April 2, 2013

Mr. Steven T. Miller  
Acting Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20024

Re: Comments on the November 29, 2012 Changes to the Individual Taxpayer Identification Number (“ITIN”) Procedure

Dear Acting Commissioner Miller:

Enclosed are comments on the changes the Internal Revenue Service (“Service”) announced on November 29, 2012 to the procedures for obtaining an ITIN. These comments represent the view of the American Bar Association Section of Taxation. They have not been approved by the Board of Governors or the House of Delegates of the American Bar Association, and should not be construed as representing the policy of the American Bar Association.

Sincerely,

Rudolph R. Ramelli  
Chair, Section of Taxation

Enclosure

cc: Mark J. Mazur, Assistant Secretary (Tax Policy), Department of the Treasury  
William J. Wilkins, Chief Counsel, Internal Revenue Service  
Lisa Zarlinga, Tax Legislative Counsel, Department of the Treasury  
Nina Olson, National Taxpayer Advocate, Internal Revenue Service
ABA SECTION OF TAXATION
COMMENTS ON INTERIM CHANGES TO THE
INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER
APPLICATION PROCESS

These comments (“Comments”) are submitted on behalf of the American Bar Association Section of Taxation and have not been approved by the House of Delegates or Board of Governors of the American Bar Association. Accordingly, they should not be construed as representing the position of the American Bar Association.

Principal responsibility for preparing these Comments was exercised by Jennifer Breen and Michael Kummer of the Administrative Practice Committee of the Section of Taxation. Substantive contributions were made by Paul Harrison, Rochelle Hodes, David Koeninger, Susan Morgenstern, Mary Slonina, and Robert Wunderle. The Comments were reviewed by Sheri Dillon, Committee Chair. The Comments were further reviewed by Phillip Pillar of the Section’s Committee on Government Submissions and by Charles Rettig, Council Director, for the Administrative Practice Committee.

Although the members of the Section of Taxation who participated in preparing these Comments have clients who might be affected by the federal income tax principles addressed by these Comments, no such member or the firm or organization to which such member belongs has been engaged by a client to make a government submission with respect to, or otherwise to influence the development or outcome of, the specific subject matter of these Comments.

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Date: April 2, 2013
EXECUTIVE SUMMARY

On November 29, 2012, the Internal Revenue Service (“Service”) announced changes to the procedures by which individuals with U.S. tax filing obligations but without a U.S. Social Security Number (“SSN”) must apply for and obtain an Individual Taxpayer Identification Number (“ITIN”). ITINs enable compliance with U.S. income tax laws by linking alien taxpayers with their U.S. tax and information returns. These changes affect ITIN applications filed beginning January 1, 2013. The November 29, 2012 changes to these procedures build on feedback the Service received from stakeholders regarding interim changes the Service announced to its ITIN application procedures on June 22, 2012. However, for the reasons discussed below we continue to have concerns about whether taxpayers requiring ITINs to comply with U.S. tax laws will be able to obtain them.

According to the Service’s announcement, the November changes are designed to “balance the need for greater integrity for the ITIN and refund processes while minimizing the impact on taxpayers.”¹ Broadly, the most recent changes include the following:

- Except in limited cases, individuals’ ITIN applications must include original identification documents or documents certified by the issuing agency, and the Service will no longer accept notarized copies of such documents;
- For ITIN applications for dependents, applicants must mail to the Service their original identifying documents or copies certified by the issuing agency;
- To ameliorate some of the concerns around mailing original documentation to the Service’s ITIN Unit in Austin, Texas, the Service has created alternatives to mailing documentation. These alternatives include presenting original documents to certain Taxpayer Assistance Centers (“TAC”) located in the U.S. or certain U.S. Tax Attachés at U.S. embassies located in Beijing, Frankfurt, London, or Paris.
- The Service will continue to permit a Certified Acceptance Agent (“CAA”) to review original and certified documents to verify their authenticity, however, CAA verification will not be permitted with respect to ITIN applications for dependents;
- CAAs are subject to additional safeguards, training, and oversight; and
- After five years, taxpayers’ ITINs expire, and taxpayers must reapply.

