

26 CFR § 301.6109-1 - Identifying numbers.

§ 301.6109-1 Identifying numbers.

(a) In general -

(1) Taxpayer identifying numbers -

(i) **Principal types.** There are several types of [taxpayer](#) identifying numbers that include the following: social [security](#) numbers, Internal Revenue Service (IRS) individual [taxpayer](#) identification numbers, IRS adoption [taxpayer](#) identification numbers, and employer identification numbers. Social [security](#) numbers take the form 000-00-0000. IRS individual [taxpayer](#) identification numbers and IRS adoption [taxpayer](#) identification numbers also take the form 000-00-0000 but include a specific number or numbers designated by the IRS. Employer identification numbers take the form 00-0000000.

(ii) **Uses.** Social [security](#) numbers, IRS individual [taxpayer](#) identification numbers, and IRS adoption [taxpayer](#) identification numbers are used to identify individual persons. Employer identification numbers are used to identify employers. For the definition of social [security](#) number and employer identification number, see [§§ 301.7701-11](#) and [301.7701-12](#), respectively. For the definition of IRS individual [taxpayer](#) identification number, see [paragraph \(d\)\(3\)](#) of this section. For the definition of IRS adoption [taxpayer](#) identification number, see [§ 301.6109-3\(a\)](#). Except as otherwise provided in applicable regulations under this chapter or on a return, statement, or other document, and related instructions, [taxpayer](#) identifying numbers must be used as follows:

(A) Except as otherwise provided in [paragraph \(a\)\(1\)\(ii\)\(B\)](#) and (D) of this section, and [§ 301.6109-3](#), an individual required to furnish a [taxpayer](#) identifying number must use a social [security](#) number.

(B) Except as otherwise provided in [paragraph \(a\)\(1\)\(ii\)\(D\)](#) of this section and [§ 301.6109-3](#), an individual required to furnish a [taxpayer](#) identifying number but who is not eligible to obtain a social [security](#) number must use an IRS individual [taxpayer](#) identification number.

(C) Any [person](#) other than an individual (such as corporations, partnerships, nonprofit associations, trusts, estates, and similar nonindividual persons) that is required to furnish a [taxpayer](#) identifying number must use an employer identification number.

(D) An individual, whether U.S. or foreign, who is an employer or who is engaged in a trade or business as a sole proprietor should use an employer identification number

as required by returns, statements, or other documents and their related instructions.

(2) A trust that is treated as owned by one or more persons pursuant to sections 671 through 678 -

(i) Obtaining a taxpayer identification number -

(A) General rule. Unless the exception in [paragraph \(a\)\(2\)\(i\)\(B\)](#) of this section applies, a trust that is treated as owned by one or more [persons](#) under sections 671 through 678 must obtain a [taxpayer](#) identification number as provided in [paragraph \(d\)\(2\)](#) of this section.

(B) Exception for a trust all of which is treated as owned by one grantor or one other person and that reports under [§ 1.671-4\(b\)\(2\)\(i\)\(A\)](#) of this chapter. A trust that is treated as owned by one grantor or one other [person](#) under sections 671 through 678 need not obtain a [taxpayer](#) identification number, provided the trust reports pursuant to [§ 1.671-4\(b\)\(2\)\(i\)\(A\)](#) of this chapter. The trustee must obtain a [taxpayer](#) identification number as provided in [paragraph \(d\)\(2\)](#) of this section for the first [taxable year](#) that the trust is no longer owned by one grantor or one other [person](#) or for the first [taxable year](#) that the trust does not report pursuant to [§ 1.671-4\(b\)\(2\)\(i\)\(A\)](#) of this chapter.

