

Legislative Recommendation #8**Authorize the Use of Volunteer Income Tax Assistance Grant Funding to Assist Taxpayers With Applications for Individual Taxpayer Identification Numbers****SUMMARY**

- *Problem:* The tax code requires millions of individuals who are not eligible for Social Security numbers (SSNs) to file tax returns. To process returns from these individuals, the IRS generally requires them to obtain Individual Taxpayer Identification Numbers (ITINs). However, the process for obtaining ITINs is complex and confusing, especially for non-English speaking individuals who cannot afford professional tax advice. Certifying Acceptance Agents (CAAs) can help.
- *Solution:* Authorize Volunteer Income Tax Assistance (VITA) programs to use federal grant funds to provide CAA services.

PRESENT LAW

IRC § 6109(a)(1) authorizes the Secretary to require taxpayers to include a Taxpayer Identification Number (TIN) on tax returns and other documents.¹ Most taxpayers use SSNs for this purpose, but taxpayers who are not eligible for SSNs generally must request an ITIN from the IRS.²

In 1996, the IRS published guidance allowing CAAs to assist taxpayers with ITIN applications and to authenticate identification documents.³ In 2015, Congress codified the IRS's use of "community-based certified acceptance agents" and directed the IRS to develop strategies to expand the CAA program and encourage participation in it.⁴

IRC § 7526A, enacted as part of the Taxpayer First Act, authorizes the IRS to award federal grants for the development, expansion, or continuation of VITA programs.⁵ VITA programs offer free tax preparation services to eligible taxpayers.⁶ IRS community partner organizations operate VITA sites and staff them with IRS-certified volunteers.⁷ IRC § 7526A(b) enumerates the permissible uses of VITA grant funds, but it does not specifically enumerate costs associated with providing CAA services as a permissible use.

1 See Treas. Reg. § 301.6109-1(b).

2 Treas. Reg. § 301.6109-1(a)(1)(ii)(B). Taxpayers apply for an ITIN using Form W-7, Application for IRS Individual Taxpayer Identification Number (Aug. 2019), <https://www.irs.gov/pub/irs-pdf/fw7.pdf>.

3 See Rev. Proc. 96-52, 1996-2 C.B. 372, *superseded by* Rev. Proc. 2006-10, 2006-1 C.B. 293.

4 Consolidated Appropriations Act, 2016 (commonly referred to as the Protecting Americans from Tax Hikes Act of 2015), Pub. L. No. 114-113, Div. Q, Title IV, § 203, 129 Stat. 2242, 3078 (2015).

5 Pub. L. No. 116-25, § 1401, 133 Stat. 981, 993 (2019).

6 IRS, Free Tax Return Preparation for Qualifying Taxpayers, <https://www.irs.gov/individuals/free-tax-return-preparation-for-qualifying-taxpayers> (last updated Oct. 17, 2024).

7 *Id.*

REASONS FOR CHANGE

The need for ITINs is extensive. During 2022, the IRS received about 3.8 million individual tax returns that included an ITIN.⁸ A significant but unknown number of additional individuals do not file required returns each year because they are unable to navigate the ITIN application process.

To protect against fraud, the IRS understandably applies strict rules to the verification of identification documents supporting ITIN applications.⁹ However, the IRS's requirements make the ITIN application process difficult. First, the ITIN application itself can be challenging to fill out, particularly for non-English speaking individuals. Second, an individual who prepares and submits an ITIN application without assistance must provide original identity documents with the application, which may include passports, birth certificates, driver's licenses, and visas. The IRS will return these documents after verifying them. The IRS website says the agency is currently taking seven to 11 weeks to process ITIN applications.¹⁰ Many people are uncomfortable mailing their identity documents to the IRS, not having the documents while the IRS reviews them, and risking the IRS will lose the documents.

Taxpayers can avoid mailing their identity documents to the IRS if they obtain assistance with their ITIN application at an IRS Taxpayer Assistance Center (TAC) or from a CAA. Both TAC employees and CAAs are authorized to authenticate certain identifying documents.

The CAA program is particularly useful for three reasons. First, the IRS approves ITIN applications prepared with CAA assistance at higher rates than applications prepared with either TAC assistance or sent directly by ITIN applicants.¹¹ CAAs are certified in forensic document training and must undergo regular IRS compliance reviews.¹² In addition, if the IRS needs more information about a CAA-assisted application, the IRS can contact the CAA directly, which can lead to a more efficient resolution of issues.