You asked that we provide our views regarding the new requirements, including suggestions for alternative means to protect the integrity of the ITIN process that impose less burdens on taxpayers. Below, we recommend the following:

¹ IRS News Release, IR 2012-98 (Nov. 29, 2012) (statement of Steven Miller, IRS Acting Commissioner).
a. Eliminate the requirement that ITIN applications for dependents submitted by a CAA be mailed to the Service with original identifying documents or copies of documents certified by the issuing agency;

b. Eliminate the five-year expiration period for ITINs;

c. Focus on modernizing the technology used to process ITIN applications;

d. Expand options for in-person verification of original or certified documents; and

e. Revise notices issued by the Service's ITIN Unit to increase clarity and transparency.

COMMENTS

I. Background

a. Overview of Individual Taxpayer Identification Numbers

Section 6109 generally provides that any person required by the Internal Revenue Code to make a return, statement, or other document, must include a taxpayer identifying number ("TIN") as prescribed for securing proper identification. A person may be required to provide a U.S. TIN to another person who is required to make a return, statement, or other document. Generally, an SSN is the TIN for an individual. However, an individual with a federal tax reporting or filing requirement but who is ineligible to obtain a U.S. SSN must apply to obtain an ITIN, a nine digit number issued by the Service and used for tax processing.

In general, individuals apply for an ITIN by submitting to the Service Form W-7, Application for IRS Individual Taxpayer Identification Number. The application must include documentary evidence to establish proof of identity and proof of foreign status. Historically, applicants were discouraged from mailing original documentation to the Service. Rather, all individuals seeking ITINs were permitted to mail certified or notarized copies of identifying documents to the Service in support of their ITIN application.

In addition, the Service utilized a CAA program, whereby individuals could present original, certified, or notarized documents in-person to individuals authorized

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2 I.R.C. § 6109(a)(1). References to a “section” are to a section of the Internal Revenue Code of 1986, as amended (the “Code”), unless otherwise indicated.
3 I.R.C. § 6109(d).
4 Reg. § 301.6109-1(d)(3)(ii). Examples of individuals who are required to obtain an ITIN include non-resident aliens claiming the benefits of a U.S. income tax treaty, non-resident aliens required to file U.S. income tax returns, U.S. resident aliens filing a U.S. tax return who do not qualify for an SSN, dependents and spouses of U.S. citizens or resident aliens, and dependents and spouses of non-resident alien visa holders.
5 Reg. § 301.6109-1(d)(3)(iii).
to act as CAAs. The CAAs certified whether such documentation was authentic, complete, accurate, and established the identity and foreign status of the individual applicant. Because the CAAs submitted such certification to the Service along with the Form W-7, the CAA program enabled individuals to obtain ITINs without mailing certified or notarized documents to the Service.

The rules regarding acceptable documentary evidence are very specific. Generally, a valid passport is the only document that can be used as both proof of identity and proof of foreign status. Where an individual is unable to or opts not to use a passport, a minimum of two separate documents (if not more) must be used as proof. For example, a foreign birth certificate, a foreign voter registration card, or a foreign identity card may be used as proof of either identity or foreign status, but not both.

If the ITIN is sought to enable the filing of a tax return or claim for refund, the Service requires that the ITIN application, with the required documentation for obtaining an ITIN, be submitted with the completed tax return or claim for refund. Where the ITIN is sought for third party withholding or information reporting, or to claim the benefits of a tax treaty in certain circumstances, the Service will accept the application without a completed tax return or claim for refund.


On July 16, 2012, TIGTA published a report (“2012 TIGTA Report”) that was generally critical of the Service’s procedure for processing ITIN applications. The crux of the 2012 TIGTA Report was that “IRS management has not established adequate internal controls to detect and prevent the assignment of an ITIN to individuals submitting questionable applications.” Specifically, the report identified a significant number of tax refunds that were issued based on tax returns filed using fraudulently obtained ITINs.

To address concerns raised by the 2012 TIGTA Report, the Service announced that it would make changes to the ITIN application procedures beginning with the 2013 filing season, and announced interim changes to the ITIN application process.

