

Part III

Administrative, Procedural, and Miscellaneous

Acceptance Agent Revenue Procedure

Guidance for qualification as an acceptance agent, and execution of an agreement between an acceptance agent and the Internal Revenue Service (IRS) relating to the issuance of certain taxpayer identifying numbers.

Rev. Proc. 2006-10

CONTENTS

SECTION 1. PURPOSE

SECTION 2. BACKGROUND

SECTION 3. DEFINITIONS

SECTION 4. ACCEPTANCE AGENT

SECTION 5. CERTIFYING ACCEPTANCE AGENT

SECTION 6. SUITABILITY CHECK

SECTION 7. ACCEPTANCE AGENT AGREEMENT

SECTION 8. EXPIRATION OF EXISTING ACCEPTANCE AGENT AGREEMENTS

SECTION 9. EFFECTIVE DATE

SECTION 10. EFFECT ON OTHER DOCUMENTS

SECTION 11. PAPERWORK REDUCTION ACT

SECTION 12. DRAFTING INFORMATION

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 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 other foreign persons who need an EIN for Federal tax purposes. This revenue procedure supersedes Rev. Proc. 96-52, 1996-2 C.B. 372.

The four major changes to the revenue procedure for becoming an acceptance agent are as follows:

.01 Acceptance agent applicants may be required to submit to suitability checks, as explained in section 6 of this revenue procedure.

.02 An acceptance agent agreement entered into after the publication of this revenue procedure will expire on December 31 of the fourth full calendar year after the year in which the agreement goes into effect, as explained in section 7.02(8)(a) of this revenue procedure. Accordingly, acceptance agents will have to periodically reapply to retain their acceptance agent status.

.03 Existing acceptance agent agreements in effect on the date of publication of this revenue procedure will expire on December 31, 2006, as explained in section 8 of

this revenue procedure. Acceptance agents subject to those expiring agreements must reapply to retain their acceptance agent status.

.04 Acceptance agents may request to be included on a public list of acceptance agents published periodically by the IRS, as explained in section 4.02(3)(b)(vii) of this revenue procedure.

SECTION 2. BACKGROUND

.01 Section 301.6109-1(d)(3) of the Procedure and Administration Regulations provide general procedures for an alien individual to obtain an ITIN that 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 that require the submission of an application form (Form SS-4) together with any supplementary statement as may be required. The regulations require that an applicant for an ITIN or an EIN furnish the information required by the form, the accompanying instructions, and any applicable regulations. An applicant for an ITIN or an EIN may submit the application form directly to the IRS or, as provided in §301.6109-1(d)(3)(iv), may apply with the assistance of an acceptance agent.

.02 In Rev. Proc. 96-52, the IRS provided guidance regarding the qualification requirements for acceptance agents and the execution of an agreement between an acceptance agent and the IRS. Acceptance agents facilitate and expedite the issuance of ITINs and EINs by verifying the foreign status and identity of the applicants. Since the program's inception, hundreds of acceptance agents have successfully assisted

individuals who are ineligible to obtain SSNs to obtain ITINs. The IRS is pleased with the success of the acceptance agent program and values the contributions made by acceptance agents. This revenue procedure modifies screening requirements to ensure that acceptance agents are adequately qualified to serve ITIN and EIN applicants. Acceptance agent applicants now may be required to undergo a suitability check, which includes a review of their tax filing histories to ensure compliance with their tax obligations and, in some cases, a credit history and FBI background check. The new procedures also call for the acceptance agent agreement to expire at the end of the fourth full calendar year. These new requirements are intended to ensure that ITIN and EIN applicants continue to receive assistance from credible and responsible acceptance agents.

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. See section 4.01 of this revenue procedure for the role of an acceptance agent. A person acting in its capacity as an acceptance agent does not act as an agent of the IRS and is not authorized to hold itself out as an agent of the IRS.

.02 A certifying 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 from the IRS and who also assumes a greater responsibility than an acceptance agent in facilitating the application process for obtaining ITINs. The certifying acceptance agent process does not apply to obtaining EINs. See section 5.01 of this revenue procedure for the role of a certifying acceptance agent. A person acting in its capacity as a certifying acceptance agent does not act as an agent of the IRS and is not authorized to hold itself out as an agent of the IRS.

