

August 2, 2017

Legal Alert: New Form I-9 Effective July 17, 2017

The U.S. Citizenship and Immigration Services (USCIS) recently revised Form I-9 (the Form), which employers are required to use to verify the identity and employment authorization eligibility of their employees. Employers may use the revised form immediately, but they ***must use the new Form I-9 no later than September 18, 2017***. Employers can also continue using Form I-9 with a revision date of 11/14/16 N, but only through September 17, 2017. Employers must continue following existing storage and retention rules for any previously completed Form I-9.

Changes to Form I-9. USCIS has made several subtle changes to Form I-9:

- **Revisions to Form I-9 instructions:**
 - The name of the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) has been changed to Immigrant and Employee Rights Section (IER).
 - The instructions in Section 2 have been slightly changed by removing the words “the end of” from the phrase “the first day of employment” to read “Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee’s first day of employment.”
- **Revisions related to the List of Acceptable Documents on Form I-9:**
 - The Consular Report of Birth Abroad (Form FS-240) was added as a List C document. Employers completing Form I-9 on a computer will be able to select Form FS-240 from the drop-down menus available in List C of Sections 2 and 3. E-verify users will be able to select Form FS-240 when creating a case for an employee who has presented this document for Form I-9.
 - All the certifications of report of birth issued by the Department of State (Form FS-545, Form DS-1350, and Form FS-240) have been combined into selection C #2 in List C.
 - The List C documents have been renumbered, except for the Social Security card, which remains #1 on the list. For example, the employment authorization document issued by the Department of Homeland Security on List C has been changed from List C #8 to List C #7.

The easiest way to check the I-9 version is by examining the “revision date” printed on the bottom of the form. The previous version of the form, released in November 2016, will contain a notation on the bottom of the page informing you that the document was created “11/14/16 N.” The new version now states “07/17/17 N.”

Timing. Beginning September 18, 2017, the revised Form I-9 is the only I-9 that can be used by employers. Employers who continue to use prior versions of the form after September 18, 2017 may be subject to certain penalties.

Revised Form I-9. The revised Form I-9 is available at the USCIS website: <https://www.uscis.gov/i-9>.

Revised Handbook. The Form I-9 changes can also be found in the newly revised *Handbook for Employers: Guidance for Completing Form I-9 (M-274)*, located at: <https://www.uscis.gov/i-9-central/handbook-employers-m-274>. The handbook provides guidance on completing the Form I-9 and has been updated to make navigation easier.

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