7 FAM 880
FEDERAL AND STATE AGENCY DOCUMENTS

(CT:CON-297; 04-24-2009)
(Office of Origin: CA/OCS/PRI)

7 FAM 881 INTRODUCTION

(CT:CON-168; 05-22-2007)

a. Certain federal and state agencies require consular notarization or authentication of applications and supporting affidavits and other instruments executed in foreign countries. Tariff items 45(a) and 45 (b) of the Schedule of Fees for Consular Services, codified at 22 CFR 22.1 provide that consular notarization of a document presented by a claimant, beneficiary or witness in connection with obtaining a federal or state benefit are no fee services. Consular notarial or authentication services in connection with documents to be presented to a federal or state agency in which the underlying document does not involve application for a benefit do incur a consular fee. (See also 7 FAM 500.)

b. If a Foreign Service post considers that it would be desirable to authorize Foreign Service National (FSN) employees to perform certain notarial functions for another federal agency (for example, notarials executed in connection with documents to be used by the Social Security Administration (SSA), the Veterans Administration (VA), or the Bureau of Citizenship and Immigration Services (BCIS) of the U.S. Department of Homeland Security), post should forward a detailed proposal to CA/OCS/PRI (ASKPRI@state.gov) for submission to the appropriate agency. The agency will determine whether to delegate the function. If it is delegated, the FSN to whom the function is assigned will be given an appropriate title, to be determined by the agency.

7 FAM 882 APPLICATIONS FOR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBERS (ITIN)

(CT:CON-297; 04-24-2009)

a. International Taxpayer Identification Numbers (ITIN) are available through use of Internal Revenue Service (IRS) Form W-7 Application for Individual Taxpayer Identification Number. (See 7 FAM *529.3*.) The ITIN is a unique and permanent taxpayer identification number, similar to a social security number, issued to a resident or non-resident alien who has a U.S. tax filing requirement, but who cannot obtain a social security number. The ITIN, a nine digit number beginning with the number 9, is for tax use only and should be entered whenever an SSN is required on a tax return. It does not entitle an individual to social security benefits or change one's employment or immigration status under U.S. law.

IRS Internet Home Page

International Taxpayer Obtaining an ITIN From Abroad (Overseas Applicants)

Individual Taxpayer Identification Numbers (general)

Understanding Your ITIN

ITIN Acceptance Agent Program

Contact IRS Offices Internationally (Berlin, London, Paris)

b. An applicant living abroad must submit the IRS Form W-7 to the IRS Service Center in Philadelphia, the IRS office (if any) at post, or a private IRS designated acceptance agent overseas. (See 7 FAM 882.3.)

7 FAM 882.2 Notarization Requirement/Apostille Alternative

(CT:CON-168; 05-22-2007)

a. Notarization Requirement: When submitting IRS Form W-7 Application for Individual Taxpayer Identification Number, an applicant generally must submit certified copies identity documents, such as a passport, national identity card, or birth certificate. IRS generally does not/not accept documents certified by foreign notaries. Applicants for an ITIN may request that a notarizing officer authenticate their documents or certify their documents as true copies, as appropriate.

b. Aliens who live abroad and who file Form W-7 with the IRS Service Center in Philadelphia to apply for an ITIN, however, may attach certified true copies of their identity documents executed before a foreign notary public accompanied by an apostille issued by a designated competent authority of a foreign country party to the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents. (See 7 FAM

870.)

See:
Hague Apostille Status Page (Look at EIF – Entry Into Force Column)

c. See 7 FAM 882.3 for the alternative to consular notarial services for ITINS – use of the IRS Acceptance Agent Program Abroad.

d. Questionable ITIN Applications: Persons who may have a legitimate need for an ITIN include a dependent or spouse of a U.S. citizen/resident alien or a dependent or spouse of a non-resident alien visa holder. The IRS has the responsibility to make the legal determination as to who is a "dependent." IRS advises that consular officers should not refuse to notarize ITIN related documents for dependents or spouses, but should include the "waiver of responsibility" statement (see 7 FAM 834 d) with specific language regarding the nature of the concern (e.g., because affiant's spouse or parent is not a U.S. citizen or permanent resident) if you have reason to believe statements are not true, and notify IRS about the concerns with the application.