.03 An alien individual is an individual who is not a citizen or a national of the United States (U.S.).

.04 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.

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

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

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

.08 Form W-7 refers to IRS Form W-7, Application for IRS Individual Taxpayer Identification Number, including the Spanish-language version, IRS Form W-7(SP).

.09 Form SS-4 refers to IRS Form SS-4, Application for Employer Identification Number.

SECTION 4. ACCEPTANCE AGENT

.01 Role of acceptance agent. The role of an acceptance agent is to facilitate the application process for the issuance of TINs to alien individuals and other foreign persons who need TINs for Federal tax purposes. An acceptance agent facilitates the ITIN application process by forwarding the completed Form W-7 (together with the required documentary evidence) to the IRS at the address listed in the Form W-7 instructions. An acceptance agent facilitates the EIN application process by submitting to the IRS a Form SS-4 (together with any supplementary statement if required) by following one of the procedures described in the Form SS-4 instructions.

.02 Application process for acceptance agent.

(1) Eligible persons. Persons eligible to become acceptance agents include a financial institution defined in section 265(b)(5) of the Internal Revenue Code (Code) or §1.165-12(c)(1)(iv) of the regulations, a college or university that is an educational organization defined in §1.501(c)(3)-1(d)(3)(i), a federal agency defined in section 6402(g) of the Code, persons that provide assistance to taxpayers in the preparation of their tax returns, and any other person or categories of persons that may be authorized by regulations or IRS procedures. An eligible person may be a U.S. person or a foreign person.

(2) Pre-application conference. Prior to submitting a formal application, a person interested in becoming an acceptance agent may, but is not required to, request a telephone or in-person conference with the IRS 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 Commissioner of the Wage and Investment

Division at 404-338-8963 (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:

Internal Revenue Service
Mail Stop 983
Andover, MA 05501

(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 following information:

(i) The applicant's complete legal name, street address, city, state, country, zip code, EIN, and SSN or ITIN if an individual, and Electronic Filing Identification Number (EFIN), if available. All acceptance agents must have EINs. Therefore, if the applicant does not have an EIN, the applicant must obtain an EIN by following one of the procedures described in the Form SS-4 instructions;

(ii) A description of the type of person(s) the applicant expects to help obtain a TIN (e.g., visiting professors, nonresident gaming winners, etc.) and the approximate number of persons the applicant expects to help during each calendar year;

(iii) A description of the applicant, including the professional status of the applicant (e.g., financial institution, educational organization, federal agency, tax preparer, attorney, certified public accountant (CPA), etc.), the organizational status of the applicant (e.g., corporation, partnership, sole proprietorship, etc.) and if the

applicant is an entity, the state, including the District of Columbia (or if outside the United States, the country) under whose laws the entity is created or organized;

(iv) A list of the offices or branches, if any, intended to be covered by the agreement and their locations, including mailing addresses;

(v) A description of the business relationship the applicant has with the persons whom it expects to assist in obtaining TINs;

(vi) The name, telephone number, fax number, and e-mail address of an individual the IRS can contact regarding the application; and

(vii) If the applicant assists with the preparation of tax returns, the applicant may request to be included on a public list of acceptance agents published periodically by the IRS.

(c) Standard application form. Application should be made on Form 13551 (revised), Application to Participate in the IRS Acceptance Agent Program.

(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. The IRS will determine whether the applicant qualifies to become an acceptance agent and will notify the applicant in writing of this determination upon completion of a suitability check as described in section 6 of this revenue procedure. If the applicant is approved as an acceptance agent, the IRS will provide written instructions to the applicant regarding the procedures for entering into the acceptance agent agreement with the IRS.

SECTION 5. CERTIFYING ACCEPTANCE AGENT

.01 Role of a certifying acceptance agent. A certifying acceptance agent is a person that is authorized under an agreement with the IRS to submit a Form W-7 to the IRS on behalf of an ITIN applicant without furnishing supporting documentary evidence. Instead, when a certifying acceptance agent submits a Form W-7 to the IRS, it 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 certifying 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 certifying acceptance agent must describe the documentation upon which it is relying. The certification is not binding on the IRS, and, in appropriate cases, the IRS may request to see appropriate documentation before issuing an ITIN.

.02 Application process for certifying acceptance agent.

