



Foreign Tax Basics and ITIN's

Presented by: Liz Tetrault, CSU Tax Services, Feb. 15, 2019

Topics

Foreign Tax Office – what do we do?

ITIN's (Individual Tax Identification Numbers)

- What is an ITIN and what is it used for?
- Who needs an ITIN?
- How to apply for an ITIN
- How can we help students & scholars apply for an ITIN?

Tax Resources

- VITA
- IRS
- Tax Publications

Foreign Tax Office – what do we do?

Evaluate the University's **obligation to withhold or report tax** on payments made to individuals and business entities

Variables that affect how payments to individuals/entities are treated:

- Relationship with CSU
 - Employee, Student, Business Visitor, Visiting Scholar, Royalty Recipient
- Income Type
 - Wages/Nonemployee Compensation
 - Scholarship/Fellowship
 - Guest Speaker/Consulting Fee/Performance Fee
 - Royalties
 - Prize/Award
 - Travel Reimbursement
- Visa Type
 - Affects Treaty Eligibility
 - Affects the Substantial Presence Test (SPT)
 - Affects Tax Withholding Rate
- Tax Residency Status
 - Resident Alien or Nonresident Alien – based on SPT

TAX SERVICES IS NOT ABLE TO PROVIDE PERSONAL INCOME TAX ADVICE OR ASSISTANCE

Determining Alien Tax Status

An alien may become a resident alien by passing either the green card test or the substantial presence test as explained below.

Green Card Test

Are you an "[immigrant](#)" (Lawful Permanent Resident) under the immigration laws of the United States? Aliens who are Immigrants are Resident Aliens of the United States for tax purposes, under the condition that they spend at least one day in the United States.

Substantial Presence Test

You must pass both the 31-day and 183-day tests.

31 day test: Were you present in United States 31 days during current year?

183 day test: Based on equation involving current year, 1st and 2nd preceding years, totaling 183 days

Exceptions: Do not count days of presence in the U.S. during which:

you are a commuter from a residence in Canada or Mexico;

you are in the U.S. less than 24 hours in transit;

you are unable to leave the U.S. due to a medical condition that developed in the U.S.;

you are an exempt individual;

you are a regular member of the crew of a foreign vessel traveling between the U.S. and a foreign country or a possession of the U.S. (unless you are otherwise engaged in conducting a trade or business in the U.S.)

Determining Alien Tax Status (cont'd)

Definition of Exempt Individual

Foreign Government Related Individual (usually on A or G visa);

Teacher, Professor, Trainee, Researcher on J or Q visa;

Student on F, J, M or Q visa;

Professional athlete temporarily present in United States to compete in a CHARITABLE sports event.

Exceptions to the Substantial Presence Test:

Closer Connection

Generally those who:

have been present in the U.S. for fewer than 183 days, have a Tax Home in a Foreign Country, and have taken no steps to change their U.S. immigration status to permanent residency;

have a basis for claiming they are still a Nonresident Alien, even though they have passed the Substantial Presence Test.

Payments made to Resident Aliens vs. Nonresident Aliens

Resident Aliens	Nonresident Aliens
No withholding required, except on wages	Withholding required at rate of 30%, unless reduced or exempted by income type or treaty* * Generally requires U.S.TIN for individuals Treas. Reg. 1.1441-6
Wages reported on W-2	Taxable wages reported on W-2, tax exempt wages reported on 1042-S, NRA wage withholding rates higher than RA rates
Miscellaneous and other income reported on Form 1099	Miscellaneous and other income reported on Form 1042-S
Subject to FICA tax * Student exception to FICA	Exempt from FICA tax
May select actual marital status and desired withholding allowances on Form W-4	Required to select “single” with one or zero withholding allowances on Form W-4
File Form 1040 individual income tax	File Form 1040-NR or Form 8843
May file married joint and claim various deductions/credits	Must file single; deductions are very limited

Individual Taxpayer Identification Number (ITIN)

What is an ITIN?

An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued to taxpayers by the Internal Revenue Service. IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain, a Social Security Number (SSN) from the Social Security Administration (SSA).

ITINs are issued regardless of immigration status because both resident and nonresident aliens may have a U.S. filing or reporting requirement under the Internal Revenue Code.

Individuals must have a filing requirement and file a valid federal income tax return to receive an ITIN.

IRS

[General ITIN Information](#)

Who needs an ITIN?

IRS issues ITINs to foreign nationals and others who have federal tax reporting or filing requirements and do not qualify for SSNs. A non-resident alien individual not eligible for a SSN who is required to file a U.S. tax return only to claim a refund of tax under the provisions of a U.S. tax treaty needs an ITIN.