Second, as Congress emphasized in its 2015 legislation, it is important for the CAA program to be “community-based.” Because many ITIN applicants are immigrants to the United States, CAAs often need to be able to work in a foreign language or understand the unique features of identification documents from a taxpayer's home country or region within that country.¹³

While some CAAs work through nonprofit organizations, many do not, with some CAAs reportedly charging thousands of dollars for ITIN application assistance.¹⁴ VITA programs could provide CAA services to a broader swath of taxpayers at no cost.

8 IRS, Compliance Data Warehouse (CDW), Individual Returns Transaction File Table (IRTF), IRTF_F1040 Table, IRTF_TIN_INFO Table TYs 2019-2022 (through June 27, 2024).

9 For a discussion on ITIN processing, see National Taxpayer Advocate 2024 Annual Report to Congress, <https://www.taxpayeradvocate.irs.gov/AnnualReport2024>.

10 IRS, ITIN Expiration Frequently Asked Questions, <https://www.irs.gov/individuals/itin-expiration-faqs> (last updated Aug. 19, 2024).

11 For a discussion on ITIN processing, see National Taxpayer Advocate 2024 Annual Report to Congress, <https://www.taxpayeradvocate.irs.gov/AnnualReport2024>.

12 See IRS, ITIN Acceptance Agent Program Changes, <https://www.irs.gov/individuals/itin-acceptance-agent-program-changes> (last updated Sept. 6, 2024).

13 The IRS Advisory Council has recommended expansion of CAAs at VITA sites. See IRS, Pub. 5316, Internal Revenue Service Advisory Council Public Report 165-166 (Nov. 2023), <https://www.irs.gov/pub/irs-pdf/p5316.pdf>; see also letter from Coalition for Immigrant Taxpayer Experience, to Danny Werfel, Comm'r, Internal Revenue (Mar. 4, 2024) (on file with TAS) (agreeing with the IRS Advisory Council's recommendations to expand CAA services at VITA sites).

14 Discussion during ITIN unit site visit (Sept. 10, 2024).

Third, VITA sites principally prepare tax returns, and taxpayers generally must submit ITIN applications in conjunction with a tax return. Thus, awarding funding for VITA sites to prepare ITIN applications along with tax returns would provide “one-stop shopping” for these individuals.¹⁵

The IRS office that manages VITA – Stakeholder Partnerships, Education and Communication – focuses on developing and supporting partnerships with local organizations that have pre-established relationships and successful track records assisting people in their communities.¹⁶ Expanding the availability of CAAs at VITA sites would provide ITIN taxpayers with access to trusted partners in their communities who can assist them in preparing both ITIN applications and tax returns, increasing the accuracy of these filings at no cost to taxpayers.

RECOMMENDATION

- Amend IRC § 7526A(b) to add the ordinary and necessary costs of providing CAA services as a permissible use of VITA grant funds.

15 Most ITIN taxpayers would have qualified for return preparation assistance from VITA based on income limits in 2023, yet relatively few such taxpayers used VITA for that purpose. Among ITIN taxpayers who used a tax return preparer, 90.3 percent relied on a non-credentialed preparer. IRS, CDW, IRTF, Individual Master File, Return Review Program Preparer Tax Identification Number Table, TYs 2019-2023, (through Aug. 22, 2024). If these taxpayers could obtain return preparation assistance at the same time they apply for ITINs, they would be more likely to use VITA programs for return preparation, saving themselves tax preparation fees and likely filing more accurate returns. See IRS, Pub. 5162, Compliance Estimates for the EITC Claimed on 2006-2008 Returns 26 (Aug. 2014), <https://www.irs.gov/pub/irs-soi/EITCComplianceStudyTY2006-2008.pdf> (finding EITC overclaims on 51.5 percent of returns prepared by unenrolled tax return preparers as compared with 23 percent of returns prepared at VITA, Tax Counseling for the Elderly, or IRS locations. These percentages represent the average between the IRS lower bound and upper bound estimates.).

16 See Internal Revenue Manual 22.30.1.1.1, Background (Sept. 4, 2020), https://www.irs.gov/irm/part22/irm_22-030-001.