(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 also must state that it is applying for certifying acceptance agent status.

(2) Pre-application conference. Prior to submitting a formal application, a person

interested in becoming a certifying acceptance agent may, but is not required to, request a telephone or in-person conference with the IRS. Such a conference provides an opportunity to address such matters as the scope of the agreement, corresponding obligations for the applicant that arise under the agreement, and the nature of documentation, record maintenance, and verification procedures that arise under the agreement. Requests for pre-application conferences should be directed to the Commissioner of the Wage and Investment Division at 404-338-8963 (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 the business of the certifying acceptance agent. Generally, the certifying acceptance agent agreement will contain the terms and conditions necessary to insure proper administration of the process, described in section 7.02 of this revenue procedure, by which the IRS issues ITINs to alien individuals. The following terms for certifying acceptance agents are in addition to those outlined in section 7 of this revenue procedure for all acceptance agents.

(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 certifying 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 the certifying acceptance agent's normal course of business will be used to support the representations made by the applicant regarding these matters. To the extent applicable, a certifying 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 certifying acceptance agent on the basis of the type of information stated on the document, the source of the document, and the ease with which the document could be counterfeited. If the IRS determines that these requirements or practices are not sufficient, it may require that additional procedures and documentation be established.

The certifying acceptance agent will agree to maintain a record of the documentation obtained and reviewed pursuant to the obligations set forth in the agreement. All documentation submitted with respect to an ITIN applicant shall be maintained for a reasonable period, as prescribed in the agreement.

(2) Procedures for IRS compliance checks of certifications. A certifying acceptance agent must also agree to furnish supporting documentary evidence to the IRS upon request in such manner as the IRS and the certifying 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 certifying acceptance agent's certifications while limiting the disruption and burden to the acceptance agent. The certifying 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 certifying 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 6. SUITABILITY CHECK

In general, applicants for approval as an acceptance agent or certifying acceptance agent must pass a suitability background check before being admitted into the acceptance agent program.

.01 Suitability Background Check.

(1) In general. Acceptance agent and certifying acceptance agent applicants will be subject to an IRS review of the applicant's tax filing history to determine if the applicant is in full compliance with filing and payment responsibilities under the Internal Revenue Code and its regulations.

(2) Additional requirements.

(a) The acceptance agent or certifying acceptance agent applicant or the applicant's representative who has the authority to sign the acceptance agent or certifying acceptance agent agreement, if applicable, will be subject to the following requirements:

(i) A credit history check; and

(ii) An FBI background check.

(b) Any individual who is authorized to practice before the IRS under Circular 230 and provides evidence of current professional status will not be subject to the

requirements under section 6.01(2)(a)(i) or (ii) for purposes of becoming an acceptance agent or certifying acceptance agent.

.02 Exceptions.

(1) Financial institutions, as defined in section 265(b)(5) of the code or §1.165-12(c)(1)(iv) of the Income Tax Regulations, colleges and universities that qualify as educational organizations under §1.501(c)(3)-1(d)(3)(i), and casinos will not be subject to the requirements under section 6.01 of this revenue procedure, but the IRS may consider the tax filing history of the entity in evaluating an application from such entity;

(2) Applicants who have passed the suitability check for Electronic Return Originator (ERO) status and who remain in good standing with the IRS will not be subject to the requirements under section 6.01 of this revenue procedure; and

(3) Federal agencies, as defined in section 6402(g) of the Code, will not be subject to the requirements under section 6.01 of this revenue procedure.

SECTION 7. ACCEPTANCE AGENT AGREEMENT

.01 In general. An acceptance agent agreement described in §301.6109-1(d)(3)(iv)(A) of the regulations is an agreement between the IRS and a person authorized to act as an acceptance agent on behalf of an alien individual or other foreign person with respect to their need to obtain TINs from the IRS. The Commissioner of the Wage and Investment Division or his/her designee will 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 professional status of the applicant (e.g., financial institution, educational organization, U.S. federal agency, tax preparer, attorney, CPA, etc.), the organizational status of the applicant (e.g., corporation, partnership, sole proprietorship, etc.), and the place of residence or organization of the applicant (i.e., inside or outside the United States). The acceptance agent agreement will generally contain the following terms and conditions to ensure proper administration of the process by which the IRS issues TINs to alien individuals and other foreign persons.