7 FAM 882.3 IRS Overseas Assistance for ITINS and Alternative to Consular Service – The IRS Acceptance Agent Program Abroad

(CT:CON-110; 09-13-2005)

a. The IRS has permanent staff who can assist with IRS Form W-7, at the following U.S. embassies overseas: Berlin, London, and Paris.

b. In addition, there are public accounting firms overseas in certain countries, which are acceptance agents for ITIN numbers. You will find a list of countries with designated agents and the names and addresses at the IRS Acceptance Agent Program page. In these countries, you may direct inquirers to these agents rather than providing notarial services related to ITINs at post.

7 FAM 882.4 ITINS and Consular Fees

(CT:CON-110; 09-13-2005)

The fee waivers in tariff items 45(a) and (b) of 22 CFR 22.1 are not applicable to filing tax returns or applying for an ITIN because the ITIN application not a document presented by a claimant, beneficiary or witness in connection with obtaining a federal or state benefit. All posts must charge

the appropriate notarial fee when performing notarial services in connection with Form W-7 ITIN applications. Generally, the notarial services involve authenticating copies of an individual's identity documents or certifying that a document is a true copy.

7 FAM 882.5 Questions About ITINS

(CT:CON-110; 09-13-2005)

Questions: Applicants should address all inquiries on ITIN's to:

Internal Revenue Service
PSC ITIN UNIT
P.O. Box 447
Bensalem, PA. 19020

7 FAM 883 PATENTS AND PATENT APPLICATIONS

7 FAM 883.1 Patent Law Information

(CT:CON-110; 09-13-2005)

Article I, section 8 of the United States Constitution gives Congress the power to enact laws relating to patents, in Article I, section 8, which reads "Congress shall have power . . . to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." The patent law adopted by Congress established the United States Patent and Trademark Office (USPTO) to administer the law relating to the granting of patents and contains various other provisions relating to patents.

7 FAM 883.2 Foreign Applicants for U.S. Patents

(CT:CON-110; 09-13-2005)

a. The patent laws of the United States permit any inventor, regardless of his/her citizenship, to apply for a U.S. patent. There are, however, a number of rules of special interest to applicants located in foreign countries.

b. The application for a U.S. patent must be made by the inventor and the inventor must sign the oath or declaration (with certain exceptions),

differing from the law in many countries where the signature of the inventor and an oath of inventorship are not necessary. If the inventor is dead, the application may be made by his/her executor or administrator, or equivalent, and in the case of mental disability it may be made by his/her legal representative (guardian).

c. No U.S. patent can be obtained if the inventor or his/her legal representatives filed an application to patent the invention in another country more than 12 months (six months in the case of a design patent) before the date of application in the United States. (See 35 U.S.C. 172.)

d. An application for a patent filed in the United States by any person who filed an application for a patent for the same invention in a foreign country which affords similar privileges to citizens of the United States has the same force and effect for the purpose of overcoming intervening acts of others as if filed in the United States on the date on which the application for a patent for the same invention was first filed in such foreign country. The inventor must file the application in the United States within 12 months (six months in the case of a design patent) from the earliest date on which any such foreign application was filed and must claim priority under 35 U.S.C. 119(b) to the foreign application. A copy of the foreign application certified by the patent office of the country in which it was filed is required to secure this right of priority.

e. If the applicant or his/her legal representatives or assigns has filed an application for a patent in any foreign country prior to his/her application in the United States, in order to claim priority under 35 U.S.C. 119(b) to the foreign application, the applicant must, in the oath or declaration accompanying the application, state the country in which the earliest such application was filed and the date of filing the application. If foreign priority is claimed, any foreign application having a filing date before that of the application on which priority is claimed must also be identified in the oath or declaration. Where no claim for foreign priority under 35 U.S.C. 119(b) is made in the U.S. application, the applicant should identify in the oath or declaration those foreign applications disclosing similar inventions filed more than a year before the filing in the United States.

