



Remember to Start Using New Form I-9 on Sept. 18

By Roy Maurer

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Employers are required to use the new version of the Form I-9 (www.shrm.orghttps://www.uscis.gov/i-9) (dated 07/17/17) beginning Sept. 18.

U.S. Citizenship and Immigration Services (USCIS) first published the form in July. It has an expiration date of Aug. 31, 2019, and applies to new hires only. Employers should not complete new forms for current employees. Current storage and retention rules have not changed ([/ResourcesAndTools/hr-topics/talent-acquisition/pages/tips-retaining-storing-new-form-i9.aspx](http://ResourcesAndTools/hr-topics/talent-acquisition/pages/tips-retaining-storing-new-form-i9.aspx)).

[SHRM members-only toolkit: Complying with Form I-9 Requirements (www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/complying-with-i9-and-everify-requirements-in-the-united-states.aspx)]

"The new version brings very subtle changes to the form's instructions and [adds to] the list of acceptable documents," said Davis Bae, managing partner of the Seattle office of law firm Fisher Phillips. "Besides changing the wording on the form in almost imperceptible ways, the new version renumbers all List C documents except the Social Security card and streamlines the certification process for certain foreign nationals."

The revisions to the form are confined to USCIS's List of Acceptable Documents and specifically update List C to reflect the most current version of the certification or report of birth issued by the U.S. State Department.

Employers completing the Form I-9 on a computer can now select the newly added Consular Report of Birth Abroad Form FS-240, which is issued to certain individuals born overseas to a U.S. citizen. E-Verify users are able to select Form FS-240 when creating a case for an employee who has presented this document for employment eligibility verification. "The FS-240 has actually been in use for a long time, and so this change should help some employers that were previously told it was not acceptable," said John Fay, vice president and general counsel at the LawLogix division of Hyland Software, a company that specializes in cloud-based I-9, E-Verify and immigration compliance services.

All birth certificates issued by the State Department (Form FS-545, Form DS-1350 and Form FS-240) are now compiled into selection C#2 in List C.

The new form also modifies the form's instructions by removing "the end of" from the phrase "the first day of employment" in reference to completing Section 1. "While the agency did not specify the reason for this change, it was likely made to ensure consistency with the regulations which indicate that Section 1 must be completed 'at the time of hire,' without any reference to the time of day," Fay said. "Following this updated guidance, employers may want to revisit their own I-9 policies and procedures to ensure that Section 1 is completed no later than when the employee starts work for pay."

The last change is a revision of the name of the Department of Justice's Office of Special Counsel for Immigration-Related Unfair Employment Practices to its new name, the Immigrant and Employee Rights Section.

A new 15-page set of instructions is available for the form, and an updated Handbook for Employers, a valuable resource for those handling Form I-9 issues (<https://www.uscis.gov/i-9-central/handbook-employers-m-274>), is available on the USCIS website.

Although the changes to the Form I-9 are minimal, failure to use the new form can result in significant fines. "Every change to the Form I-9, no matter how small or seemingly insignificant, can have an impact on an employer's ability to stay in compliance with the law," Fay said. "Sometimes the biggest obstacle is just making your organization aware that a new version exists, particularly for those employers who are still completing the I-9 on paper."

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