ITINs: Who is Eligible to Apply or Renew?

A client who will file a tax return as the primary taxpayer can apply for and be issued an ITIN provided they meet the application requirements. This ITIN can be renewed as required.

A change in the tax law in 2020 has affected the ability of other individuals to apply for or renew ITINs, specifically:

- **Spouses living outside the US**
- **Dependents, regardless of where they live**

<u>These individuals cannot apply for or renew an existing ITIN unless there is a specific tax benefit on the return they are part of.</u>

Examples of Tax Benefits Which Would Permit the ITIN Application or Renewal to Proceed

Applicant/Renewal for:	Tax Benefit/Credit When Added to Tax Return	Explanation
Spouse living outside the US	**Married Filing Jointly (MFJ)** filing status	MFJ filing status has a higher standard deduction than Married Filing Separately or Head of Household
	American Opportunity Credit or **Lifetime Learning Credit**	Only applicable if the applicant/renewing spouse is eligible for one of these education credits and it favorably impacts the outcome of the tax return
	Advanced Premium Tax Credit reconciliation for ACA health insurance coverage	Tax household size is relevant to Premium Tax Credit Reconciliation. If someone on the return received APTC and must reconcile, it could be beneficial to claim all eligible household members and increase tax household size.

Applicant/Renewal for:	Tax Benefit/Credit When Added to Tax Return	Explanation
Dependent, regardless of where they live	**Head of Household** (HOH) filing status	A dependent (including parents who reside in Mexico) could qualify the taxpayer for HOH filing status, provided the taxpayer meets all other HOH requirements.
	Credit for Other Dependents	If the dependent resides with the taxayer in the US, the taxpayer may qualify for this tax credit. **Caveat**: Because this is a nonrefundable credit, a taxpayer who does not have taxable income before this credit is applied will not realize any benefit from including the dependent on the tax return and the dependent must therefore be excluded from the tax return.
	American Opportunity Credit or **Lifetime Learning Credit**	Only applicable if the applicant/renewing dependent is eligible for one of these education credits and it favorably impacts the outcome of the tax return
	Advanced Premium Tax Credit reconciliation for ACA health insurance coverage	Tax household size is relevant to Premium Tax Credit Reconciliation. If someone on the return received APTC and must reconcile, it could be beneficial to claim all eligible dependents and increase tax household size.

<u>Additional tax benefit for tax years 2014 – 2018</u>:
If someone on the return has an SSN and did not have health insurance for the tax year, claiming all qualifying dependents could increase the tax household size and make the taxpayer eligible for a **Code G** exemption (tax household income under 138% FPL) in order to avoid the Shared Responsibility Payment.

<u>Additional tax benefit for tax years 2017 and prior</u>:
The spousal and dependency exemption. This was ~$4,000 that could be subtracted from taxable income for each person on the return.

An alternate option to filing jointly is to claim the spouse's personal exemption (and the taxpayer file as **Head of Household** or **Married Filing Separately**). An ITIN is required, but the spouse does not sign the tax return.

In order to claim the spouse's personal exemption, the following conditions must be met:

- The spouse had no gross income; **and**
- The spouse will not file a tax return; **and**
- The spouse may not be a dependent of another taxpayer.