



## New TCC Process Presents Hurdles for Nonresidents

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The IRS recently announced changes to its process for submitting information returns through the Filing Information Returns Electronically (FIRE) system. Specifically, the IRS noted that the application process for Transmitter Control Codes (TCC) will be updated in September to eliminate Form 4419 and Fill-In Form 4419. In place of the forms, users will be required to create accounts through IRS Secure Access Account to obtain a TCC. As discussed below, new users, particularly nonresident filers, should seek to obtain a TCC before the changes go into effect to avoid problematic hurdles unintentionally imposed by the IRS.

As a bit of background, the IRS requires taxpayers that file 250 or more information returns to file electronically through FIRE, including Forms 1097, 1098 series, 1099 series, 3291, 3922, 5498 series, 8027, 8955-SSA, and W-2G. Additionally, the IRS requires financial institutions that are submitting Forms 1042-S, regardless of number, to file electronically through FIRE.

Taxpayers seeking to submit information returns electronically must currently request authorization to file electronically by submitting Fill-In Form 4419 or Form 4419, *Application for Filing Information Returns Electronically (FIRE)*. Upon successful submission, the IRS assigns a TCC to identify the transmitter of all electronic files, which is then used by the taxpayer for all files submitted through FIRE. Beginning in September, the IRS will retire Fill-In Form 4419 and Form 4419, requiring new users to apply for an account through the IRS Secure Access Account. Notably, the IRS is requiring all Responsible Officials (ROs) listed on the information return application for the TCC to authenticate their identity and create a new account through the Secure Access Account process.

The IRS states that the new application process will automate the TCC application for new users, allow users to manage their account status online, and improve the speed of the application process. However, in creating one efficiency, the IRS may have inadvertently created several issues, particularly for nonresident filers. IRS Secure Access requires a number of items that may not be available to all filers. For example, to create an account, taxpayers must submit a Social Security Number (SSN) or Individual Tax Identification Number (ITIN) and provide their U.S. tax filing status and mailing address from their most recently filed tax return. This is problematic for non-U.S. filers that do not have an ITIN or a U.S. tax filing status.

This issue was raised at the recent International Tax Withholding Virtual Conference (hosted by Kaplan Financial Education), discussing IRS enforcement updates. The IRS representative

noted that customers can have companies file on their behalf or purchase software to file. Ignoring the additional costs, this option may not be sufficient in light of security issues posed when dealing with third-party providers in some locations. Despite clarification from the IRS, there are still outstanding questions. For example, it is not clear whether non-U.S. individuals that are not filing U.S. tax returns can obtain an ITIN purely to register with IRS Secure Access, though this raises other timing and administrative issues to consider.

The IRS will need to address other U.S.-centric requirements, such as the list of accounts from which filers must provide a financial account number. Additionally, filers must submit a U.S.-based cellphone in the name of the applicant to receive an activation code. If the applicant does not have a U.S.-based cellphone, they may provide a mailing address. However, the activation code is only good for 30 days, which may be an insufficient amount of time for nonresident filers to receive the code, given current IRS delays seen by non-U.S. persons when correspondence is delivered overseas.

During the conference, the IRS representative indicated that the IRS will take these issues into consideration, but it is not clear that timely answers will be forthcoming. Given the upcoming switch in September, it is highly recommended that any potential information return filers for the 2021 tax year secure a TCC, or revise/update current TCCs, as soon as possible through the historical Form 4419 process. After the forms are retired, it is not clear how quickly the IRS will address these issues, but it appears likely there may be unintended hurdles for nonresident filers.

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