



## **What is an ITIN?**

An Individual Taxpayer Identification Number (ITIN) is a nine-digit tax identification number issued by the Internal Revenue Service (IRS). According to the IRS, it is issued "if you need a U.S. taxpayer identification number for federal tax purposes, but you aren't eligible for a Social Security number (SSN)."

All ITINs begin with the number 9 and follow the format 9XX-XX-XXXX.

The ITIN program has existed since 1996, prior to implementation of the ITIN program Social Security Numbers were issued.

## **Who needs an ITIN?**

You need an ITIN if you have a U.S. federal tax purpose and you are not eligible for a Social Security Number. Common situations for nonresidents and foreign investors include:

- You own U.S. real estate and rent it out. Rental income is U.S.-sourced income subject to federal tax reporting.
- You are selling U.S. real property. Under the Foreign Investment in Real Property Tax Act (FIRPTA), the buyer is required to withhold a portion of the sale price. You need an ITIN to claim a credit or request reduced withholding.
- You have an ownership interest in a U.S. partnership that files tax returns.
- You receive U.S.-sourced income such as interest, dividends, or pension distributions.
- You are claiming benefits under a U.S. income tax treaty.
- You are a nonresident student, professor, or researcher with a U.S. tax filing requirement.
- You are a dependent or spouse of a U.S. citizen or resident alien being claimed on a tax return.

If you own U.S. property but use it only as a vacation home and do not rent it, you generally do not need an ITIN. Confirm your specific situation with a qualified tax professional.

## **What documents do I need to submit?**

The IRS accepts 13 specific documents. A current, unexpired passport is the only document that can establish both identity and foreign status on its own and is the most frequently used document.

Other accepted documents include, among others: a U.S. visa, USCIS photo identification, a foreign military ID card, a national identification card (must contain name, photograph, address, date of birth, and expiration date), a foreign voter's registration card, and a civil birth certificate.



## **Can I submit a notarized copy of my passport?**

No. The IRS stopped accepting notarized copies. This change took effect in 2012.

The IRS defines the difference clearly:

"A certified document is one that the original issuing agency provides and certifies as an exact copy of the original document and contains an official stamped seal from the Agency. These documents will be accepted. A notarized document is one that the taxpayer provides to a public notary who bears witness to the signing of the official document and affixes a seal assuring that the document is legitimate. These documents will not be accepted for ITIN applications."

A notarized copy is not a certified copy. They are not the same thing.

## **What are my options for using my passport as documentation?**

You have three options:

**Option 1:** Have a CAA make a certified copy. This is the most common path. A CAA is authorized to certify the copy for IRS purposes and will assist you by correctly completing all the required steps.

**Option 2:** Obtain a copy certified directly by the issuing government agency — typically the passport authority of your country, or a U.S. consulate. Note: not all countries offer this service.

**Option 3:** Submit your original passport. The IRS returns original passports. However, the IRS states processing takes approximately 7 weeks under normal conditions (see Question 11). Many applicants are unwilling to be without their passport for that period.

## **What is a Certifying Acceptance Agent (CAA)?**

A CAA is a person or entity that has a written agreement with the IRS authorizing them to assist applicants who are ineligible for an SSN in obtaining an ITIN. A CAA can certify copies of identity documents, which means you do not need to mail originals to the IRS or visit an IRS office. A CAA can also advise you on the application options available to you and current processing timelines.

## **How long does ITIN processing take?**

The IRS states: "Allow 7 weeks for us to notify you about your ITIN application status. It can take 9-11 weeks if it's tax season (January 15 to April 30) or if you applied from overseas."



## **When does an ITIN expire?**

Your ITIN can expire in two ways:

**Non-use:** The IRS states that "any ITIN that's not used on a federal income tax return at least once in three consecutive tax years" will expire.

**Issue date:** All ITINs assigned before January 1, 2013, have already expired based on their middle digits (the fourth and fifth positions). This is a rolling expiration schedule established under federal law changes that took effect in 2017. If you have an ITIN, but have not been using it for Federal reporting purposes you will need to renew it.

## **What happens if my ITIN expires or is expired?**

An expired ITIN does not mean you are in legal trouble. However, it creates practical problems:

- The IRS may delay processing your tax return.
- You may temporarily lose access to certain tax credits, such as the Child Tax Credit or the American Opportunity Tax Credit, until renewal is complete.
- The IRS may treat your return as incomplete.

Check whether your ITIN is active before beginning any real estate transaction. An expired ITIN can delay closings, withholding applications, and refunds.

