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Authors



Brenda A. Eckert
(860) 251-5712
beckert@goodwin.com



Sonia M. Pedraza
(860) 251-5060
spedraza@goodwin.com



Harrison M. Smith
(860) 251-5836
hsmith@goodwin.com

www.shipmangoodwin.com

New Changes for New Hires: The New I-9 Form

With the arrival of the new I-9 Employment Eligibility Verification Form (I-9 form) come new changes which clarify form completion responsibilities for employers. Beginning May 7, 2013, all employers must use the **new I-9 form** (<http://www.uscis.gov/files/form/i-9.pdf>) published by the U.S. Citizenship and Immigration Services (USCIS) to verify the identification and employment authorization of each newly hired employee.¹ While the purpose of the new form remains the same, the new form has significant changes designed to minimize errors in form completion.

Section 1, now entitled “Employee Information and Attestation”:

- Requires the employee to complete and sign this section before work commences, but not before the employee accepts the job offer
- Contains several new data fields, including the optional fields for phone number and email address, but allows the employee to enter “N/A” if he/she chooses not to provide this information
- Includes data fields for an employee’s foreign passport information (if applicable)
- Replaces the “maiden name” data field on prior versions of the form with “Other Names Used”.

Employees may have assistance in completing the form, but *employers are ultimately responsible for the accurate completion of Section 1.*

Section 2, where employers verify that they have examined employee identity and employment authorization documents:

- Includes an expanded parenthetical explanation of the employer’s responsibilities in completing the I-9 form
- Provides additional fields to record up to three List A documents, if applicable
- Includes specific designations of the four data fields in Lists B and C
- Requires that the employer completing the form or the employer’s authorized representative identify his/her title in the certification block of this section
- Provides a separate line for the employer to record the first day of employment for the new employee and instructions to ensure that the employer completes Section 2 within three days of hiring the employee (an existing requirement which is now stated on the form).

¹ The new Handbook for Employers (M-274) (<http://www.uscis.gov/files/form/m-274.pdf>) and a Spanish version of the form (http://www.uscis.gov/files/form/i-9_spanish.pdf) also are available for download at the USCIS website. However, with the exception of Puerto Rico, the Spanish version may only be used as a translation guide for Spanish-speaking employees.



Another important change to the I-9 form is the revised list of acceptable employment authorization documents. There has been no change to the list of acceptable identification documents. Employers should be aware that any document that does not appear to be authentic, is altered, or expired is unacceptable.

Section 3, which is now called “Reverification and Rehires”:

- Adds a data field for printing the name of the employer, in addition to the employer signing the form
- Explains that the employer must provide a record of List A or C documentation if a previous grant of employment authorization has expired.

While it is important that employers know about the changes, it is equally important for employers to understand the consequences for noncompliance. A failure to use the new form or incorrect completion of the form may result in significant penalties of up to \$1,100 per form, as enforced by Immigration and Customs Enforcement (ICE) and the Department of Justice (DOJ). Employers also may be subject to criminal prosecution and fines for harboring or knowingly hiring unauthorized aliens, over-documentation, or discriminatory use of the form.

Both the ICE and DOJ have drastically increased their enforcement efforts during the Obama administration. Audits are on the rise, and the recent increase in personnel at these federal agencies’ local offices may be an indication of further increase in investigation activities—and the agencies are not just targeting the agricultural and construction industries. For example, in fiscal year 2012, several companies in Connecticut and the northeast were levied heavy fines for violations. Nationally, administrative fines increased by approximately \$2 million since 2011.

We strongly recommend that employers take notice of all new changes and carefully complete the I-9 forms. When filling out the form, make sure that the revised instructions are accessible, as they provide practical guidance on form completion, including instructions for rehires and reverifications. The new USCIS Handbook for Employers, the M-274, also is a useful tool that contains instructions on the I-9 form and examples of correct form completion. All employers should download and read the M-274. Employers also are encouraged to update their compliance strategy, including training staff to properly complete the I-9 form, conducting periodic internal audits, and implementing a notification system to remind employers when documents need to be reverified.

Questions or Assistance?

If you have questions about this alert, please contact Brenda A. Eckert at (860) 251-5712 or beckert@goodwin.com, Sonia M. Pedraza at (860) 251-5060 or spedraza@goodwin.com, or Harrison M. Smith at (860) 251-5836 or hsmith@goodwin.com.

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One Constitution Plaza
Hartford, CT 06103-1919
860-251-5000

300 Atlantic Street
Stamford, CT 06901-3522
203-324-8100

1133 Connecticut Avenue NW
Washington, DC 20036-4305
202-469-7750

289 Greenwich Avenue
Greenwich, CT 06830-6595
203-869-5600

12 Porter Street
Lakeville, CT 06039-1809
860-435-2539

www.shipmangoodwin.com



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