(ii) Obligations of persons who make payments to certain trusts. Any [payor](#) that is required to file an information return with respect to [payments](#) of income or proceeds to a trust must show the name and [taxpayer](#) identification number that the trustee has furnished to the [payor](#) on the return. Regardless of whether the trustee furnishes to the [payor](#) the name and [taxpayer](#) identification number of the grantor or other [person](#) treated as an [owner](#) of the trust, or the name and [taxpayer](#) identification number of the trust, the [payor](#) must furnish a statement to recipients to the trustee of the trust, rather than to the grantor or other [person](#) treated as the [owner](#) of the trust. Under these circumstances, the [payor](#) satisfies the obligation to show the name and [taxpayer](#) identification number of the [payee](#) on the information return and to furnish a statement to recipients to the [person](#) whose [taxpayer](#) identification number is required to be shown on the form.

(3) Obtaining a taxpayer identification number for a trust, or portion of a trust, following the death of the individual treated as the owner -

(i) In general -

(A) A trust all of which was treated as owned by a decedent. In general, a trust all of which is treated as owned by a decedent under subpart E (section 671 and following), part I, subchapter J, chapter 1 of the [Internal Revenue Code](#) as of the date of the decedent's death must obtain a new [taxpayer](#) identification number

following the death of the decedent if the trust will continue after the death of the decedent.

(B) Taxpayer identification number of trust with multiple owners. With respect to a portion of a trust treated as owned under subpart E (section 671 and following), part I, subchapter J, chapter 1 (subpart E) of the [Internal Revenue Code](#) by a decedent as of the date of the decedent's death, if, following the death of the decedent, the portion treated as owned by the decedent remains part of the original trust and the other portion (or portions) of the trust continues to be treated as owned under subpart E by a grantor(s) or other person(s), the trust reports under the [taxpayer](#) identification number assigned to the trust prior to the decedent's death and the portion of the trust treated as owned by the decedent prior to the decedent's death (assuming the decedent's portion of the trust is not treated as terminating upon the decedent's death) continues to report under the [taxpayer](#) identification number used for reporting by the other portion (or portions) of the trust. For [example](#), if a trust, reporting under [§ 1.671-4\(a\)](#) of this chapter, is treated as owned by three [persons](#) and one of them dies, the trust, including the portion of the trust no longer treated as owned by a grantor or other [person](#), continues to report under the [tax](#) identification number assigned to the trust prior to the death of that [person](#). See [§ 1.671-4\(a\)](#) of this chapter regarding rules for filing the Form 1041, "U.S. Income [Tax](#) Return for Estates and Trusts," where only a portion of the trust is treated as owned by one or more [persons](#) under subpart E.

(ii) Furnishing correct taxpayer identification number to payors following the death of the decedent. If the trust continues after the death of the decedent and is required to obtain a new [taxpayer](#) identification number under [paragraph \(a\)\(3\)\(i\)\(A\)](#) of this section, the trustee must furnish [payors](#) with a new Form W-9, "Request for [Taxpayer](#) Identification Number and Certification," or an acceptable substitute Form W-9, containing the new [taxpayer](#) identification number required under [paragraph \(a\)\(3\)\(i\)\(A\)](#) of this section, the name of the trust, and the address of the trustee.

(4) Taxpayer identification number to be used by a trust upon termination of a section 645 election -

(i) If there is an executor. Upon the termination of the section 645 [election](#) period, if there is an executor, the trustee of the former electing trust may need to obtain a [taxpayer](#) identification number. If [§ 1.645-1\(g\)](#) of this chapter regarding the appointment of an executor after a section 645 [election](#) is made applies to the electing trust, the electing trust must obtain a new TIN upon termination of the [election](#) period. See the instructions to the Form 1041 for whether a new [taxpayer](#) identification number is required for other former electing trusts.

(ii) **If there is no executor.** Upon termination of the section 645 [election](#) period, if there is no executor, the trustee of the former electing trust must obtain a new [taxpayer](#) identification number.

(iii) **Requirement to provide taxpayer identification number to payors.** If the trustee is required to obtain a new [taxpayer](#) identification number for a former electing trust pursuant to this paragraph (a)(4), or pursuant to the instructions to the Form 1041, the trustee must furnish all [payors](#) of the trust with a completed Form W-9 or acceptable substitute Form W-9 signed under penalties of perjury by the trustee providing each [payor](#) with the name of the trust, the new [taxpayer](#) identification number, and the address of the trustee.

