

## Employers must begin using new Form I-9

As most employers know, federal and state law mandates that employers verify that new employees have the legal right to work in the United States, using the federal Form I-9. Employers must begin using a new version of the Form I-9 effective January 22.

**Completing the Form I-9 for a newly hired employee involves 3 steps.** First, the employee must correctly fill out and sign Section 1 of the form. Second, the employer must review and verify the employee's documents (not copies) to establish the employee's identity and work authorization. Third, the employer must use the information on the documents to correctly and completely fill in and sign Section 2 of the form. The employer must complete the entire process within three business days of the new employee's start of employment.

**Monetary penalties for errors.** An employer's failure to fill out an Form I-9 at all for any particular employee obviously will subject the employer to civil penalties. But even employers who do complete Form I-9s on all new hires still can be liable for monetary penalties for errors on the forms. Moreover, multiple errors on one form can result in multiple violations. For example, a form that is missing an employee's signature, that contains an inaccurate document number, and that is missing the date of the employer's signature would conceivably result in three separate monetary penalties.

**What's new?** While the overall layout of the Form I-9 is relatively unchanged from the previous form, the U.S. Citizenship and Immigration Service has added features to forms completed via its website, and also has provided more extensive instructions on correct completion of the form, all in an attempt to eliminate some of the most common errors that employees and employers make when completing the form. Forms completed online will have pop-up instructional text that can clarify what information is necessary for that particular section of the form. Online forms also will provide real-time error messages when a mistake is made while filling out the form. List A, B, and C documentation fields also are pre-populated with drop down menus to avoid errors in filling in the wrong document under the wrong list number. (Regardless of whether the form is completed online or by hand, every form still must be printed and signed by the new employee and the employer.)

**Why is this important?** Notably, using an outdated Form I-9 after January 22 will constitute an "error" in completion of the process, and therefore can result in a monetary penalty. An employer who completely and properly fills out the entire Form I-9, that is, still can be subject to a monetary penalty for using the outdated form. And, you guessed it, earlier this year the U.S. Department of Homeland Security increased the penalty amounts for Form I-9 violations; each and every error on a form can result in a penalty ranging from \$216 to \$2,156.

**Takeaway.** If you aren't already using the new Form I-9, begin using the form for all new hires no later than January 22.

Employers also should consider conducting periodic self-audits of their existing Form I-9s, to determine compliance and to correct any violations before being caught up in a formal USCIS audit. Click [here](#) for additional tips on conducting a self-audit of Form I-9s.



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