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7 IRS Instructions for Form W-7 (Rev. January 2013).
8 Id. Other requirements must also be met. For instance, one document must contain a picture. In addition, the national identification card must be current and contain the applicant's name, photograph, address, and date of birth and an expiration date.
9 Id at 3.
10 TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, SUBSTANTIAL CHANGES ARE NEEDED TO THE INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER PROGRAM TO DETECT FRAUDULENT APPLICATIONS (July 16, 2012) [hereinafter “2012 TIGTA Report”].
11 2012 TIGTA Report, at Highlights.
12 Id. at Appendix V.
c. Changes to ITIN application procedures for 2012

On June 22, 2012, the Service announced interim changes to the ITIN application process, which required individuals to mail to the Service original identification documents or copies of such documents certified by the original issuing agency ("Interim Rules"). The Interim Rules were effective for the 2012 tax year. Under the Interim Rules, the Service discontinued its acceptance of notarized documents as proof of identity or proof of foreign status. The Service also placed additional constraints on the CAA program by eliminating the ability of CAAs to submit ITIN applications on behalf of individuals without attaching the individuals’ original or certified documents to such application. Thus, under the Interim Rules, even if a taxpayer utilized a CAA, their ITIN application must have been mailed with either original documents or copies of documents certified by the issuing agency.

On October 2, 2012, the Service published a relaxation of the Interim Rules for individuals with approved extensions to file their 2011 tax returns and certain foreign students. Under these changes, a CAA or, in the case of Student Exchange Visitors Program ("SEVP"), participants at an SEVP approved institution, are permitted to certify certain original documents rather than require original documents be mailed to the Service with the ITIN application. For individuals who filed ITIN applications with 2011 returns on such extension, the Service announced the resulting ITIN would be a temporary number that expired one year from the extended due date of the taxpayer’s income tax return.

d. Changes to the ITIN application procedures for 2013

On November 29, 2012, the Service published new ITIN application procedures for the 2013 filing season, which incorporated feedback and comments the Service received from stakeholders and interested parties related to its Interim Rules, including the October changes ("2013 Rules"). The 2013 Rules are designed to "balance the need for greater integrity for the ITIN and refund processes while minimizing the impact on taxpayers." Most of the Service’s Interim Rules were made permanent by the 2013 Rules, but with some modifications.

Under the 2013 Rules, the Service continues to require original documents or documents certified by the issuing agency and no longer accepts notarized copies of documents except in limited circumstances. As an alternative to mailing to the Service original documents or documents certified by the issuing agency, the Service reinstated the ability of CAAs to certify the authenticity and validity of documents for primary ITIN applicants. However, the Service imposed new requirements on CAAs,

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16 Id. (statement of Steven Miller, IRS Acting Commissioner).
as discussed below. ITIN applications for dependent children, however, still require the CAA to mail original documents or copies certified by the issuing agency to the Service.

The new CAA requirements provide that only individuals covered by Circular 230 are eligible to serve as a CAA, unless the CAAs are affiliated with financial institutions, gaming facilities, Low Income Taxpayer Clinics, or Volunteer Income Tax Assistance (“VITA”) centers. CAAs cannot be under disbarment or suspension from practice before the Service. CAAs are required to find and complete formal forensic training at their own expense\(^\text{17}\) to help them differentiate between legitimate and illegitimate identification documents. Additional on-site compliance checks for CAA outlets and stronger penalties for non-compliance are planned. The Service’s website states that forensic training must be completed by December 31, 2014.\(^\text{18}\)

In addition, the Service expanded the alternatives by which individuals can avoid mailing original and certified documents to the Service's ITIN Unit in Austin, Texas. The 2013 Rules allow certain TACs located in the U.S., or CAAs at Low Income Taxpayer Clinics, VITA centers, and other locations to verify and certify identifying documents for certain individuals. U.S. Tax Attachés in U.S. embassies located in Paris, London, Frankfurt, and Beijing, also may verify and certify identifying documents for certain individuals. In addition, foreign students are permitted to use the SEVP procedures first announced in October 2012.

