



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

June 21, 2002

Number: **200231013**
Release Date: 8/2/2002
CC:PA:APJP:1
SCANO-118539-02
UILC: 6109.00-00

INTERNAL REVENUE SERVICE NATIONAL OFFICE SERVICE CENTER ADVICE

MEMORANDUM FOR RONALD P. RIVELLI
CHIEF, PARTNERSHIPS, TRUSTS AND INTERNATIONAL
SECTION
OP:FS:S:P:P

FROM: John J. McGreevy
Assistant to the Branch Chief
CC:PA:APJP:1

SUBJECT: Individual taxpayer identification number and preparer tax
identification number programs

This Chief Counsel Advice responds to your memorandum dated March 29, 2002. In accordance with I.R.C. § 6110(k)(3), this Chief Counsel Advice should not be cited as precedent.

ISSUES

1) Can the Service require a full mailing address, which reflects the taxpayer's actual physical location, on the Form W-7, "Application for IRS Individual Taxpayer Identification Number," and reject any application that uses a post office box as a complete mailing address?

2) Under section 6109 of the Internal Revenue Code ("Code"), can an individual taxpayer identification number (ITIN) recipient apply for a preparer tax identification number (PTIN)?

CONCLUSIONS

1) The Service may not reject a properly prepared Form W-7 solely because the applicant provided a post office box number on line 3 rather than a complete mailing address that reflects the taxpayer's actual physical location.

SCANO-118539-02

2) Under current regulations, a PTIN is available only as an alternative to using a social security number (SSN).

FACTS

The current Form W-7, "Application for IRS Individual Taxpayer Identification Number," allows for the use of a post office box number for the applicant's mailing address on line 3. The Philadelphia Service Center, Partnerships, Trusts and International Section, would like to only record complete mailing addresses in the ITIN database to have a physical location of the applicant and proposes to reject any application that uses a post office box number as a mailing address. The complete mailing address the Service Center wants to require consists of a Rural Route Number or house/apartment number with street name, city or province, if foreign, state or country, if foreign, and zip code or foreign postal code.

In addition, Form W-7P, "Application for Preparer Tax Identification Number," requires an applicant to provide his or her social security number (SSN) to apply for a preparer tax identification number (PTIN). Under section 6109 of the Code and the regulations, an individual's identifying number may be a SSN or an ITIN. Thus, the question has arisen regarding whether an individual who is assigned an ITIN may apply for a PTIN.

LAW AND ANALYSIS

Issue 1

Section 6109(a) of the Code provides that when required by regulations prescribed by the Secretary, any person required under the authority of the Code to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.

Section 301.6109-1(d)(3)(ii) of the Regulations on Procedure and Administration provides, in part, that any individual who is not eligible to obtain a social security number and is required to furnish a taxpayer identification number must apply for an ITIN on Form W-7. The individual must furnish the information required by the form and accompanying instructions, including the individual's name, address, foreign tax identification number (if any), and specific reason for obtaining an ITIN. The application form, together with any supplementary statement and documentation, must be prepared and filed in accordance with the form, accompanying instructions, and relevant regulations, and must set forth fully and clearly the requested data. Treas. Reg. 301.6109-1(d)(3)(ii).

Based on the above regulation, and the current Form W-7, the Service may not reject an applicant solely on the basis that the applicant failed to provide a

SCANO-118539-02

complete mailing address, which reflects the taxpayer's actual physical location, to obtain an ITIN. However, section 301.6109-1(d)(3)(iii) provides that an applicant for an ITIN must submit such documentary evidence as the Service may prescribe in order to establish alien status identity. Accordingly, in appropriate cases, the Service may obtain a complete mailing address during the application process by requesting documentation of such address.

Issue 2

Section 6109(a)(4) of the Code provides, in part, that any return or claim for refund prepared by an income tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both, as may be prescribed.

Prior to its amendment by the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206, 112 Stat. 685 (RRA '98)), section 6109(a) provided that the identifying number of an individual preparer was that preparer's SSN. Section 3701 of RRA '98 amended section 6109(a) by removing the requirement that an individual preparer's identifying number be the preparer's SSN. Instead, the Secretary may prescribe alternatives to the SSN for purposes of identifying individual preparers.

Section 1.6109-2T(a)(2) of the Temporary Income Tax Regulations provides that the identifying number of a preparer, who is an individual, is that individual's social security account number, or such alternative number as may be prescribed by the Internal Revenue Service in forms, instructions, or other appropriate guidance.

Based on section 1.6109-2T(a)(2), the Service developed Form W-7P to allow a SSN recipient to apply for a PTIN. The current regulations and forms do not authorize an ITIN recipient to obtain a PTIN.

Please call our office at (202) 622-4910 if you have any further questions.