



# Change in I-9 Forms Effective Immediately

## Labor and Employment Alert - November 2007

November 13, 2007

On November 7, 2007, U.S. Citizenship and Immigration Services (USCIS) released the revised I-9 form and the updated Handbook for Employers, Instructions for Completing the Form I-9.

The revised I-9 form reduces the number of documents an employer may accept for newly hired employees to verify employment eligibility pursuant to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

The most significant change to the revised I-9 form is the elimination of five documents from List A. Employers can no longer accept the following documents as evidence of eligibility to work in the United States:

- Certificate of U.S. Citizenship (Form N-560 or N-570)
- Certificate of Naturalization (Form N-550 or N-570)
- Alien Registration Receipt Card (Form I-151)
- Unexpired Reentry Permit (Form I-327)
- Unexpired Refugee Travel Document (Form I-571)

Another change was to add the most recent version of the Employment Authorization Document (Form I-766) to List A.

The instructions for Section 1 regarding Social Security numbers were also revised. The instructions now state that an employee is not obligated to provide the Social Security Number in Section 1 of the I-9 form, unless the employer participates in the USCIS Electronic Employment Eligibility Verification Program (E-Verify).

Employers must begin using the 2007 edition of the I-9 form immediately because all previous versions of the form are no longer valid.

Employers are only required to complete the new I-9 form for new hires, and do not need to complete new forms for existing employees. However, employers must use the 2007 I-9 form when their employees require re-verification. Employers who continue to use the outdated edition

of the I-9 form are subject to fines and penalties.

The new I-9 form and the revised Handbook for Employers, Instructions for Completing the Form I-9 are available at [www.uscis.gov](http://www.uscis.gov).

Please contact any of the members of the McAfee & Taft [Labor and Employment Group](#) if you have any questions regarding completing the revised I-9 form.

## **RELATED NEWS**

### ***Receipt Requirement Eliminated for H and L Adjustment Applicants Returning From Travel Abroad***

USCIS published a final rule regarding the readmission requirements for H-1 and L-1 visa holders (and their H-4 or L-2 dependents) who have applied for adjustment of status to become permanent residents. This new rule removes the requirement that these visa holders must present an original receipt notice (Form I-797, Notice of Action) for their adjustment applications when returning to the U.S. from travel abroad. Now, upon readmission H-1 and L-1 visa holders (and their dependents) with pending adjustment of status applications must provide evidence to a U.S. Customs and Border Protection Inspector that they are: 1) still eligible for H-1 or L-1 status; 2) coming to resume employment with the same employer they were previously authorized to be employed; and 3) in possession of a valid H-1 or L-1 visa, if required. This new rule eliminates the burden of presenting this receipt since the application information in the receipt is already available to immigration inspectors in the USCIS database.

### ***Update on Adjustment of Status Cases Filed in July and August***

Individuals should continue to expect delays in receiving receipt notices for petitions filed with USCIS, especially Applications to Adjust Status (I-485). The receipt notice delay was caused by the very high number of applications USCIS received due to the visa availability dates in the Department of State's July 2007 Visa Bulletin. Typically, individuals receive receipt notices within 2 weeks of USCIS receiving their applications; however, the receipt delay may cause this to take up to 15 weeks for individuals to receive receipt notices. Currently, USCIS has completed initial data entry and issued receipt notices for cases received on or before October 9, 2007.

### ***ICE Workplace Enforcement***

U.S. Immigration and Customs Enforcement (ICE) continues to prosecute employers who knowingly employ illegal aliens. For example, Dean Hedges, owner of a landscaping company in Louisville, Kentucky, recently pleaded guilty to knowingly employing illegal aliens. The charges claimed that between September 2006 and September 2007, Hedges employed at least 12 illegal aliens and engaged in a pattern or practice of knowingly hiring illegal aliens.

Leading up to the guilty plea, ICE conducted a criminal worksite enforcement investigation of Hedge's company after former employees reported that it employed undocumented workers. Former employees claimed that Hedges did not pay those employees for all of their hours worked,

that he did not withhold taxes, and that he did not complete I-9 forms for them. As a result of this investigation, ICE agents arrested 12 illegal aliens working at Hedges' landscaping company and Hedges pled guilty to criminal charges of knowingly employing illegal aliens. The company is subject to a maximum \$250,000 fine, and the maximum penalties for Hedges are a \$24,000 fine and six months imprisonment or up to five years probations. Hedges has agreed to forfeit \$147,000 seized from his corporate bank accounts.

This enforcement action again illustrates the importance of having accurate and complete I-9 forms.

The members of McAfee & Taft's [Labor and Employment Group](#) are available to discuss any of these important legal concerns with you and to assist your business in addressing these issues.

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