(5) **Persons treated as payors.** For [purposes](#) of paragraphs (a)(2), (3), and (4) of this section, a payor is a [person](#) described in [§§ 1.671-4\(b\)\(4\)](#) of this chapter.

(6) **Effective date.** Paragraphs (a)(3), (4), and (5) of this section apply to trusts of decedents dying on or after December 24, 2002.

(b) Requirement to furnish one's own number -

(1) **U.S. persons.** Every [U.S. person](#) who makes under this title a return, statement, or other document must furnish its own [taxpayer](#) identifying number as required by the forms and the accompanying instructions. A [U.S. person](#) whose number must be included on a document filed by another [person](#) must give the [taxpayer](#) identifying number so required to the other [person](#) on [request](#). For penalties for failure to supply [taxpayer](#) identifying numbers, see sections 6721 through 6724. For provisions dealing specifically with the duty of employees with respect to their social [security](#) numbers, see [§ 31.6011\(b\)-2](#) (a) and (b) of this chapter (Employment [Tax](#) Regulations). For provisions dealing specifically with the duty of employers with respect to employer identification numbers, see [§ 31.6011\(b\)-1](#) of this chapter (Employment [Tax](#) Regulations).

(2) **Foreign persons.** The provisions of [paragraph \(b\)\(1\)](#) of this section regarding the furnishing of one's own number shall apply to the following [foreign persons](#) -

(i) A [foreign person](#) that has income effectively connected with the conduct of a U.S. trade or business at any time during the [taxable year](#);

(ii) A [foreign person](#) that has a U.S. office or place of business or a U.S. fiscal or paying agent at any time during the [taxable year](#);

(iii) A nonresident alien treated as a resident under section 6013(g) or (h);

(iv) A [foreign person](#) that makes a return of [tax](#) (including income, estate, and gift [tax](#) returns), an amended return, or a refund claim under this title but excluding information returns, statements, or documents;

(v) A [foreign person](#) that makes an [election](#) under [§ 301.7701-3\(c\)](#);

(vi) A [foreign person](#) that furnishes a [withholding certificate](#) described in [§ 1.1441-1\(e\)\(2\)](#) or (3) of this chapter or [§ 1.1441-5\(c\)\(2\)\(iv\)](#) or (3)(iii) of this chapter to the extent required under [§ 1.1441-1\(e\)\(4\)\(vii\)](#) of this chapter;

(vii) A [foreign person](#) whose [taxpayer](#) identifying number is required to be furnished on any return, statement, or other document as required by the income [tax](#) regulations under section 897 or 1445. This paragraph (b)(2)(vii) applies as of November 3, 2003; and

(viii) A [foreign person](#) that furnishes a [withholding certificate](#) described in [§ 1.1446-1\(c\)\(2\)](#) or (3) of this chapter or whose [taxpayer](#) identification number is required to be furnished on any return, statement, or other document as required by the income [tax](#) regulations under section 1446. This paragraph (b)(2)(viii) shall apply to [partnership taxable years](#) beginning after May 18, 2005, or such earlier time as the regulations under [§§ 1.1446-1](#) through 1.1446-5 of this chapter apply by reason of an [election](#) under [§ 1.1446-7](#) of this chapter.

(c) Requirement to furnish another's number. Every [person](#) required under this title to make a return, statement, or other document must furnish such [taxpayer](#) identifying numbers of other [U.S. persons](#) and [foreign persons](#) that are described in paragraph (b)(2)(i), (ii), (iii), (vi), (vii), or (viii) of this section as required by the forms and the accompanying instructions. The [taxpayer](#) identifying number of any [person](#) furnishing a [withholding certificate](#) referred to in paragraph (b)(2)(vi) or (viii) of this section shall also be furnished if it is actually known to the [person](#) making a return, statement, or other document described in this paragraph (c). If the [person](#) making the return, statement, or other document does not know the [taxpayer](#) identifying number of the other [person](#), and such other [person](#) is one that is described in paragraph (b)(2)(i), (ii), (iii), (vi), (vii), or (viii) of this section, such [person](#) must [request](#) the other [person](#)'s number.