f. Administration of an Oath Regarding Execution of Patent Application before a Consular Officer: An oath or alternatively a declaration must be made with respect to every application. (See 35 U.S.C. 115 Oath of Applicant.)

g. When the applicant is in a foreign country the oath or affirmation may be before any diplomatic or consular officer of the United States, or before any officer having an official seal and authorized to administer oaths in

the foreign country, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States. The oath is attested in all cases by the proper official seal of the officer before whom the oath is made. (See 37 CFR 1.66 Officers Authorized To Administer Oaths.)

h. The U.S. Patent and Trademark Office (USPTO) advises that when the oath is taken before an officer in a foreign country, all the application papers (except the drawing) must be attached together, a ribbon must be passed one or more times through all the sheets of the application, and the ends of the ribbons must be brought together under the seal (wafer) before the latter is affixed and impressed, or each sheet must be impressed with the official seal of the officer before whom the oath was taken.

i. If the application is filed by the legal representative (executor, administrator, etc.) of a deceased inventor, the legal representative must make the oath or declaration.

j. A declaration merely requires the use of a specific averment found in 37 CFR 1.68. When a declaration is used, the ribboning procedure is not necessary, nor is it necessary to appear before an official in connection with the making of a declaration.

k. A foreign applicant may be represented by any patent attorney or agent who is registered to practice before the United States Patent and Trademark Office.

7 FAM 883.3 Patent Application Authentication Certificate

(CT:CON-110; 09-13-2005)

When the affidavit required for a patent application has been sworn to or affirmed before a local foreign official other than a consular officer, a consular officer must authenticate the authority of the official administering the oath or affirmation, or a competent foreign authority must affix an apostille certificate regarding the authority of the official administering the oath or affirmation. (See 7 FAM 870.) All papers that will become part of a patent application filed in the U.S. Patent Office must be legibly written or printed in permanent ink (37 CFR 1.52).

7 FAM 883.4 Patent Application by Legal Representatives

(CT:CON-110; 09-13-2005)

Legal representatives of inventors who are deceased or under who lack capacity may apply for patents by complying with the requirements on the same terms and conditions applicable to the inventor (35 U.S.C. 117). The Patent Office requires proof of the legal representative's power or authority. Such proof should be authenticated by the consular officer.

7 FAM 883.5 Assignment of Patent

(CT:CON-168; 05-22-2007)

An application for a patent or any interest therein, may be assigned in law by an instrument in writing. In a foreign country, any such assignment, grant, or conveyance of any patent application or any patent may be acknowledged before a consular officer or an official whose authority is authenticated by a consular officer (35 U.S.C. 261).

7 FAM 884 TRADEMARK REGISTRATIONS

(CT:CON-110; 09-13-2005)

As in the case of patents, a person who applies for registration of a trademark may submit an un-sworn declaration in lieu of an oath (37 CFR 2.20). The same "penalty" statement is required. Alternatively, an applicant may submit an oath before a consular officer or an official whose authority is authenticated by a consular officer (15 U.S.C. 1061).

7 FAM 885 COPYRIGHTS

(CT:CON-110; 09-13-2005)

a. The United States has copyright relations with most countries throughout the world, and as a result of these agreements, we honor each other's citizens' copyrights. However, the United States does not have such copyright relationships with every country. For a listing of countries and the nature of their copyright relations with the United States, see Circular 38a, International Copyright Relations of the United States.

b. Consular officers should not attempt to respond to questions regarding copyrights. Direct inquirers to Library of Congress, United States Copyright Office, 101 Independence Avenue, S.E., Washington, DC 20559-6000. The Public Information Office telephone number is (202)

707-3000. To order application forms, the number is (202) 707-9100. TTY is (202) 707-6737.

c. Consular officers should provide notarial and authentication services for copyrights as provided for by 17 U.S.C. 1312 Oaths and acknowledgements and 37 CFR 201.4 (Recordation of transfers and certain other documents).

7 FAM 886 U.S. SAVINGS BOND CERTIFICATES

(CT:CON-297; 04-24-2009)

22 CFR 22.1 provides that notarial services with respect to endorsing U.S. Savings Bond Certificates is a no fee service. (See 7 FAM *528* U.S. Savings Bonds And Treasury Notes.)

