

Deadline Approaches for Compliance with New Immigration Law

The Immigration Reform and Control Act (IRCA) legally mandates that U.S. employers verify the employment eligibility status of newly-hired employees and makes it unlawful for employers to knowingly hire or continue to employ unauthorized workers.

All newly hired employees should be required to fill out the I-9 form. This form should be placed and kept in each employee's confidential personnel file until either one year after termination of employment or three years, whichever is longer.

The U.S. Citizenship and Immigration Services recently issued a new I-9 form which all employers must begin using by December 26, 2008. Previous versions of the I-9 form are no longer valid after December 26, 2008. Employers who are still using the old forms after this date will be subject to applicable penalties and fines. The new form only applies to future hires and re-verification; employers are not required to have current employees fill out the new I-9 form unless re-verification is required. A copy of the new I-9 form can be downloaded from the website <http://www.uscis.gov/I-9>

In addition to relying on the I-9 information obtained from a prospective employee, the federal government offers an on-line program, called E-Verify, that companies can use to verify employment authorization. E-Verify is an Internet-based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA). The system allows employers to electronically verify name, date of birth and social security number, along with immigration information for non-citizens, against Federal databases in order to verify the identity and employment eligibility of both citizen and non-citizen new hires. All that is needed to verify this information is the individual's Social Security Number. The website is: <https://www.vis-dhs.com/EmployerRegistration>.

The first time you log onto the site, it will be necessary for your company to register with the program. The website will walk you through the simple steps. One of the steps requires your company to accept a "Memorandum of Understanding" ("MOU"), the terms of which should be reviewed by you and your counsel before registering on the site. The MOU only applies to new hires. Once your company is registered with E-

Verify, the Department will email your administrator (or whomever is in charge of setting up E-Verify with your company) a log-in and password. Brown & Ruprecht, PC has been advised that it may take 2 to 3 days to receive the log-in and password. From there, your administrator can simply log in to the E-Verify site and search/confirm employment status.

Alternatively, your company may choose to use a web-based employee compliance service to verify employment eligibility. For example, Form I-9 Compliance, LLC ("Form Compliance") is a company that holds itself out as being the first federally approved Designated Agent of the Department of Homeland Security and the Social Security Administration for web-based employment verification through E-Verify. Form Compliance provides employers with methods of complying with the legal requirements of IRCA by offering software integration with E-Verify, conducting automated Form I-9 legal "right to work" verifications for employers, and electronically verifying the accuracy of Social Security Numbers, Immigration "A" numbers, and I-94 arrival/departure numbers, as based on the employee's Form I-9. The cost to use Form Compliance's verification services depends upon usage. You can access Form Compliance's website at: <http://www.formi9.com> or you may call the company at 1-866-359-4949.

There are many other companies who offer services similar to Form Compliance. Brown & Ruprecht, PC is not affiliated with Form Compliance and cannot attest to whether the information contained on Form Compliance's website is accurate or whether the services offered by Form Compliance are as advertised. Brown & Ruprecht, PC does not support or recommend one web-based employment verification company over another.

For more information about an employer's obligations under the IRCA or other recent employment law changes, please call Brown & Ruprecht, PC:

November 2008

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