The [request](#) should [state](#) that the identifying number is required to be furnished under authority of law. When the [person](#) making the return, statement, or other document does not know the number of the other [person](#), and has complied with the [request](#) provision of this paragraph (c), such [person](#) must sign an affidavit on the transmittal document forwarding such returns, statements, or other documents to the Internal Revenue Service, so stating. A [person](#) required to file a [taxpayer](#) identifying number shall correct any errors in such filing when such [person](#)'s attention has been drawn to them. References in this paragraph (c) to [paragraph \(b\)\(2\)\(viii\)](#) of this section shall apply to [partnership taxable years](#) beginning after May 18, 2005, or such earlier time as the regulations under [§§ 1.1446-1](#) through 1.1446-5 of this chapter apply by reason of an [election](#) under [§ 1.1446-7](#) of this chapter.

(d) Obtaining a taxpayer identifying number -

(1) Social security number. Any individual required to furnish a social [security](#) number pursuant to [paragraph \(b\)](#) of this section shall apply for one, if he has not done so previously, on Form SS-5, which may be obtained from any Social Security Administration or Internal Revenue Service office. He shall make such application far enough in advance of the first required use of such number to permit [issuance](#) of the number in time for compliance with such requirement. The form, together with any supplementary statement, shall be prepared and filed in accordance with the form, instructions, and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. Individuals who are ineligible for or do not wish to participate in the benefits of the social [security](#) program shall nevertheless obtain a social [security](#) number if they are required to furnish such a number pursuant to [paragraph \(b\)](#) of this section.

(2) Employer identification number -

(i) In general. Any [person](#) required to furnish an employer identification number must apply for one, if not done so previously, on Form SS-4. A Form SS-4 may be obtained from any office of the Internal Revenue Service, U.S. consular office abroad, or from an acceptance agent described in [paragraph \(d\)\(3\)\(iv\)](#) of this section. The [person](#) must make such application far enough in advance of the first required use of the employer identification number to permit [issuance](#) of the number in time for compliance with such requirement. The form, together with any supplementary statement, must be prepared and filed in accordance with the form, accompanying instructions, and relevant regulations, and must set forth fully and clearly the [requested](#) data.

(ii) Updating of application information -

(A) Requirements. [Persons](#) issued employer identification numbers in accordance with the application process set forth in [paragraph \(d\)\(2\)\(i\)](#) of this section must provide to the Internal Revenue Service any updated application information in the manner and frequency required by forms, instructions, or other appropriate guidance.

(B) Effective/applicability date. [Paragraph \(d\)\(2\)\(ii\)\(A\)](#) of this section applies to all [persons](#) possessing an employer identification number on or after January 1, 2014.

(iii) Special rule for Section 708(b)(1)(B) terminations. A new [partnership](#) that is formed as a [result](#) of the termination of a [partnership](#) under section 708(b)(1)(B) will retain the employer identification number of the terminated [partnership](#). This [paragraph \(d\)\(2\)\(iii\)](#) applies to terminations of [partnerships](#) under section 708(b)(1)(B) occurring on or after May 9, 1997; however, this [paragraph \(d\)\(2\)\(iii\)](#) may be applied to terminations occurring on or after May 9, 1996, provided that the [partnership](#) and its partners apply this [paragraph \(d\)\(2\)\(iii\)](#) to the termination in a consistent manner.

(3) IRS individual taxpayer identification number -

(i) Definition. The term *IRS individual taxpayer identification number* means a taxpayer identifying number issued to an alien individual by the Internal Revenue Service, upon application, for use in connection with filing requirements under this title. The term *IRS individual taxpayer identification number* does not refer to a social security number or an account number for use in employment for wages. For purposes of this section, the term *alien individual* means an individual who is not a citizen or national of the United States.