Other examples of individuals who need an ITIN include those who must file a U.S. tax return and meet the following criteria:

- A Nonresident Alien required to get an ITIN to claim tax treaty benefit
- U.S. resident alien (based on SPT) filing a U.S. federal tax return
- Dependent of U.S. citizen/resident alien
- Spouse of U.S. citizen/resident alien
- Nonresident alien student, professor, or researcher filing a U.S. federal tax return or claiming an exception*
- Dependent/spouse of a nonresident alien holding a U.S. visa

What is an ITIN used for?

- ITINs are for federal tax reporting only, and are not intended to serve any other purpose.
- IRS issues ITINs to help individuals comply with U.S. tax law and to provide a means to efficiently process and account for tax returns and payments for those not eligible for Social Security Numbers (SSNs).
- An ITIN does not authorize work in the U.S. or provide eligibility for Social Security benefits or the Earned Income Tax Credit.

How to apply for an ITIN

Applying through the mail:

Use the latest version of [Form W-7](#), Application for IRS Individual Taxpayer Identification Number, to apply. Attach a valid federal income tax return, unless able to qualify for an exception. Include original proof of identity or copies certified by the issuing agency and foreign status documents. Mail to the address listed in the W-7 instructions.

Applying through an acceptance agent:

Taxpayers may also apply using the services of an IRS-authorized [Certified Acceptance Agent](#). The purpose of the CAA is to authenticate the individual's proof of identity document(s) so that they can avoid mailing original documents.

Applying at a Taxpayer Assistance Center (TAC):

Taxpayers may visit a key IRS [Taxpayer Assistance Center](#) in lieu of mailing information to the IRS. Taxpayer Assistance Centers (TACs) in the United States provide in-person help with ITIN applications on an appointment-only basis.

How can we help students & scholars apply for an ITIN?

- Most visitors are hesitant to mail their original identification document(s) to the IRS and many lack transportation to visit the local Taxpayer Assistance Center
- F, M and J visa holders at SEVP-approved institutions are permitted to include a certification letter with their Form W-7 as a substitute for submission of their original identification document(s) per [IRS Special Instructions for Student and Exchange Visitor Program \(SEVP\) Institutions](#)
- See SEVIS Sample Certification Letter
 - (from Pub 1915, page 31)

SEVIS Sample Certification Letter

College, University, or Institution Letterhead
Original with address

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

This letter certifies:

1. The attached completed Form W-7, Application for IRS Individual Taxpayer Identification Number and Supporting documentation is for (Insert Full Name of Applicant), with SEVIS number (Insert SEVIS Number);
2. The name and SEVIS number have been verified by the undersigned;
3. The applicant is not eligible for an SSN; and
4. The applicant's supporting original documents or copies certified by the issuing agency to establish identity and foreign status have been personally reviewed by the undersigned.

The applicant provided the following documents to establish the applicant's identity and foreign status:

(List documents here)

Attachments

Form W-7, Application for IRS Individual Taxpayer Identification Number
Copy of Form DS-2019 Certificate of Eligibility for Exchange Visitor Status (J-1 Status)
Copy of I-20 Certificate of Eligibility for Nonimmigrant Student Status
Copies of each identification document certified

The undersigned is the (select applicable) for the above named University that is an approved member of The Student and Exchange Visitor Program (SEVP).

- ✓ Principal Designated School Official (PDSO)
- ✓ Designated School Official (DSO)
- ✓ Responsible Officer (RO)
- ✓ Alternative Responsible Officer (ARO)

ITIN Resources

- [General ITIN Information](#)
- [About Form W-7](#)
- [Pub 1915 – Individual Taxpayer Identification Number](#)

Tax Resources

- Volunteer Income Tax Assistance (VITA) Program
- VITA Programs are volunteer-run community-based programs offering [Free Tax Preparation For Qualifying Taxpayers](#).
- Internal Revenue Service (IRS)
- Visit the [IRS Website](#) or call 1-800-829-1040 for [telephone assistance](#).
- IRS Taxpayer Assistance Centers provide [Face-to-face Tax Help](#) by appointment.
 - Account inquiries, procedural inquiries, basic tax law assistance, solutions to issues
 - Alien clearance (Sailing Permits)
 - Individual Taxpayer Identification Numbers and Form W-7

Other Helpful Resources

- [Publication 519 U.S. Tax Guide for Aliens](#)
- [Publication 597: Information on the U.S. - Canada Income Tax Treaty](#)
- [Publication 901: U.S. Tax Treaties](#)
- [Publication 970: Tax Benefits for Education](#)
- [Publication 4011: Foreign Student and Scholar Volunteer Resource Guide](#): This is a guide for volunteers who are training to help people prepare tax returns. The language is more user-friendly than the language in many IRS publications, and it covers the same topics.

Tax Services – Contact Us

Tax Accountant

Liz Tetrault, 491-3538

Liz.Tetrault@colostate.edu

Tax Manager

David Leathers, 491-5509

David.Leathers@colostate.edu

[Tax Services website](#)



Questions?