information.

(b) Determination and notification of status. Upon completion of review of the application, including any additional information submitted, the IRS will determine whether the applicant qualifies to become an acceptance agent and will notify the applicant of this determination. If the applicant is approved as an acceptance agent, the IRS will provide instructions to the applicant regarding the procedures for entering into the acceptance agent agreement with the IRS.

SECTION 5. ACCEPTANCE AGENT AGREEMENT

.01 *In general.* An acceptance agent agreement described under § 301.6109-1(d)(3)(iv)(A) of the Regulations is an agreement between the IRS and a person authorized by virtue of the agreement to act as an acceptance agent on behalf of an alien individual or a foreign person with respect to that individual's or person's need to obtain an ITIN or an EIN from the IRS. The Assistant Commissioner (International) shall sign the agreement on behalf of the IRS. If the acceptance agent is a person other than an individual, the agreement must be signed by an authorized representative of the acceptance agent.

.02 *Terms and procedures.* The terms of an acceptance agent agreement may vary depending upon such factors as the nature of the applicant (e.g., bank, university, governmental agency, etc.) and its location (i.e., inside the United States or outside the United States). The acceptance agent agreement will generally contain the following terms and condi-

tions necessary to insure proper administration of the process by which the IRS issues TINs to alien individuals and foreign persons.

(1) *Procedures for providing TIN application forms.* An acceptance agent shall agree to maintain a supply of Form W-7 for obtaining ITINs, and of Form SS-4 for obtaining EINs from the IRS. The acceptance agent may use a substitute form that is approved by the IRS. For example, if the acceptance agent is a financial institution, the Form W-7 or Form SS-4 may be incorporated as part of an account opening package. In addition, an acceptance agent shall agree to send a Form W-7 to any individual client or customer (who is not a U.S. citizen or national) that it knows, or has reason to know, has been issued a temporary tax identification number by the IRS, and to advise the client or customer of the need to replace the temporary tax identification number with an ITIN.

(2) *Procedures for assisting in completion of TIN application forms.* An acceptance agent shall agree to assist in the preparation of the TIN application form. For example, the acceptance agent should make certain that every item included on the application form has been completed and should assist the TIN applicant in understanding the information required by the application form. The acceptance agent should contact the IRS for assistance regarding any questions about the forms, application process, the requirement to have TINs, etc. that it cannot reasonably answer. Questions regarding such matters should be directed to the IRS at (215) 516-ITIN (4846) (not a toll-free number).

(3) *Procedures for IRS communication with acceptance agent.* The applicant's signature on the Form W-7 provides the power of attorney to the acceptance agent, authorizing communication with the IRS regarding that particular application only. The acceptance agent may act as an agent for the applicant regarding any additional communication necessary with the IRS in connection with the application form. However, IRS communication with an acceptance agent in connection with a Form SS-4 application requires that the applicant has furnished a power of attorney (e.g., Form 2848) authorizing such communication.

(4) *Procedures for submitting TIN application forms.* An acceptance agent shall agree to submit promptly the TIN application forms or approved substitute

forms (together with the required documentation for ITINs or the supplementary statement, if required, for EINs) to the IRS at the mailing address for the Philadelphia Service Center included on Form W-7 or Form SS-4, or the following street address (for registered or certified mail): 11601 Roosevelt Blvd., D.P. 426, Philadelphia, PA 19255.

(5) *Procedures for collecting and reviewing required documentation for assignment of an ITIN.* A Form W-7 must be accompanied by documentary evidence of alien status and identity. The types of acceptable documentary evidence may vary depending upon such factors as the ITIN applicant's country of citizenship or nationality, the ITIN applicant's residency at the time of the application (i.e., inside or outside the United States), etc. The acceptance agent must review the applicant's documentation in order to determine whether the documentation is of a type which the IRS regards as reliable evidence of alien status and identity. The acceptance agent agreement will specify the various types of documentary evidence that the acceptance agent should accept for submission with Form W-7. Examples of documentary evidence supporting alien status (i.e., non-U.S. citizenship or nationality) include a foreign passport, a foreign birth record, or a current document issued by the Immigration and Naturalization Service (INS) in accordance with that agency's regulations. Examples of documentary evidence supporting identity include a driver's license, identity card, school record, medical record, marriage record, voter registration card, military registration card, passport, or a current document issued by INS in accordance with that agency's regulations. Generally, one piece of documentary evidence should contain a picture or photo identification. Generally, ITIN applicants must submit the required documentation during a personal interview with the acceptance agent. The agreement will generally require that original (or certified copies of original) documentation be submitted to the IRS with Form W-7. All original documents will be returned promptly to the acceptance agent (i.e., no later than 3 business days from receipt of a complete application by the IRS, Philadelphia Service Center). Copies of original documents, if allowed to be submitted under the acceptance agent agreement, will not be returned to the acceptance agent.