(ii) General rule for obtaining number. Any individual who is not eligible to obtain a social security number and is required to furnish a taxpayer identifying number must apply for an IRS individual taxpayer identification number on Form W-7, Application for IRS Individual Taxpayer Identification Number, or such other form as may be prescribed by the Internal Revenue Service. Form W-7 may be obtained from any office of the Internal Revenue Service, U.S. consular office abroad, or any acceptance agent described in paragraph (d)(3)(iv) of this section. The individual shall furnish the information required by the form and accompanying instructions, including the individual's name, address, foreign tax identification number (if any), and specific reason for obtaining an IRS individual taxpayer identification number. The individual must make such application far enough in advance of the first required use of the IRS individual taxpayer identification number to permit issuance of the number in time for compliance with such requirement. The application form, together with any supplementary statement and documentation, must be prepared and filed in accordance with the form, accompanying instructions, and relevant regulations, and must set forth fully and clearly the requested data.

(iii) General rule for assigning number. Under procedures issued by the Internal Revenue Service, an IRS individual taxpayer identification number will be assigned to an individual upon the basis of information reported on Form W-7 (or such other form as may be prescribed by the Internal Revenue Service) and any such accompanying documentation that may be required by the Internal Revenue Service. An applicant for an IRS individual taxpayer identification number must submit such documentary evidence as the Internal Revenue Service may prescribe in order to establish alien status and identity. Examples of acceptable documentary evidence for this purpose may include items such as an original (or a certified copy of the original) passport, driver's license, birth certificate, identity card, or immigration documentation.

(iv) Acceptance agents -

(A) Agreements with acceptance agents. A person described in paragraph (d)(3)(iv)(B) of this section will be accepted by the Internal Revenue Service to act as an acceptance agent for purposes of the regulations under this section upon

entering into an agreement with the Internal Revenue Service, under which the acceptance agent will be authorized to act on behalf of [taxpayers](#) seeking to obtain a [taxpayer](#) identifying number from the Internal Revenue Service. The agreement must contain such terms and conditions as are necessary to insure proper administration of the process by which the Internal Revenue Service issues [taxpayer](#) identifying numbers to foreign persons, including proof of their identity and foreign status. In particular, the agreement may contain -

- (1) Procedures for providing Form SS-4 and Form W-7, or such other necessary form to applicants for obtaining a [taxpayer](#) identifying number;
- (2) Procedures for providing assistance to applicants in completing the application form or completing it for them;
- (3) Procedures for collecting, reviewing, and maintaining, in the normal course of business, a record of the required [documentation](#) for assignment of a [taxpayer](#) identifying number;
- (4) Procedures for submitting the application form and required [documentation](#) to the Internal Revenue Service, or if permitted under the agreement, submitting the application form together with a certification that the acceptance agent has reviewed the required [documentation](#) and that it has no actual knowledge or reason to know that the [documentation](#) is not complete or accurate;
- (5) Procedures for assisting [taxpayers](#) with notification procedures described in [paragraph \(g\)\(2\)](#) of this section in the event of change of foreign status;
- (6) Procedures for making all [documentation](#) or other records furnished by [persons](#) applying for a [taxpayer](#) identifying number promptly available for review by the Internal Revenue Service, upon [request](#); and
- (7) Provisions that the agreement may be terminated in the event of a material failure to comply with the agreement, including failure to exercise due diligence under the agreement.

(B) Persons who may be acceptance agents. An acceptance agent may include any [financial institution](#) as defined in section 265(b)(5) or [§ 1.165-12\(c\)\(1\)\(v\)](#) of this chapter, any college or university that is an educational organization as defined in [§ 1.501\(c\)\(3\)-1\(d\)\(3\)\(i\)](#) of this chapter, any federal agency as defined in section 6402(f) or any other [person](#) or categories of [persons](#) that may be authorized by regulations or Internal Revenue Service procedures. A [person](#) described in this paragraph (d)(3)(iv)(B) that seeks to qualify as an acceptance agent must have an employer identification number for use in any communication with the Internal Revenue Service. In addition, it must establish to the satisfaction of the Internal Revenue Service that it has adequate resources and procedures in place to comply

with the terms of the agreement described in [paragraph \(d\)\(3\)\(iv\)\(A\)](#) of this section.

