



New Form I-9 Published

Insights

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The U.S. Citizenship and Immigration Services (USCIS) released the new form I-9 dated November 14, 2016. Although you may accept the prior version of the Form I-9 for the next two months, you will be required to use this new form starting January 21, 2017.

The new form provides clearer instructions for employees and employers on how to complete the form. For those employers who will complete the form electronically, the new I-9 provides “smart fields” which will limit errors by those entering data into the form. This new form will replace the version which has been in existence since 2013, and will be valid until August 31, 2019. After January 21, 2017, all previous versions of the Form I-9 will be invalid for new hires, re-hires, or for re-verification.

Positive changes include:

- prompts for those who use the electronic version to ensure information is entered correctly;
- the ability to enter multiple preparers and translators including a supplemental page for the preparers/translators;
- dedicated areas for including additional information rather than adding it to the margins of the form; and
- improved instructions that include specific instructions for each field which will be particularly helpful for those who use the electronic version of the form.

You should consider the following issues before the new form becomes mandatory:

1. Decide if you will access and complete the new Form I-9 manually or electronically. Electronic execution will prevent some elementary errors but will require training for those completing the form.
2. Review and train those in your organization who are responsible for the execution of the new Form I-9 to ensure compliance with the proposed changes which may impact your current processes and procedures. These changes include the uses of preparers and translators as well as the data input for certain foreign national employees.
3. Consider an immigration compliance review of your immigration processes and procedures. Especially in light of last week’s presidential election result, immigration compliance through

employers will continue to be a major focus of Immigration and Customs Enforcement (ICE).

The addition of smart fields and the continued movement towards electronic data collection indicate a clear movement to greater enforcement actions by ICE. Not only can this lead to increased fines and penalties for I-9 violations, it can also trigger related employer compliance investigations through the Office of Special Counsel, Department of Labor and Internal Revenue Service. Fisher Phillips will continue to advise employers on the development of the new I-9 form after its release. Stay tuned for our firm's webinar-based training sessions for employers seeking guidance on the form and how the election will change immigration compliance for employers.

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