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Revised Form I-9 Required in January 2017

Services

Business Immigration and Global Mobility

Labor & Employment

Professional

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On November 14, 2016, U.S. Citizenship and Immigration Services (USCIS) published a revised Form I-9, Employment Eligibility Verification. Changes to the form are intended to help employers reduce technical errors and facilitate electronic completion. Employers must begin using the new Form I-9 by January 22, 2017, and should continue to follow existing storage and retention rules for all previously completed Forms I-9.

New Form Is 'Smarter'

Intended to be a "smart" form, the new Form I-9 contains embedded instructions and prompts when completed electronically. Though the new form is electronically fillable, it does not permit electronic signatures, is not connected to the online E-Verify system and does not meet the requirements of an "electronic I-9 system." Therefore, the forms will still have to be printed, signed by hand and maintained as before. The new form may still be printed and completed in full by hand.

Major changes include:

Individuals who have limited work authorization need provide only their A number or I-94 admission number or foreign passport number in Section 1.

Employers are required to complete a new "Citizenship/Immigration Status" field at the top of Section 2, where employers will record the number (1-4) checked by the employee in Section 1.

Employees need provide only "other last names used" to avoid possible discrimination issues and protect the privacy of transgender employees.

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Employers must indicate whether a preparer or translator was used. The form allows for the entry of multiple preparers and translators.

Employers now have a designated field to enter supplemental information. They were previously required to add that information in the margins of the form.

An automatically generated quick response (QR) code will be used to streamline enforcement audits.

USCIS also has amended regulations to enable workers who are beneficiaries of approved employment-based immigrant visa petitions and are waiting to become lawful permanent residents to extend their employment authorization documents (EADs) automatically if they have filed to renew their EAD before their current EAD expires. For I-9 purposes, these individuals may now present their expired EAD card with the receipt notice for the renewal EAD card as a List A document. The rule will be effective January 17, 2017.

USCIS's Handbook for Employers has not yet been revised to include information about the new form and other regulatory changes that affect how Form I-9 should be completed. However, the Form I-9 instructions have been published separately, are easily accessible and offer substantial assistance in completing the new version of the form.

What This Means to You

All U.S. employers should review their I-9 policies and procedures to ensure they are up to date with the new changes to the form. Human resources professionals and others responsible for the completion of Form I-9 should become familiar with the changes immediately to ensure timely transition to exclusive use of the revised form. Compliance by January 22, 2017, will be critical as Form I-9 enforcement audits are expected to increase.

Contact Us

For more information about the Form I-9 revisions, please contact Husch Blackwell Immigration attorneys Toni Blackwood, Tiffany Hutchens or Kelli Stout.

Husch Blackwell will host a short webinar on how to complete the new form on January 5, 2017. Watch your email for registration details.

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