

SUBJECT: Taxpayer Identification Number (TIN) Certifications

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INTRODUCTION

This release applies to all credit unions. It provides guidance on proper use of IRS Form W-9, or substitute forms, to obtain certification of Taxpayer Identification Numbers (TINs).

EXECUTIVE SUMMARY

TINs are used to associate and verify amounts reported to the IRS on 1099 information returns with corresponding amounts on members' tax returns. Therefore, it is important that credit unions furnish correct names, Social Security Numbers (SSNs), Individual Taxpayer Identification Numbers (ITINs) or Employer Identification Numbers (EINs) for taxpayers on the forms or magnetic media sent to the IRS.

U.S. citizens and resident aliens certify their SSN or ITIN on a W-9 form, and are typically subject to 1099 and other information return reporting.

Non-Resident Aliens must certify their SSN or ITIN on a W-8BEN form. The credit union must have this form certified by all non-resident alien members, even existing members.

Non-citizens may be subject to 1042-S reporting requirements. For details, see The League's *ii Release No. 0157*.

The chart attached as Exhibit A summarizes the TIN certification, withholding, and information return rules described in the release.

SSN VS. EIN VS. ITIN

The TIN for an individual is usually the person's SSN, but other numbers are sometimes used.

- SSNs have nine digits separated by two hyphens (000-00-0000). Members can obtain an SSN by filing Form SS-5 with the local Social Security Administration office.
- An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the IRS. It is a nine-digit number that always begins with the number 9. It used to have a range of 70-88 in the fourth and fifth digit. In 2011, the range was extended to include 900-70-0000 through 999-88-9999, 900-90-0000 through 999-92-9999 and 900-94-0000 through 999-99-9999. The IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain a Social Security Number (SSN) from the Social Security Administration (SSA). ITINs are issued regardless of immigration status because both resident and nonresident aliens may have a U.S. filing or reporting requirement under the Internal Revenue Code. The IRS has a "*General ITIN Information*" web page with details.
- For corporations, partnerships, estates, etc., the TIN is an EIN. (In some cases the IRS permits one-owner limited liability companies to use the owner's SSN, rather than an EIN.) EINs have nine digits separated by only one hyphen (00-0000000). Members can call the IRS at 800-TAX-FORM to obtain Form SS-4 to apply for an EIN.

CERTIFICATION REQUIREMENTS

The IRS requires credit unions to use Form W-9, or an acceptable substitute, to request the taxpayer's TIN.

The current W-9 form and instructions may be ordered from the IRS. Substitute TIN certification language is provided on League account agreement cards, with minimal instructions. However, the IRS encourages financial institutions to provide the full instructions, especially if the applicant asks for them. Some financial institutions require certification on the W-9 itself, which is then kept on file.

The credit union may be subject to a penalty for an incorrect or missing TIN on IRS information returns.

Credit unions are required to maintain the confidentiality of information obtained on Form W-9 relating to the taxpayer's identity (including SSNs and ITINs), using such information only to comply with the tax laws.

TIN APPLIED FOR

For interest and dividend payments and certain payments with respect to readily tradable instruments, if the payee returns a properly completed Form W-9 with "Applied For" written in Part I (i.e., an "awaiting-TIN" certificate), the payee must give the credit union a TIN within 60 calendar days to avoid backup withholding. The credit union may use one of the following rules to backup withhold during this 60-day period.

Note: *The 60-day exemption from backup withholding does not apply to any payment other than interest, dividends, and certain payments made with respect to readily tradable instruments. Therefore, any other payment, such as nonemployee compensation, is subject to backup withholding even if the payee has applied for and is awaiting a TIN.*

- **Reserve rule.** If a payee withdraws more than \$500 at one time during the 60-day period, you must backup withhold on any reportable payments made during the period, unless the payee reserves 31% of all reportable payments made to the account during the period.
- **Alternative rule (option 1).** You must backup withhold on any reportable payments if the payee makes a withdrawal from the account after the close of seven business days after you receive the awaiting-TIN certificate. Treat as reportable payments all cash withdrawals in an amount up to the reportable payments made from the day after you receive the awaiting-TIN certificate to the day of withdrawal.

W-8BEN FOR NON-RESIDENT ALIENS

For Non-Resident Aliens, forms other than the W-9 are used for certification. The most common form is the W-8BEN. Please review the listing below. Each form must be used in accordance with the specific IRS instructions for the form.

- A U.S. citizen or other U.S. person, including a resident alien individual...W-9
- A foreign person who is beneficial owner of an amount subject to withholding...W-8BEN
- A foreign partnership (see instructions for exceptions)...W-8ECI or W-8IMY
- A foreign government, international organization, foreign central bank of issue, tax-exempt organization, or private foundation, claiming the applicability of §§ 501(c), 892, 895, or 1443(b)...W-8ECI or W-8EXP
- A person acting as an intermediary...W-8IMY
- A person claiming an exemption from U.S. withholding on income effectively connected with the conduct of a trade or business in the United States...W-8ECI
- A borrower on a student loan...W-9S

Generally, a Form W-8BEN will remain in effect for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect. For example, a Form W-8BEN signed on September 30, 2016, generally remains valid through December 31, 2019. However, under certain conditions a Form W-8 will have an indefinite validity period, unless there has been a change in circumstances.