Finally, the 2013 Rules provide that ITINs expire after five years. Taxpayers who still need ITINs must reapply at the end of such five-year period. The Service stated that it created this requirement to “ensure that ITINs are being used for legitimate tax purposes.”\(^\text{19}\)

II. Comments to Changes to ITIN Application Procedures

We agree with the Service’s goal of enhancing the security and integrity of the ITIN process to ensure that ITINs are not used for fraudulent purposes.\(^\text{20}\) However, we are concerned that these changes have the potential to severely impair the ability of certain taxpayers to obtain an ITIN when required for U.S. tax purposes. Our suggestions below are intended to provide alternative means to protect the integrity of the ITIN process, while imposing fewer burdens on taxpayers.

a. Eliminate the requirement that ITIN applications for dependents submitted by a CAA be mailed to the Service with original identifying documents or copies of documents certified by the issuing agency


\(^{19}\) IRS News Release, IR 2012-98 (Nov. 29, 2012).

\(^{20}\) Id.
We recommend the Service eliminate the requirement that, in the case of ITIN applications for dependents, CAAs mail to the Service original identifying documents or copies of documents certified by the issuing agency. We laud the Service’s attempt to “ensure the integrity of important child tax credits”, 21 but are concerned that this requirement imposes onerous standards on dependent applicants without measurably improving the integrity of the system. We believe that the other changes the Service is making provide sufficient additional safeguards without imposing undue burdens on taxpayers.

As noted by the National Taxpayer Advocate and commentators, resident and non-resident ITIN applicants face significant hurdles in obtaining copies of identifying documents certified by issuing agencies. Some countries may have policies that prohibit them from issuing certified copies of documents. 22 Individuals with U.S. filing obligations from other countries might be located prohibitively far from a home-country outlet that certifies identification documents. We note that countries whose U.S. consulates and embassies do certify identifying documents often charge fees for such services, 23 imposing additional compliance costs on taxpayers.

We believe that unless a change is made, many dependent applicants may have no alternative other than to submit original documents to the Service via mail, which may cause an inability to meet various home-country requirements, severe travel disruptions for these applicants and their parents, logistical difficulties, and identity theft concerns related to sending original documents through the mail. These burdens are especially acute because families with dependents now comprise more than two thirds of all ITIN applicants. 24

Individuals seeking ITINs for dependents located abroad may, in the absence of any practical alternative, opt to forgo exemptions and deductions for those dependents, resulting in higher tax liability and, as a result, a reduced means of support. For dependent individuals needing ITINs to file a tax return or pay income tax, these burdens hinder individuals’ abilities to file. At the same time, such individuals are subject to penalties to the extent they do not file. Moreover, if an individual needs to make a payment, the payment might not be properly matched to a return without an ITIN.

21 IRS Fact Sheet, FS 2012-11, at 3 (Nov. 2012).
24 National Taxpayer Advocate, 2012 Annual Report to Congress 177 n.100 (December 31, 2012) (also noting that, as of mid-2012, 614,714 of the total 906,848 ITINs assigned were assigned to dependents).
While we share the Service’s concern about fraudulent refunds, particularly as they relate to claims for dependents, we are unable to discern any reason why a CAA would be less able to detect invalid documentation for a dependent than the Service’s ITIN Unit in Austin, Texas. Rather, it would seem that a CAA, who has the opportunity to ask to see the dependent face-to-face if the Service so required, would be better able to detect a potential fraud than Service employees hundreds of miles away. In addition, because the Service is requiring that, with limited exception, all CAAs be covered by Circular 230, the Service has put in place new safeguards that should increase confidence regarding CAAs’ competence and integrity.

For these reasons, we recommend that the Service reinstate a CAA’s ability to certify the authenticity and validity of original identifying documents or copies certified by the issuing agency for dependent ITIN applicants. Doing so would harmonize the treatment between dependent and non-dependent ITIN applicants, minimize confusion, and encourage, rather than chill, compliance.