7 FAM 887 NOTARIZATION COPIES OF PASSPORTS, NATURALIZATION CERTIFICATES AND CERTIFICATES OF CITIZENSHIP

(CT:CON-168; 05-22-2007)

a. U.S. Passports: There is no prohibition against photocopying or certification of true copies of the identity page of a U.S. passport.

(1) Persons requesting a copy of a passport record should be directed to the Passport Services internet feature "Obtain Copies of Passport Records".

(2) For additional information refer to.7 FAM Appendix 1300 J Release of Passport Records, 7 FAM Appendix 1300 I Verification of Passport Records, and 7 FAM 060 Privacy Act and American Citizen Services

b. Naturalization Certificates and Certificates of Citizenship and Other Documents Issued by the U.S. Citizenship and Immigration Service (USCIS): 18 U.S.C. 1426 prohibits making prints or photographs of a certificate of arrival, declaration of intention to become a citizen, or certificate of naturalization or citizenship.

(1) U.S. consular officers may not certify as a "true copy"; a U.S.

Naturalization Certificate or Certificate of Citizenship for the bearer or any private person.

(2) USCIS advises that this prohibition does not apply to copies made for use in Department of State records or Department of Homeland Security FOIA/PA requests.

(3) Obtaining Replacement Certificate of Citizenship or Certificate of Naturalization: 8 CFR 343a governs application for replacement of lost, mutilated or destroyed Certificates of Citizenship or Certificates of Naturalization.

(4) Obtaining Certified True Copies of Certificates of Naturalization or Certificates of Citizenship: USCIS has a procedure for its issuance of certified true copies of these records. If the bearer has the original document to be certified, he or she must make an appointment with the local USCIS office by using the InfoPass Appointment Scheduler on the USCIS website. When the bearer goes to the appointment, he or she must be sure to bring his or her original naturalization certificate and a copy of it. The bearer should also bring another form of photo identification, such as a driver's license or passport. A USCIS officer will review the documents and may certify the copy, if the officer can confirm your identity and status as a naturalized citizen. USCIS will provide Certified True Copies and return these along with the supplied documentation to the requester.

See: ...

InfoPass Appointment Scheduler

InfoPass A Customer Guide

How Do I Obtain Certified True Copies of a Certificate of Naturalization?

How Do I Replace My Certificate of Citizenship or Naturalization?

How Do I Replace My Permanent Resident Card (Green Card)?

Replacement Form I-551 Permanent Resident Card - (See 9 FAM PART IV APPENDIX N, 300.)

(5) Authentication of the Certified True Copy For Use Abroad: The bearer should contact the U.S. Department of State Authentications Office to have the seal of USCIS on the certified true copy authenticated with the U.S. Department of State seal or with an apostille for use in a country party to the Hague Convention

Abolishing the Requirement for Legalization of Foreign Public Documents. (See 7 FAM 876).

(6) Overseas Applicants: USCIS advises that it is not possible to request a replacement or certified true copy of a Certificate of Citizenship or Certificate of Naturalization overseas through the InfoPass system. U.S. citizen's overseas seeking assistance should contact the USCIS field office nearest their place of permanent residence in the United States.

7 FAM 888 NOTARIZATION OF DOCUMENTS REQUIRED BY U.S. DEPARTMENT OF THE TREASURY OR FINANCIAL INSTITUTIONS

(CT:CON-168; 05-22-2007)

a. Consular officers are not authorized to execute Medallion Signature Guarantees. 7 FAM 892 provides further guidance. (See Securities and Exchange Commission (SEC) Signature Guarantees Preventing the Unauthorized Transfer of Securities).

b. The U.S. Department of the Treasury advises that consular officers are authorized to notarize certain documents related to financial transactions. Pre-printed forms banks or the Department of Treasury should state that it is a notarial/certification service, not a Medallion Signature Guarantee. These are certification requests, not guarantees. (See 31 CFR 363.43).

7 FAM 889 UNASSIGNED