

## Notes for TY 2009 ITIN Returns

The Volunteer Student Guide discusses Individual Taxpayer Identification Numbers (ITIN) on pp. 3-6&7. In a very few cases, usually foreigners on temporary work assignments in the U.S., we may have a client whose ITIN is also the number on the W-2 form. The problem for us occurs with an SSN/ITIN mismatch, i.e., a client who has an ITIN, not an SSN, but his/her W-2 or 1099 has an SSN and often a different name as well. This usually happens with undocumented aliens, usually Hispanics in our area. Here is some guidance on how to prepare returns for them.

### Clients who already have an ITIN

**NOTE: Again this year returns with an SSN/ITIN mismatch may be filed electronically. BUT: we will usually file such returns by mail to avoid the inevitable rejections by IRS.**

**\*\* NOTE: it is CRITICAL to use the ITIN number and the client's name as it appears on the ITIN, not the name (if different) and SSN on any W2/1099, as the identifying information on the Main Information Sheet. Don't correct any information on the client's W2/1099 itself, but on the TaxWise W2 form override and insert the SSN from the W2.**

### Clients applying for an ITIN

As in previous years, persons applying for an ITIN can do so in connection with a tax-related activity. That application form is a W7. If a client comes to us with a completed W7 and required documents, we will prepare a return, attach the W7 material and, if available, give the client an envelope to mail the return. It must go to a specific IRS address:

Internal Revenue Service  
Austin Service Center  
ITIN Operation  
P.O. Box 149342  
Austin, TX 78714-9342

Clients applying for an ITIN cause a problem starting a return in TaxWise because they have neither an SSN nor an ITIN to enable us to start a file. The Volunteer Resource Guide explains on page 1-2 (Yellow Tab) what to do in these cases: click on "file" in the upper left hand corner of the main TaxWise page. One option there is "Apply for ITIN." Click on that option and you will get an return start page with a unique identifier.

When the taxpayer is also requesting an ITIN for a spouse or dependents we still have to input a fictitious number for those folks on the Main Information Sheet after starting the return. As with TY2008 returns, begin with 99 and add zeros to fill the spaces, with different final digits for each applicant. ( For Chatham preparers: to avoid repetition, the information binder for each computer has a sheet indicating the first number sequence for that computer. Preparers should note each subsequent number used.)

After printing the return, cross-out **in ink** the TINs indicating the temporary number on each form.

On the North Carolina return, write: "ITIN Applied For" inn the upper right hand corner of the first page.

### Dependents on ITIN returns

All dependents must also have an ITIN or SSN in order to be claimed. In some cases clients with ITINs will have dependents, usually children born in the U.S., with SSNs. Otherwise they must show ITIN numbers for all dependents they wish to claim.

**Taxpayers are allowed to claim only dependents who live in the U.S., Mexico or Canada, not other countries.** Many ITIN filers claim dependents in Mexico. VITA preparers need to ensure that:

\*\* Dependents meet all of the dependency tests (pages C3-6 in the Resource Guide): Relationship/Member of Household; Gross Income; Citizen or Resident; Support; and Not a Qualifying Child. Only Relationship, Resident and Support are of concern in most of these cases. (**Note: my interpretation is that an unmarried companion who meets the other tests can qualify as a Qualifying Relative for dependency purposes [Student Guide p. 6-8, top], but not for Head of Household filing status [Student Guide, pp. 4-6, top].**)

**\*\* Important: A taxpayer's parent(s) living in Mexico will qualify him/her for Head of Household filing status (See the Student Guide p. 4-5, bottom, and Resource Guide p. B-1) if they are his/her dependents and the taxpayer pays more than half of their upkeep.**

\*\* Many of the dependents in Mexico are not the taxpayer's children, but other relations. Table 2, step 1, page C-5 of the Resource Guide lists the relatives who qualify as dependents but don't have to live with the taxpayer. **Note: cousins do not qualify.**

**\*\* Important:** When completing the Main Information Sheet, if the Mexico-resident dependents are children, the TaxWise program will automatically check the Child Tax Credit (CTC) box. However, while children living apart from the taxpayer qualify as dependents for exemption purposes, to qualify for the CTC, the children must reside the entire year with the taxpayer. So for children in Mexico you will need to override that box and uncheck it. Also, put "0" in the box for months in home and "3" for "other dependent," since the children don't live at home.

**\*\* NOTE: TAXPAYERS (AND/OR SPOUSES) WHO FILE WITH ITINS DO NOT QUALIFY FOR THE EARNED INCOME CREDIT (EIC).** TaxWise may check that box under dependents, so as with the CTC you will need to override that box and uncheck it. If the taxpayer(s) have SSNs but a dependent has an ITIN, the taxpayers cannot use that dependent to claim the EIC, although they may qualify under general eligibility rules.

\*\* A spouse living in Mexico who has an ITIN qualifies for filing a joint return, but both would have to sign the return which could be a problem, especially with the consent requirement this year. Unless such a filer can qualify as Head of Household, s/he will have to file as Married Filing Separately. A common-law spouse would qualify only if common-law marriages are recognized in Mexico (I have no idea if this is the case). In any event, spouses living in Mexico would not qualify as dependents because they don't meet the relationship test for dependents who don't have to live with the taxpayer (Student Guide, page C-5).

Some clients do live in common-law marriages. Because North Carolina does not recognize such marriages, those taxpayers can only file joint returns if the common-law marriage began in a state that does recognize it (Student Guide page 2-2). Such taxpayers perhaps will have to file as single, treating the common-law spouse as a dependent if the other tests are met, but this may be an area where we don't want to ask too many questions, i.e., if the client says s/he is married, we don't normally ask to see a marriage license.

### Names

One final note regarding returns for Hispanics. Make certain to put the names on the 1040 exactly as they are on the ITIN or SSN. Hispanics often use two last names. If there are three names on the ITIN/SSN, unless you are certain the middle one is a middle name, it is best to put both of the last two names on the Main Information Sheet under the last name. (See Resource Guide Yellow Tab, p. 1-3 for more information on foreign last names.)

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