

New Form for New Hires – Employer Must Start Using New I-9 Form by May 1, 2020

February 27, 2020

After months of confusion and pain surrounding the topic of independent contractors, we are practically giddy as we send this short and unambiguous legal update. Employers must start using the updated I-9 form issued by the Department of Homeland Security (“DHS”) for new hires and re-verifications no later than May 1, 2020. The new form (which has the 10/21/2019 version date in the lower left corner) can be found at: <https://www.uscis.gov/i-9>. Employers do not need to have current employees sign the new forms. Rather, these forms are only to be used with new hires or if a current employee’s work authorization is expiring and must be reverified.

As a reminder, you should only re-verify an employee’s I-9 in accordance with state and federal laws. Reverification is generally only required if the employee’s work authorization expires, if you rehire a former employee, or if the federal government requires it. You should not reverify: U.S. citizens and noncitizen nationals, lawful permanent residents and conditional residents who presented a Form I-551 (Permanent Resident or Alien Registration Receipt card for Section 2), or List B documents.

The changes which DHS made to the form and its instructions include the following:

Form:

Revised the Country of Issuance field in Section 1 and the Issuing Authority field (when selecting a foreign passport) in Section 2 to add Eswatini and Macedonia, North, per those countries’ recent name changes. (Note: This change is only visible when completing the fillable Form I-9 on a computer.)

Instructions:

- Clarified who can act as an authorized representative on behalf of an employer
- Updated USCIS website addresses
- Provided clarifications on acceptable documents for Form I-9
- Updated the process for requesting paper Forms I-9
- Updated the DHS Privacy Notice

Although United States Citizenship and Immigration Services (USCIS) has instructed employers to begin using the updated form starting on Jan. 31, 2020, it recognizes that employers need time to make updates and adjust their practices. Therefore, USCIS has confirmed that employers may continue using the prior version of the form (Rev. 07/17/2017 N) until April 30, 2020. For more information, visit: <https://www.uscis.gov/i-9-central/whats-new/whats-new>.

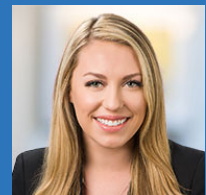
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