

## Tax Options for Newlyweds

by CPT Yolanda Williams

Did you get married in 2010? If so, congratulations! Now that tax season is here, you are probably wondering what your options are. Here are some tax tips for newlyweds.

The first tax decision you and your new spouse must make is what tax filing status to use. Whatever your marital status was on the last day of the tax year determines what your tax filing options are. If you were married on December 31, 2010, you are treated as if you had been married all year, and you normally have two options: married filing joint or married filing separate. Married filing joint is usually the better option, because you get a higher standard deduction and a personal exemption for your spouse, which lowers your taxable income and tax. One option you no longer have is filing single.

*If you married a foreigner* (a.k.a. “a nonresident alien”), things get a little more complicated when it comes to filing taxes. If you are going to file married filing joint or married filing separate, you are going to need to obtain a tax identification number for your new foreign spouse. Unless your spouse already has a valid Social Security Number (SSN) (e.g., from a prior marriage), you will need to file for an Individual Taxpayer Identification Number (ITIN) for your spouse, for use on tax returns until you move to the States and your spouse gets a job that will qualify him/her for a SSN.

ITINs can be issued to non-U.S. spouses of U.S. citizens and residents, but not to other family members or anyone eligible for a SSN. For instance, a child born to a U.S. citizen in Germany is eligible for a SSN, and is therefore not eligible for an ITIN. Also, non-U.S. step-children are not eligible for ITINs. If, for example, a U.S. citizen marries a German citizen with German children, the children are not eligible for an ITIN and cannot be claimed as dependents on the taxpayer’s tax return (at least until such time as they move to the U.S. and become U.S. resident aliens).

Filing a return with an ITIN affects eligibility for certain tax treatments. For example, taxpayers who file joint returns with a spouse with an ITIN are not eligible for the Earned Income Credit.

If you elect to file jointly with your foreign spouse, you must report that spouse’s income along with yours on your tax return. However, you may be able to take the foreign earned income exclusion (up to \$91,500 can be excluded for 2010) to exclude your foreign spouse’s earned income from being taxed by the U.S., or take the foreign tax credit if your spouse already paid taxes to a foreign government on his/her income (to avoid being double taxed on that income).

**[continued on page 7...]**



### KAISERSLAUTERN LEGAL SERVICES CENTER

**Building 3210  
Kleber Kaserne**

Legal Assistance 483-8848

Tax Assistance 483-7688\*

Claims 483-8414/8862

International Affairs 483-8854

Trial Defense Service 483-8165

**[Civilian: 0631-411-XXXX]**

Administrative Law 484-7450

Criminal Law 484-8311

**[Civilian: 0631-413-XXXX]**

**\* for tax help at Landstuhl, call  
DSN 486-6334 or 06371-86-6334**

### TY 2010 KEY FIGURES:

**Average Exchange Rate:**

**\$1.00 = .755 Euros**

**Mileage Rates:**

Business: **50 cents/mile**

Moving/Medical: **16.5 cents/mile**

Charitable: **14 cents/mile**

**Max Foreign Earned Income  
Exclusion: \$91,500**

**Standard Deductions:**

MFJ/Qual. Widow(er) **\$11,400**

Single/MFS: **\$5,700**

Head of Household: **\$8,400**

**Personal Exemptions: \$3,650**

Frankfurt traffic as it is, and if he takes the shuttle he'll have to waste even more time waiting for it to pick up other travelers. May his commander authorize an NTV? No, unless the additional shuttle time doesn't accommodate his mission that morning (e.g., he is required at a meeting, must go directly to the airport afterward, and doesn't have time to chance a shuttle/cab being late to pick him up) and he can't drive himself because he is required to work during the ride.

***These examples are designed to illustrate the general principles involved. If you have any question about whether your circumstances justify the use of an NTV, do not hesitate to contact your organization's Ethics Counselor.***

## **Tax Options for Newlyweds [continued]**



An ITIN is obtained by filing Form W-7 (Application for an ITIN) with a tax return. Form W-7 requires the applicant to furnish proof of their identity (e.g., the non-U.S. spouse's passport or other non-military identification). Mr. Donald Davis, our Tax Program Coordinator, who works at the Kaiserslautern Tax Assistance Center on Kleber Kaserne, is authorized to act as a Certifying Acceptance Agent to facilitate the processing of Form W-7, and can provide identification certification services. Our tax centers can electronically prepare Form W-7 when they prepare the accompanying tax return. The return must be mailed to the IRS. It normally takes four to six weeks for the ITIN to be issued. The IRS's ITIN Unit will write the ITIN in the blank block on the return where the spouse's SSN would normally go and forward the return to the IRS Service Center for further processing. The ITIN Unit will mail the applicant a letter containing the ITIN, and send Mr. Davis a copy. Be sure to keep the ITIN notification letter for future reference, as the ITIN must be used on every subsequent tax return until the non-U.S. spouse becomes eligible for an SSN.

If you married a foreigner, and desire to file jointly, you need to make an election to treat your nonresident alien spouse as if they were a resident alien for U.S. tax purposes. This can be accomplished by attaching a declaration to your first married filing joint tax return. The declaration should state that one spouse was a non-resident alien and the other spouse a U.S. citizen or resident alien on the last day of the tax year and that you choose to be treated as U.S. residents for the entire tax year. The name, address, and SSN or ITIN (if available) of each spouse should also be included. [See IRS Publication 54, pages 6 & 7, for more guidance on making this election.]

Another filing option is married filing separate. If you married a foreigner, and want to file separately, you'll still need to apply for an ITIN for your spouse [assuming your spouse does not have a valid SSN and won't qualify for one since they are not working in the U.S.].

One other option when married to a nonresident alien is to file head of household. You may only do this if you have other qualifying dependents on the return. German step-children are not considered qualifying dependents. Children who are American, Canadian, or Mexican citizens do qualify, as long as they meet the other dependency tests. Resident alien children may also qualify if they pass the other dependency tests. If you decide to use head of household filing status you will not need an ITIN for your spouse. Keep in mind this filing status can only be used until the kids grow up and can no longer be claimed as dependents, and that at some point in the future you may need to obtain an ITIN for your spouse.

*As you can see, this is a complicated area. We've only scratched the surface in this article. For more information make an appointment to see a Legal Assistance Attorney by calling DSN 483-8848 or Civilian 0631-411-8848, contact one of our two tax assistance centers, or send an e-mail to: [tax@eur.army.mil](mailto:tax@eur.army.mil)*

***Tune in for our next AFN Radio Open-Line tax call-in show on Wednesday, March 30th, at 1000 hours, at 1107 on your AM dial!***