## **How do I renew an expired ITIN?**

Renewal uses the same Form W-7 used for the initial application. You must include fresh documentation proving your identity and foreign status. The IRS does not reactivate an ITIN based on previously submitted paperwork.

Once renewed, the ITIN remains valid as long as you use it on a U.S. federal tax return at least once every three consecutive years.

## **What does an ITIN NOT do?**

This is one of the most misunderstood points. Having an ITIN does not:

- Give you authorization to work in the United States
- Make you eligible for Social Security or Medicare benefits
- Change your immigration status
- Serve as identification outside the federal tax system

The IRS states directly: an ITIN "is issued for federal tax purposes only."



### **Are there any other uses for an ITIN beyond federal tax filing?**

The ITIN is issued for federal tax purposes only. However, it is sometimes accepted for other purposes outside the tax system, such as opening an interest-bearing bank account. Acceptance varies by institution and state.

The IRS states that an ITIN does not get issued solely for opening bank or investment accounts, e-commerce, or starting a business. A valid tax purpose must exist for the IRS to issue one.

### **What if I become eligible for a Social Security Number?**

If your immigration or visa status changes and you become eligible for an SSN, your ITIN is no longer valid. You must use your SSN for all future tax filings. Steps must be taken to notify the IRS and combine any prior ITIN tax records with your new SSN tax file. Consult a qualified tax professional to handle this process correctly.

### **Can I apply for an ITIN before I file a tax return?**

Generally, no. The IRS requires either an attached federal tax return or submittal with documentation supporting a recognized exception.

Our team can assist with possible exceptions applicable to your situation and the timing of your submission for an ITIN.

### **Do I need an ITIN to buy U.S. real estate?**

Not necessarily at the time of purchase. The need for an ITIN typically arises when you have a tax filing requirement — for example, when you begin earning rental income or when you sell the property.

### **Do I need an ITIN when FIRPTA\* withholding applies when I sell U.S. property?**

If you're paying the full withholding at closing, you don't need a US tax identification number beforehand. However, getting one soon after the sale is smart, as you'll need it to file your tax return.

According to IRS.gov, foreign sellers of U.S. real property interests "need Taxpayer Identification Numbers (TINs) to request reduced tax withholding when disposing of the property interest, and to pay any required withholding."

Without a valid ITIN, you cannot file a return to claim a refund of any excess amount withheld.

Both buyers and sellers in nonresident real estate transactions may need valid ITINs depending on the exact fact pattern.

\*FIRPTA is the Foreign Investment in Real Property Tax Act. When a foreign person sells U.S. real property, the buyer is generally required to withhold a portion of the sale price and send it to the IRS. This withholding serves as a prepayment toward any tax owed.



## **I am an undocumented person living in the United States. Should I have an ITIN?**

Yes, an ITIN should be obtained to file the required tax return each year.

Undocumented people that are present in the United States face unique challenges. If a person meets the substantial presence test, regardless of their immigration status, they are a U.S. tax resident and must comply with all applicable U.S. tax laws.

### **Author's Notes:**

Each situation is unique. This article is not intended to be tax advice.

Activity involving foreign sellers present unique complexities. Each situation involves different fact pattern considerations that affect the strategy that is right for you.

Consulting with tax professionals who regularly handle international property transactions helps ensure you understand your specific obligations and exploring available options that can help you remain in compliance, maximize your profits and proceeds and minimize delays or problems with tax submissions.

I am happy to advise you on the options available in your particular situation.

### **About the author:**

David A Cumberland, CPA CGMA has presented at the local, state, and national level. David has authored articles intended for both the taxpayer and the tax professional. He is vice chair of the FICPA International tax committee and founder of Cumberland CPA & Co. which serves clients worldwide. He has published in the FICPA's Florida CPA Today magazine and produces client-based tax articles in English and Spanish to educate both current and prospective clients and advisors to those clients. He primarily practices in the area of inbound international tax work covering both individual and business tax preparation and consulting. Fluent in Spanish, his emphasis is working with international clients or clients with international considerations. David brings unique value and perspective to advising clients as a CPA as he has more than two decades of operational management experience in business in addition to a technical tax background. Having retired as lead shareholder of the International Tax Department of one of the largest independent certified public accounting firms in Southwest Florida his focus now is on continuing to serve clients he is passionate about in a boutique setting.

For full bio please click here or go to [www.cumberlandcpa.com/about/](http://www.cumberlandcpa.com/about/)

Questions can be sent to: [articles@cumberlandcpa.com](mailto:articles@cumberlandcpa.com)