If, however, the Service feels strongly that original documents are, in certain instances, required for ITIN applications, we believe the Service should commit to reducing the length of time that it retains these documents. The current instructions to Form W-7 suggest that the Service will retain original documents for up to, and perhaps more than, 60 days. We recommend the Service develop procedures to validate, copy, and send documents back to applicants within 30 days, even if their ITIN applications have not been fully evaluated.

b. Eliminate the five-year expiration period for ITINs

We recommend eliminating the automatic five-year expiration of ITINs. Under the current rules, individuals who validly and legitimately obtain an ITIN are required to reapply after five years. We believe this requirement is both inequitable and inefficient by imposing burdens on individuals needing ITINs that individuals with SSNs do not face, likely discourages voluntary compliance, is not narrowly tailored to preventing fraud or ensuring ITINs are used for legitimate purposes, and increases the Service’s administrative costs.

First, the five-year shelf-life is inequitable and inefficient insofar as it imposes material burdens on taxpayers with ITINs relative to taxpayers with SSNs. As the National Taxpayer Advocate points out, in the ITIN context “an efficient and equitable tax system does not distinguish between alien and other taxpayers with respect to taxpayer protection or customer service.” The current rules, however, do

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26 National Taxpayer Advocate, 2012 Annual Report to Congress 170 (December 31, 2012). See also AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS, GUIDING PRINCIPLES OF GOOD TAX POLICY: A FRAMEWORK FOR EVALUATING TAX PROPOSALS 9 (March 2001) (“Similarly situated taxpayers should be taxed similarly. The principal of taxing similar taxpayers similarly is typically described in terms of equity. The concept of horizontal equity provides that two taxpayers with equal abilities to pay should pay the same amount of tax.”).
distinguish between aliens and other taxpayers, insofar as taxpayers who have validly and legitimately obtained an ITIN must reapply after five years, whereas taxpayers with SSNs face no such reapplication process. Thus, the ITIN procedures treat differently taxpayers who may otherwise be similarly situated (e.g., same income levels, same familial and living environment, same compliance histories). In this regard, the five-year shelf-life is inequitable.

The five-year shelf-life also raises efficiency concerns. An efficient tax system should minimize burdens that might distort taxpayers’ decisions and reduce compliance costs as much as possible. As discussed above, the initial ITIN application process is itself daunting for aliens with U.S. filing obligations, but requiring a second application introduces additional compliance costs for these taxpayers. These issues are especially acute because they are not tied to a principled standard of compliance. For example, an individual with an ITIN and a pristine four-year history of voluntary tax compliance is required to reapply for an ITIN, whereas a recalcitrant taxpayer with an SSN and a four-year history of non-compliance faces no such burden. We believe that such a distinction will reduce aliens’ confidence in the tax system, might discourage reapplications and compliance in general, and could increase the tax gap as a result.

Second, the five-year shelf-life does not appear to be narrowly tailored to preventing fraud or ensuring ITINs are used for legitimate purposes, which is the shelf-life’s stated purpose. It is not apparent how revoking an ITIN after five years and requiring a new application prevents fraud or ensures ITINs are being used legitimately. Fraud, or illegitimate use of an ITIN, occurs in the first year an individual fraudulently applies for and receives an ITIN. Such fraud or illegitimate use might also continue in immediately subsequent years. While requiring an additional application in five years gives the Service a “second look” at a specific ITIN and taxpayer, we do not see how it prevents the illegitimate use of an ITIN in the first instance. We also question whether it is possible to make such “second look” sufficiently detailed to determine that the ITIN has been used for legitimate tax

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27 We acknowledge such distinctions are inherent in the ITIN process. For instance, aliens need to apply for ITINs in the first instance whereas U.S. citizens do not. However, we believe the Service should, as much as possible, minimize the additional burdens on individuals with ITINs relative to those with SSNs.

28 See, e.g., UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, UNDERSTANDING THE TAX REFORM DEBATE: BACKGROUND, CRITERIA, & QUESTIONS 35 (Sept. 2005) (“Because taxes generally create inefficiencies, minimizing efficiency costs is one criterion for a good tax. However, the goal of tax policy is not to eliminate efficiency costs. The fact that taxes impose efficiency and other costs beyond the tax liability does not mean that taxes are not worth paying. The goal of tax policy is to design a tax system that produces the desired amount of revenue and balances economic efficiency with other objectives, such as equity, simplicity, transparency, and administrability.”).