(6) *Procedures for assisting taxpayers with notification procedures in the event of a change of alien status.* When an acceptance agent knows that an individual assigned an ITIN has become eligible to obtain (or has, in fact, obtained) a SSN, such acceptance agent shall agree to inform the individual of the obligation to (1) apply for a SSN, (2) stop using the previously-assigned ITIN upon receipt of the new SSN, and (3) notify the IRS of this change in alien status. The acceptance agent's duty with respect to this matter shall apply only to the situation where the acceptance agent has a continuing business relationship with the individual. An alien individual may become eligible to obtain a SSN if, for example, such individual has become a U.S. citizen or a permanent U.S. resident (i.e., "green card" holder), or is lawfully permitted by INS to work in the United States. The ITIN holder's notification to the IRS should state that the individual either is eligible to have or has a SSN, and should include the individual's name, address, previously-assigned ITIN and new SSN (if available), the current date, and the individual's signature. This information may be provided to the IRS by FAX: (215) 516-3270 or by mail: IRS, Philadelphia Service Center, ATTN: ITIN Unit-D.P. 426, P.O. Box 447, Bensalem, PA 19020. Questions regarding this matter should be directed to (215) 516-ITIN (4846) (not a toll-free number).

(7) *Procedures for IRS verification of compliance with acceptance agent agreement.* The acceptance agent agreement will specify the procedures by which the IRS will verify the acceptance agent's compliance with the agreement. In particular, the procedures must enable the IRS to verify that the acceptance agent has adequate procedures in effect to assist applicants properly. The procedures also must enable the IRS to verify that the acceptance agent is complying with any record retention requirements relating to the issuance of TINs. Verification of compliance with the acceptance agent agreement does not constitute an examination of the books and records of the acceptance agent.

(8) *Procedures regarding termination of acceptance agent agreement.* An acceptance agent agreement generally is not subject to expiration and renewal. Either the acceptance agent or the IRS may terminate an agreement 30 days after delivery of notice of termination to the other party. The decision to termi-

nate is solely at the discretion of the party giving such notice. However, the IRS generally will not give notice of termination unless the acceptance agent willfully fails to comply with procedures required by the agreement or to perform any duty or obligation required in the agreement (including failing to exercise due diligence under the agreement) and such failure constitutes material non-compliance. In addition, the IRS may give notice of termination where the acceptance agent has misrepresented material information given on its application to become an acceptance agent or on a TIN application. Further, notice of termination may be given where the acceptance agent accepts a TIN application with knowledge that material information on the form is false. The acceptance agent may request that the IRS reinstate the acceptance agent agreement by submitting, within 30 days of receipt of the notice of termination, a written explanation of how the acceptance agent proposes to correct the violation and, if appropriate, to modify its procedures to ensure that such violation will not occur in the future. The IRS shall accept or reject the request, or make a counterproposal within 20 days of receipt of the request.

SECTION 6. CERTIFYING ACCEPTANCE AGENT

.01 *General requirements.* A certifying acceptance agent is a person that is authorized under the agreement with the IRS to submit a Form W-7 to the IRS on behalf of an applicant, without having to furnish supporting documentary evidence. Instead, when submitting a Form W-7 to the IRS, a certifying acceptance agent certifies to the IRS that it has reviewed the appropriate documentation evidencing the ITIN applicant's identity and alien status, and that it is maintaining a record of such documentation. In addition, the acceptance agent must certify that to the best of its knowledge and belief, the documentation is authentic, complete, and accurate. As part of the certification, the acceptance agent must describe the documentation upon which it is relying. The certification is not binding on the IRS, which may, in appropriate cases, request to see appropriate documentation before issuing an ITIN.

.02 *Application process.* (1) *Written application.* IRS permission to act as a certifying acceptance agent is conditioned upon the acceptance agent's

agreeing to verify documentation supporting the identity and alien status of an ITIN applicant, maintain certain records, and submit certain information to the IRS upon request. As a result, in addition to the information required to be submitted with an application to become an acceptance agent as outlined in section 4.02(3) of this revenue procedure, an applicant to become a certifying acceptance agent must also provide the following information:

(a) If an applicant relies on local know-your-customer practices and procedures for identifying customers or clients, and communicating with customers or clients, then the applicant must provide an explanation of those practices and procedures, including (1) the extent to which they are mandated and verified under local law and regulations applicable at each location intended to be covered by the agreement and (2) the penalties or sanctions that may apply under local law in the event of a failure to comply with such procedures. Supporting documentation must be included.

