

COVID-19 Delays EIN Process for Canadian Applicants

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by Kendall R. Fisher and John D. Hollinrake, Jr.

Current closures at the Internal Revenue Service (“IRS”) have caused significant delays in obtaining an Employer Identification Number (“EIN”) for some U.S. businesses formed by Canadians, including new U.S. subsidiaries formed by Canadian companies. An EIN is a nine-digit number that the IRS assigns to businesses, which is necessary for many essential tasks, including making U.S. federal tax filings, hiring employees, or opening and maintaining a U.S. bank account.

Applicants with a “U.S. Responsible Party” (i.e., a CEO, CFO, or President with a U.S. Social Security Number or Individual Taxpayer Identification Number) are generally able to obtain an EIN through the IRS’ online application portal, which remains open. Most applicants lacking a U.S. Responsible Party must submit their applications to the IRS via telephone, fax, or mail. However, due to the COVID-19 outbreak, the IRS has temporarily closed its EIN call center, fax lines, and mail-processing center. Accordingly, applicants lacking a U.S. Responsible Party may not be able to obtain an EIN until the IRS reopens one of these channels.

As the IRS has not yet indicated when such reopening might occur, applicants lacking a U.S. Responsible Party are left with only one course of action. These applicants can submit a Form SS-4 via certified mail to the IRS for processing when the IRS reopens its mail-processing center. In doing so, such applicant can attest to having “applied for” an EIN and provide the official date of its application (being the date the application was mailed). While an EIN submitted via certified mail will generally be processed in the order received, the actual processing of the application will not begin until the IRS reopens its mail-processing center. In the ordinary course of business, the EIN-by-mail process can take up to one month. However, given the ongoing uncertainty surrounding COVID-19, the actual processing time of EIN applications submitted via certified mail may be far longer.

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