(1) Procedures for providing TIN application forms. An acceptance agent shall agree to maintain a supply of Forms W-7 for obtaining ITINs, and of Forms SS-4 for obtaining EINs. 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. See Rev. Proc. 2004-62, 2004-44 I.R.B. 730, for the procedures governing the use of substitute forms.

(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 confirm 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 Commissioner of the Wage and Investment Division at 404-338-8963 (not a toll-free number).

(3) Procedures for IRS communication with acceptance agent. The ITIN applicant's signature on the Form W-7 authorizes the acceptance agent to communicate with the IRS regarding only the ITIN applicant's application. The acceptance agent may act as an agent for the ITIN applicant with regard to any additional communication with the IRS that is necessary for completion of the application form. However, an EIN applicant must complete and execute Form 2848, Power of Attorney and Declaration of Representative, to authorize an acceptance agent to communicate with the IRS on the applicant's behalf in connection with a completed Form SS-4 application.

(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 specified in the agreement.

(5) Procedures for collecting and reviewing required documentation for assignment of an ITIN. A Form W-7 must be accompanied by documentary evidence of the ITIN applicant's 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 ITIN 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. Examples of acceptable documentary evidence are provided in the Form W-7 instructions.

Generally, ITIN applicants must submit the required documentation during a personal interview with the acceptance agent. The agreement generally will require that original (or certified copies of the original) documentation be submitted to the IRS with Form W-7. All valid original documents will be returned to the acceptance agent. 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 situations in which 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 to work in the United States.

(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 expiration and termination of acceptance agent agreement.

(a) Expiration. An acceptance agent agreement shall be in effect on the date the agreement is signed by an authorized representative of the IRS and shall expire on December 31 of the fourth full calendar year after the year in which the agreement became effective. Acceptance agents subject to expiring agreements who wish to retain their acceptance agent status must enter into new acceptance agent agreements pursuant to the procedures set forth in this revenue procedure. In order to avoid a lapse in acceptance agent status, a new application should be filed with the IRS at least six months prior to the expiration of an acceptance agent agreement.

(b) Termination. In general, either the acceptance agent or the IRS may terminate the agreement after delivery of a notice of termination to the other party. The decision to terminate an agreement is solely within the discretion of the party giving such notice. However, the IRS generally will not terminate an agreement unless the acceptance agent knowingly 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 terminate an agreement if the acceptance agent has misrepresented material information provided on its acceptance agent application or on a TIN application. Further, the IRS may terminate an agreement if 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 termination, a written explanation to the ITIN Program Office, 401 West Peachtree Street, Atlanta, GA 30308, of how the acceptance agent proposes to correct the violation and, if appropriate, of how it proposes to modify its procedures to ensure that such a violation will not occur in the future. The IRS shall accept or reject the request, or make a counterproposal, within 30 days of receipt of the request. This decision is not subject to appeal.

SECTION 8. EXPIRATION OF EXISTING ACCEPTANCE AGENT AGREEMENTS

Acceptance agent agreements and certifying acceptance agent agreements that are in effect on the date of the publication of this revenue procedure will expire on December 31, 2006. Acceptance agents and certifying acceptance agents subject to expiring agreements who wish to retain their acceptance agent status must enter into new acceptance agent agreements pursuant to the procedures set forth in this revenue procedure. To avoid a lapse in acceptance agent status, a new application should be filed with the IRS by June 30, 2006.

SECTION 9. EFFECTIVE DATE

This revenue procedure is effective on the date of publication.

SECTION 10. EFFECT ON OTHER DOCUMENTS

Rev. Rul. 96-52 is superseded.

SECTION 11. PAPERWORK REDUCTION ACT

The collection of information contained in this revenue procedure has 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 collection of information contained in this revenue procedure is in section 4.02(3), section 5.02(1), and section 7.02(6). 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 24,960 hours.

The estimated average annual burden per respondent/recordkeeper is 3 hours, 12 minutes. The estimated number of respondents/recordkeepers is 8,000.

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

SECTION 12. DRAFTING INFORMATION

The principal author of this revenue procedure is Ethan A. Atticks of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure contact the Commissioner of the Wage and Investment Division at (404) 338-8963 (not a toll free call).