29 See IRS News Release, IR 2012-98 (Nov. 29, 2012) (noting that the stated purpose of the limited shelf-life is to “ensure ITINs are being used for legitimate tax purposes”).
purposes, rather than just reconfirming the identity of the taxpayer who has been using the ITIN.\textsuperscript{30}

Third, we are concerned about the increased administrative burdens the five-year shelf-life imposes on the Service. The administrative burdens the Service has faced in the ITIN application process thus far are well-documented.\textsuperscript{31} While we commend the Service’s recent efforts to effectively meet the demands posed by administering the ITIN application process, we believe the Service should streamline the ITIN administration process as much as possible. Enacting procedures that require monitoring an ITIN’s life cycle, the processing of reapplications, and, in instances where there is no immediate reapplication after the five-year period, the processing of renewed applications at a later time, each adds additional complexity to what is already a monumental task. We recommend the five-year shelf-life be eliminated.

In the alternative, we recommend consideration of a more equitable, efficient, and administrable procedure that is also more tailored to the Service’s stated goals. One such procedure would be to issue notices to taxpayers with ITINs informing them of a pending revocation of their ITIN unless the taxpayers affirmatively choose to retain their ITINs by checking a box and signing and returning notice to the Service. Such an “opt-in” procedure could use the same five-year time period as the current rules, although it need not.

Another alternative would be to tie ITIN revocation to taxpayers’ repeated noncompliance or, as suggested by the National Taxpayer Advocate, to instances when individuals leave the country (as a student would), cease earning income or otherwise having U.S. filing obligations, or receive an SSN.\textsuperscript{32} We acknowledge that such an option might require coordination with other U.S. agencies, such as the U.S. Department of State or the Social Security Administration, but we reiterate our belief that such intra-agency coordination would benefit the ITIN application process in the long run.

c. Focus on modernizing the technology used to process ITIN applications

\textsuperscript{30} An additional concern in this regard is the metrics used to select the five-year shelf-life. Ideally, the five-year term would be based on income-earning statistics, residency statistics, or demographic data that validates using five-years as an appropriate expiration date of an ITIN. Such data might suggest that alien taxpayers only use ITINs for five years, that illegitimate use of ITINs increases after five years, or that illegitimate ITINs are not used once and then “discarded” by fraudulent taxpayers but are repeatedly used for fraudulent submissions. In the absence of these objective criteria, we question whether the five-year shelf-life is narrowly tailored to accomplish its stated purpose.

\textsuperscript{31} See, e.g., 2012 TIGTA Report, at 7.

\textsuperscript{32} See National Taxpayer Advocate, 2012 Annual Report to Congress 179 (December 31, 2012) (the National Taxpayer Advocate recommended that “[i]n addition to the automatic five-year expiration rule for newly assigned ITINs, [the Service] develop a process to retire ITINs that are no longer used for tax purposes, for example, where the taxpayer leaves the country (as would a student) or receives an SSN, after communicating with the taxpayer”).

To ensure compliance and minimize burdens on individuals needing ITINs, we recommend the Service improve the technology it uses to process and monitor ITIN applications and usage. We note that, while tightening the standards of documents the Service will accept might serve to ensure the veracity of such documentation, they do not prevent different individuals (or one individual) from using the same documentation in separate ITIN applications. In other words, in an application submitted via mail, an individual applicant could submit another individual’s identifying document, even if that document is original or has been certified by the issuing agency. Nor does requiring that an original document be shown to, and certified as accurate by, a CAA, ensure that CAAs themselves are not mistaken as to the document’s veracity or participating in a fraudulent scheme. Technological advancements in the ITIN application process, on the other hand, might detect and ultimately preclude such fraudulent schemes.

Of course, we believe that an important measure to deter fraud (and identity theft) in this context is to match one physical individual with one set of identifying documents, rather than focusing on the nature of the underlying documents themselves. Thus, as will be discussed below, increased use of, vigilance at, and oversight of, in-person application centers is one measure the Service has committed to taking and should continue to take in this regard. But it is likely not administratively possible to mandate all ITIN applications be submitted in-person, to the exclusion of applications submitted via mail.