For more information, see The League's *ii Release No. 0157 – "Serving Non-Citizens."*

W-9S FOR BORROWER ON A STUDENT LOAN

The lender of a student loan must get the borrower's correct social SSN to file Form 1098-E, Student Loan Interest Statement with the IRS and to furnish a statement to the borrower. The return filed contains information about qualified

tuition and related expenses (Form 1098-T, Tuition Payments Statement) and student loan interest. The information about student loan interest will help to determine the borrower's tax deduction for such interest.

The borrower uses Form W-9S to give their correct SSN to the lender and, if applicable, to certify that the proceeds of a loan are being used, or will be used, solely to pay for qualified higher education expenses. The borrower is required to provide the requested information.

TINS ON INFORMATION RETURNS

When filing information returns, show the full name and address in the section provided on the return. If payments have been made to more than one recipient or the account is in more than one name, show the name of the recipient whose TIN is shown on the return, on the first name line. Show the names of any other individual recipients in the area below the first line, if desired.

For sole proprietors, show the individual's name on the first name line. On the second name line, you may enter the business name. You may not enter only the business name. For a sole proprietorship a SSN or an EIN may be used, but the IRS prefers the SSN. For corporations, enter only the corporate name and EIN.

If the member does not provide a TIN, leave the TIN box blank on the Form 1098, 1099, or 5498. See "Backup Withholding" in the IRS Instructions for Form 1099 in ii Release 0130. Only one member's TIN can be entered on the form.

For interest/dividend payments over \$10 made on or after Jan. 1, 2013, credit unions must file IRS Form 1042-S, "Foreign Person's U.S. Source Income Subject to Withholding" (the non-resident alien equivalent to a 1099-INT), each year if the member is a non-resident alien from one of several dozen countries that has an "information exchange agreement" with the U.S. (Previously, credit unions only had to file Form 1042-S for Canadian residents.) For a list of those countries and other details on serving non-citizens, see The League's *ii Release No. 0157*. Given the burden of trying to determine which non-resident aliens are from one of the listed countries, a credit union can instead choose to report interest payment to all non-resident aliens for any year in which a Form 1042 return is required.

NOTICES FROM THE IRS

The IRS will send you a notice if the payee's name and TIN on the information return you filed do not match the IRS's records. You may have to send a "B" notice to the payee to solicit another TIN. See IRS Pubs. 1679 and 1281 for copies of the two types of "B" notices.

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League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that the League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local; or (800) 242-0833. For specific legal advice, please consult your credit union's attorney.

Legal Affairs Department

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EXHIBIT A – SUMMARY OF TIN REQUIREMENTS

	U.S. PERSONS	FOREIGN PERSONS
Definition:	- U.S. Citizens - Resident Aliens (meet "green card" test or "substantial presence" test)	Non-Resident Aliens (fail to meet "green card" test or "substantial presence" test)
Taxpayer Identification Number (TIN):	- SSN (Social Security Number) or - ITIN (Individual Taxpayer Identification Number - applied for with W-7 if ineligible for a SSN)	
Form Used to Request TIN:	W-9 (or substitute TIN certification on account cards)	W-8BEN , with rare exceptions: - Provide W-8ECI if receiving income that is effectively connected with the conduct of a trade or business in the U.S. - Provide W-8ECI or W-8IMY to a foreign partnership (see IRS instructions for exceptions). - Provide W-8ECI or W-8EXP to a foreign government, international organization, foreign central bank of issue, tax-exempt organization, or private foundation. - Provide W-8IMY to a person acting as an intermediary.
Duration of TIN Certification:	Until a change in circumstances makes any information on the form incorrect.	- Generally, a W-8BEN provided without a taxpayer identification number (TIN) will remain in effect for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect. Thus, a Form W-8BEN signed on Sept. 30, 2000, remains valid through Dec. 31, 2003. - A W-8BEN furnished with a TIN will remain in effect until the status of the person whose name is on the form changes, or a change in circumstances makes any information on the form incorrect.
Withholding:	Backup withholding at 31% rate , if proper TIN certification not provided, or if required by IRS notice.	Backup withholding at 31%, if W-8BEN not provided.
IRS Information Return:	1099-INT (generally)	1042-S required: For interest/dividend payments over \$10 made on or after Jan. 1, 2013, credit unions must file IRS Form 1042-S each year if the member is a non-resident alien from one of several dozen countries that has an "information exchange agreement" with the U.S. (as listed in <i>The League's ii Release No. 0157</i>). A credit union can instead choose to report interest payment to all non-resident aliens for any year in which a Form 1042 return is required.