

GMS Flash Alert

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United States - IRS Issues Guidance for Soon-to-Expire ITINs

On August 4, 2015, the U.S. Internal Revenue Service (IRS) issued Notice 2016-48, which includes guidance on implementing changes to the individual taxpayer identification number (ITIN) program as made by the Protecting Americans from Tax Hikes Act of 2015² (the “PATH Act”), enacted in December 2015.

WHY THIS MATTERS

The ITIN is a tax identification number that is used, generally, by individuals who need to file a tax return but are not eligible to obtain a social security number. But the issued ITIN has, in effect, a fixed validity period. The Notice provides guidance for renewing ITINs for taxpayers who hold ITINs that have expired or are set to expire based on the expiration schedule included in the PATH Act.³ Certain taxpayers will be allowed to renew their ITINs starting October 1, 2016, for use on federal tax returns as of January 1, 2017. Taxpayers whose ITINs have expired or are set to expire should submit a renewal application to the IRS in order to continue using the ITIN for U.S. tax purposes.

Taxpayers who do not renew an ITIN and who submit a federal tax return with an expired ITIN may see a delay in the processing of the tax return and certain credits may not be allowed until the ITIN is renewed, which could result in a reduced refund or additional penalties and interest.

For taxpayers with families, ITIN renewal has been simplified, as the IRS will offer a “family renewal option” for families with multiple ITINs.

Also, there are important new documentation requirements for dependents applying for ITINs whose passports do not have a date of entry into the United States.

Background

In general, a taxpayer must obtain a U.S. identification number for U.S. income tax purposes. Typically, a taxpayer's identifying number is a social security number (SSN). However, certain taxpayers who do not have and who are not eligible to receive an SSN must apply with the IRS to obtain an ITIN. Prior to the PATH Act, a taxpayer applied for and received an ITIN only once. Under the PATH Act, ITINs that are not used for three consecutive years on federal tax returns will no longer be effective indefinitely, but remain valid only if they are renewed.

Under the PATH Act, an ITIN that has not been used on a federal tax return for three consecutive years will expire on December 31 of the third consecutive year of non-use. In addition, ITINs issued before January 1, 2013, are set to expire regardless of use according to the expiration schedule included in the PATH Act.

Who Should Renew an ITIN?

Unused ITINS

ITINs that have not been used in the last three consecutive years are set to expire on January 1, 2017. In order to continue to use the ITIN on a federal tax return as of January 1, 2017, taxpayers who hold unused ITINs should renew their ITINs with the IRS starting October 1, 2016.

Expiring ITINs

ITINs issued prior to January 1, 2013, will begin to expire as of January 1, 2017, based on a rolling schedule.⁴ The first ITINs set to expire based on this schedule are ITINs with the fourth and fifth digits of 78 or 79.⁵

Beginning in the summer months of 2016, the IRS will issue Letter 5821 to taxpayers who hold ITINs with middle digits of 78 or 79. Letter 5821 will be issued to inform the taxpayer of his soon-to-expire ITIN and request he renew his ITIN. Individuals who receive Letter 5821 can renew ITINs starting on October 1, 2016.

KPMG NOTE

Taxpayers with ITINs that include fourth and fifth digits other than 78 or 79 are not currently required to renew their ITINs, unless the ITIN has not already been used in the last three consecutive years. At a later date, the IRS will provide information about the expiration schedule and renewal process for the remaining ITINs issued prior to January 1, 2013, that include middle digits other than 78 or 79.

How to Renew an ITIN

Taxpayers who hold ITINs that meet either of the criteria above may start to renew their ITINs as of October 1, 2016. A taxpayer will renew her ITIN by submitting Form W-7, *Application for IRS Individual Taxpayer Identification Number*,⁶ and required supporting documentation to the IRS.

Taxpayers renewing an ITIN should follow the current instructions and procedures for applying for an ITIN by submitting Form W-7 and the required documentation to the IRS.⁷ However, taxpayers who are renewing an ITIN are not required to attach the Form W-7 to a tax return. A new version ("Rev. 9-2016") of Form W-7 to use when renewing an ITIN will be issued by the IRS in September 2016.

Once the renewal application has been approved by the IRS, the taxpayer's ITIN will again be effective and the taxpayer can continue to use the same ITIN for U.S. tax purposes. Once renewed, an ITIN will remain in effect unless it is not used on a federal tax return for three consecutive years.

KPMG NOTE

To reduce the administrative burden of renewing ITINs for families with multiple ITINs, the IRS will offer a family renewal option. If any individual in a family holds an ITIN with the middle digits of 78 or 79, the IRS will allow the family to include each family member's Form W-7 in a single submission to renew all ITINs at the same time, instead of having to renew ITINs separately over multiple years. In general, family members include the taxpayer, the spouse, and any dependents claimed on their tax return.

Using an Expired ITIN

Tax returns filed by a taxpayer with an expired ITIN will be accepted by the IRS. However, the IRS cautions there could be a delay in processing these tax returns. In addition, certain credits may not be allowed unless the ITIN is renewed, which could result in a reduced refund or additional penalties and interest.

New Documentation Requirements for Dependents

In addition to Notice 2016-48, the IRS announced a new requirement for dependents applying for ITINs whose passports do not have a date of entry into the United States.⁸ Beginning October 1, 2016, the IRS will no longer accept passports that do not have a date of entry into the United States as the single identification document for dependents applying for an ITIN from countries other than Canada or Mexico or dependents of military members living overseas.

Dependents who meet this criteria will now be required to include either U.S. medical records, for dependents under age six, or U.S. school records, for dependents under age 18, along with a passport when applying for an ITIN. Dependents age 18 or older can submit a bank or rental statement or a utility bill statement that includes the applicant's name and U.S. address in addition to his/her passport.

FOOTNOTES:

1 See Notice 2016-48 at <https://www.irs.gov/pub/irs-drop/n-16-48.pdf>. Notice 2016-48 will be published in *Internal Revenue Bulletin* (I.R.B.) 2016-33, dated August 15, 2016.

2 For prior coverage of the PATH Act, see GMS [Flash Alert 2015-152](#) (December 23, 2015).

3 For a list of expiration dates under the PATH Act, see GMS [Flash Alert 2015-152](#) (December 23, 2015).

FOOTNOTES (cont.):

4 ITINs issued before January 1, 2013, are set to expire according to a multi-year schedule under the PATH Act and regardless of use. The expiry schedule is based on the year the ITIN was originally issued. However, the IRS recognizes that taxpayers may not know, and previously had no reason to record, the original year an ITIN was issued and thus are unable to determine the ITIN expiration date under the PATH Act. As a result, Notice 2016-48 includes renewal procedures for taxpayers with ITINs issued before January 1, 2013, that are not based on the original issue date.

5 An ITIN is a nine-digit tax number issued by the IRS to taxpayers in the format, NNN-NN-NNNN. Taxpayers will need to review the fourth and fifth, or "middle," digits of their ITINs to determine if they meet the criteria to renew their ITINs starting October 1, 2016.

6 For the current version of Form W-7, visit the IRS' Web site at <https://www.irs.gov/pub/irs-pdf/fw7.pdf>.

7 For the current version of the Instructions to Form W-7, including information on required supporting documentation, visit the IRS' Web site at <https://www.irs.gov/pub/irs-pdf/fw7.pdf>.

8 See IR-2016-100 (August 4, 2016) at <https://www.irs.gov/uac/irs-works-to-help-taxpayers-affected-by-itin-changes-renewals-begin-in-october>.

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