Therefore, another important measure to deter fraud (and identity theft) in these contexts is to match one ITIN with one set of identifying documents. In this regard, we echo the National Taxpayer Advocate’s recommendation to:

[m]odernize the ITIN operation, including an update of the RTS software to include the document number and country of issuance of a foreign document, a process for scanning and barcoding submitted documentation, and an electronic verification of documents with federal, state, and foreign (if possible) government databases and CAAs. 33

We think these changes should be designed to capture and flag instances when one document is used in several ITIN applications. We believe that, in the long run, this will both minimize burdens on taxpayers and be the most effective way to ensure that ITINs are used for legitimate tax purposes.

Moreover, any technological enhancements should be designed to detect and ferret out the type of fraud that has plagued the ITIN application process to date. Specifically, the 2012 TIGTA Report noted that, in some instances, hundreds or thousands of ITIN applications were being submitted by – and hundreds or thousands of ITINs were issued to – individuals at single addresses. We believe that a system capable of flagging instances when hundreds of ITINs are issued to a single address, more than tightening standards for acceptable identifying documents, will best combat

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33 National Taxpayer Advocate, 2012 Annual Report to Congress 179 (December 31, 2012).
the types of problems which the ITIN application process has faced to date. And while strengthening the CAA program and its oversight is a beneficial step to precluding mistakes and fraud by CAAs, unless the applicant used the same CAA, individual CAAs likely do not have the capacity to protect against or identify instances when one original document is used in several ITIN applications, or when multiple ITIN applications are submitted for one address. We believe technological enhancements will alleviate these issues.

d. Expand options for in-person verification of original or certified documents

Although the Service has increased the alternatives for in-person verification of original or certified documents at TACs, U.S. Tax Attachés in select U.S. embassies, and CAAs (including VITA centers and Low Income Taxpayer Clinics), we are concerned that many taxpayers may still live prohibitively far from, or be unfamiliar with, these alternatives. In this regard, we have the following two recommendations to expand options for in-person verification of original or certified documents:

i. Expand the network of foreign, trusted locations for document verification

We recommend expanding the Service’s overseas network of trusted outlets for verifying individuals’ identifying documents and accepting ITIN applications. Under the current rules, U.S. Tax Attachés only exist in London, Paris, Beijing and Frankfurt. While many foreign individuals with U.S. filing obligations might live in close proximity to these four locations, a significant number of individuals who need an ITIN likely do not.

For instance, a substantial number of developed nations with high per capita gross domestic product do not have proximate locations that enable ITIN applicants to physically appear, including Australia, Singapore, Norway, Canada, Taiwan, Japan, South Korea, Spain, and Italy. India, Brazil, and Mexico also have no U.S. Tax Attaché. Each of these nations might be home to significant numbers of individuals with potential U.S. filing obligations, but are likely prohibitively distant from the four U.S. Tax Attaché locations that can verify documentation. In these instances, if the applicant does not have the means to reach out to a CAA, the only reasonable alternative to submitting an ITIN application is to mail to the Service original

34 The National Taxpayer Advocate notes that Mexico, India, and Canada account for 72 percent, 3 percent, and 2 percent, respectively, of all ITINs issued. National Taxpayer Advocate, 2012 Annual Report to Congress 157 (December 31, 2012). Guatemala, Honduras, and El Salvador comprise 7 percent, 5 percent, and 3 percent, respectively, of all ITINs issued. Id. Many of these individuals, of course, were likely already resident in the U.S. at the time they submitted their ITIN application.