(b) Information regarding the anticipated reason why customers or clients need to apply for ITINs (e.g., nonresident alien ineligible for SSN, resident alien ineligible for SSN, or U.S. person's dependent ineligible for SSN).

(2) *Pre-application conference.* Prior to submitting a formal application, a person interested in becoming a certifying acceptance agent may request a conference with the IRS, which may be held in person or by telephone. This conference will provide an opportunity to address such matters as the scope of the agreement, corresponding obligations that would arise under the agreement for the applicant, and the nature of documentation, record maintenance, and verification procedures that would arise under the agreement. Requests for pre-application conferences should be directed to the Assistant Commissioner (International), Foreign Payments Division (telephone: (202) 874-1800, not a toll-free number).

.03 *Agreement.* The terms of a certifying acceptance agent agreement may vary from case to case depending upon such factors as local laws and practices, know-your-customer procedures, supervisory controls, and the types of internal controls and recordkeeping procedures in effect in the normal course of business of the certifying acceptance agent. Generally, the acceptance agent agreement will contain the terms and condi-

tions necessary to insure proper administration of the process by which the IRS issues ITINs to alien individuals as are described in section 5.02 of this revenue procedure. The following terms are in addition to those outlined in section 5 above.

(1) *Procedures for collecting, reviewing, and maintaining a record of required documentation for assignment of an ITIN.* A certifying acceptance agent agreement will describe the procedures by which the acceptance agent will verify the identity and alien status of ITIN applicants and submit a certification to the IRS. To the extent possible, procedures already in place to identify persons for local regulatory purposes or as part of normal course of business will be used to support the representations made by the acceptance agent regarding these matters. To the extent applicable, an acceptance agent may use documentation evidencing citizenship, nationality, residency, or immigration status to support its determination of the alien status of ITIN applicants. The reliability of any documentation should be evaluated by the acceptance agent on the basis of the type of information stated on the document, the source document, if any, used to substantiate the information on the document, the issuance procedures used, and the ease with which the document can be counterfeited. Where the IRS determines that these requirements or practices are not sufficient, it may require that additional procedures and documentation be established.

The acceptance agent will agree that, for purposes of determining its compliance with the acceptance agent agreement, it will maintain a record of the documentation obtained and reviewed pursuant to the obligations set forth in the agreement. If the acceptance agent has a professional or business relationship with the ITIN applicant, the documentation with respect to the ITIN applicant shall be maintained for as long as the ITIN applicant maintains such a relationship with the acceptance agent and for a reasonable period, as prescribed by the IRS in the agreement. If the acceptance agent does not have a professional or business relationship with the ITIN applicant, the documentation with respect to the ITIN applicant shall be maintained for three years after presentation.

(2) *Procedures for IRS compliance checks of certifications.* A certifying acceptance agent must also agree to fur-

nish supporting documentary evidence to the IRS upon written request in such manner as the IRS and the acceptance agent will establish. In order to conduct periodic compliance checks, the IRS may rely on sampling techniques and/or verification (by random selection) with ITIN recipients to assure reliability of the acceptance agent's certifications while ensuring the least amount of disruption and burden to the acceptance agent. The acceptance agent agreement will specify the manner in which IRS compliance checks will take place (i.e., either on site or through correspondence). Where the acceptance agent resides outside of the United States, in appropriate cases, assistance may be obtained from the tax authorities of the country where the acceptance agent resides.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective on the date of publication.

SECTION 8. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1499.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information contained in this revenue procedure are in section 4.02(3), section 5.02(6), and section 6.02(1). This information is required to assist the IRS in issuing TINs to certain alien individuals and foreign persons. In addition, this information will be used to enable the IRS to determine whether persons qualify as acceptance agents. The collection of information is required to obtain an acceptance agent agreement. The likely respondents are state or local governments, business or other for-profit institutions, federal agencies, and nonprofit institutions.

The estimated total annual reporting/recordkeeping burden is 41,006 hours.

The estimated average annual burden per respondent/recordkeeper is 3 hours, 12 minutes. The estimated number of respondents/recordkeepers is 12,825.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confiden-

tial, as required by 26 U.S.C. 6103.

SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Lilo A. Hester of the Office of the Associate Chief Counsel (Interna-

tional). For further information regarding the acceptance agent program, please contact Tom Logan of the Office of the Assistant Commissioner (International) on (202) 874-1800 (not a toll-free number).