(4) Coordination of taxpayer identifying numbers -

(i) Social security number. Any individual who is duly assigned a social [security](#) number or who is entitled to a social [security](#) number will not be issued an IRS individual [taxpayer](#) identification number. The individual can use the social [security](#) number for all [tax purposes](#) under this title, even though the individual is, or later becomes, a nonresident alien individual. Further, any individual who has an application pending with the Social Security Administration will be issued an IRS individual [taxpayer](#) identification number only after the Social Security Administration has notified the individual that a social [security](#) number cannot be issued. Any alien individual duly issued an IRS individual [taxpayer](#) identification number who later becomes a U.S. citizen, or an alien lawfully permitted to enter the United [States](#) either for permanent residence or under authority of law permitting U.S. employment, will be required to obtain a social [security](#) number. Any individual who has an IRS individual [taxpayer](#) identification number and a social [security](#) number, due to the circumstances described in the preceding sentence, must notify the Internal Revenue Service of the acquisition of the social [security](#) number and must use the newly-issued social [security](#) number as the [taxpayer](#) identifying number on all future returns, statements, or other documents filed under this title.

(ii) Employer identification number. Any individual with both a social [security](#) number (or an IRS individual [taxpayer](#) identification number) and an employer identification number may use the social [security](#) number (or the IRS individual [taxpayer](#) identification number) for individual [taxes](#), and the employer identification number for business [taxes](#) as required by returns, statements, and other documents and their related instructions. Any alien individual duly assigned an IRS individual [taxpayer](#) identification number who also is required to obtain an employer identification number must furnish the previously-assigned IRS individual [taxpayer](#) identification number to the Internal Revenue Service on Form SS-4 at the time of application for the employer identification number. Similarly, where an alien individual has an employer identification number and is required to obtain an IRS individual [taxpayer](#) identification number, the individual must furnish the previously-assigned employer identification number to the Internal Revenue Service on Form W-7, or such other form as may be prescribed by the Internal Revenue Service, at the time of application for the IRS individual [taxpayer](#) identification number.

(e) Banks, and brokers and dealers in securities. For additional requirements relating to deposits, share accounts, and brokerage accounts, see [31 CFR 103.34](#) and [103.35](#).

(f)**Penalty.** For penalties for failure to supply [taxpayer](#) identifying numbers, see sections 6721 through 6724.

(g)**Special rules for taxpayer identifying numbers issued to [foreign persons](#) -**

(1)**General rule -**

(i)**Social security number.** A social security number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. citizen or resident alien individual. A [person](#) may establish a different status for the number by providing proof of foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. Upon accepting an individual as a nonresident alien individual, the Internal Revenue Service will assign this status to the individual's social [security](#) number.

(ii)**Employer identification number.** An employer identification number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a [U.S. person](#). However, the Internal Revenue Service may establish a separate class of employer identification numbers solely dedicated to [foreign persons](#) which will be identified as such in the records and database of the Internal Revenue Service. A [person](#) may establish a different status for the number either at the time of application or subsequently by providing proof of U.S. or foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. The Internal Revenue Service may require a [person](#) to apply for the type of employer identification number that reflects the status of that [person](#) as a U.S. or [foreign person](#).

(iii)**IRS individual taxpayer identification number.** An IRS individual [taxpayer](#) identification number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a nonresident alien individual. If the Internal Revenue Service determines at the time of application or subsequently, that an individual is not a nonresident alien individual, the Internal Revenue Service may require that the individual apply for a social [security](#) number. If a social [security](#) number is not available, the Internal Revenue Service may accept that the individual use an IRS individual [taxpayer](#) identification number, which the Internal Revenue Service will identify as a number belonging to a U.S. resident alien.