35 We note that even many Chinese residents face significant hurdles to physically appear at the Beijing U.S. Tax Attaché. A train trip by normal rail to Beijing from Guangzhou, the most populous city in China, takes over 20 hours. See Beijing Guangzhou Train Guide, available at www.beijingchina.net.cn/transportation/train/train-from-guangzhou (last visited March 22, 2013). A high speed train trip takes over 8 hours. Id.
documents or documents certified by the issuing agency, a burden which we believe is impractical and perhaps prohibitively onerous.\footnote{Other commentators appear to agree that mailing original verification documents to the Service is a burdensome and unacceptable alternative for ITIN applicants. See National Taxpayer Advocate, 2012 Annual Report to Congress 176 (December 31, 2012); Letter from AICPA to Douglas H. Shulman, at 3 (Aug. 28, 2012) (“It is impractical for most foreign persons in need of an ITIN to surrender their original identification documents to the IRS for 60 days.”); Letter from AICPA to Nina E. Olson, at 2 (Oct. 16, 2012).}

We recommend adding other overseas trusted locations to facilitate in-person submission of identifying documents and ITIN applications. We suggest that the Service enlist the help of U.S. embassies or consulates, where the Treasury Department, the Service, and other U.S. agencies likely already have a working presence.

We acknowledge that such an endeavor on a broad scale would require a significant allocation of additional resources with no certainty that the additional trusted locations will receive a significant number of ITIN applications. Therefore, on a trial basis the Service could consider a pilot program of strategically locating additional overseas outlets for in-person ITIN application submission in select cities or countries. If possible, we recommend considering these locations in areas that are reasonably accessible to the largest number of individuals with potential U.S. filing obligations, based on data that incorporates income, economic, demographic, and other information designed to identify the geographic areas likely to have the highest number of individuals needing ITINs.

We note that an ancillary benefit of expanding the number of foreign trusted outlets is that U.S. government employees working in U.S. embassies or consulates might have a greater familiarity with the local country’s identifying documents.

\textit{ii. Expand the network of domestic locations for in-person document verification}

We recommend expanding the network of trusted locations within the U.S. for verifying individuals’ identifying documents and accepting ITIN applications. As noted above, individuals may submit ITIN applications at TACs, VITA centers, Low Income Taxpayer Clinics, and other CAAs located in the U.S. VITA centers and Low Income Taxpayer Clinics, however, might only be operating at full capacity during peak-filing season, and be inaccessible or closed during non-peak seasons.

We believe the Service should consider adopting elements of the U.S. Department of State’s model for certifying original documentation to support passport applications for use with ITIN applications. The U.S. Department of State relies on other federal, state, and local government agencies, such as the U.S. Postal Service, local court clerks, and state and local officials, to certify the validity and authenticity of documentation presented as part of a U.S. passport application. While these U.S. governmental entities are validating and authenticating U.S. documents written in
English, this model might be expanded so that the same offices could also certify the validity and authenticity of non-U.S. documentation for ITIN applicants. Moreover, as the National Taxpayer Advocate points out, certain federal, state and local officials already have substantial experience in verifying foreign persons’ identities. The Service should consider how to leverage this experience and expertise and consider the potential for intra-agency cooperation. In this regard, we believe that such cooperation might reduce the Service’s administrative costs, and will improve the integrity of the identity verification process in general and fraud detection in particular.

e. Revise notices issued by the Service's ITIN Unit to increase clarity and transparency

As described above, although ITINs are required by the Service in order for alien individuals to comply with U.S. tax laws, we believe the ITIN application process is complex and can be burdensome. Moreover, in our experience the notices sent to ITIN applicants requesting additional information are often unclear, resulting in increased communication with ITIN Unit employees and occupying time employees might use to process applications. In addition, the lack of clarity could cause applicants who wish to comply with U.S. tax obligations to abandon those efforts or make mistakes. Given the additional burdens being imposed on applicants under the 2013 Rules, we believe it is incumbent on the Service to take steps to clarify its notices.

Increased transparency around the ITIN application process, including a detailed description of the lifecycle of the application and steps the applicant can take to provide a processable application in the first instance, would go a long way to reducing burdens and increasing efficiencies. The instructions to the Form W-7 are complicated, not well organized, and might benefit from pictorial examples of a complete and incomplete applications. If applicants had a better idea of how their ITIN application would be processed by the Service and how to respond to notices requesting more information, the applicant would be in a better position to provide the Service with precisely the information that the Service needs to process the application and issue the ITIN at the outset of the application process.

38 We note that the Internal Revenue Manual contains little information about how an ITIN application is processed, which might hinder practitioners, Low Income Taxpayer Clinics, and VITA centers from advising individuals on how to effectively submit an application.