



**MONTY & RAMIREZ** LLP  
ATTORNEYS AT LAW

## **2017 Employment Law Update**

# Agenda

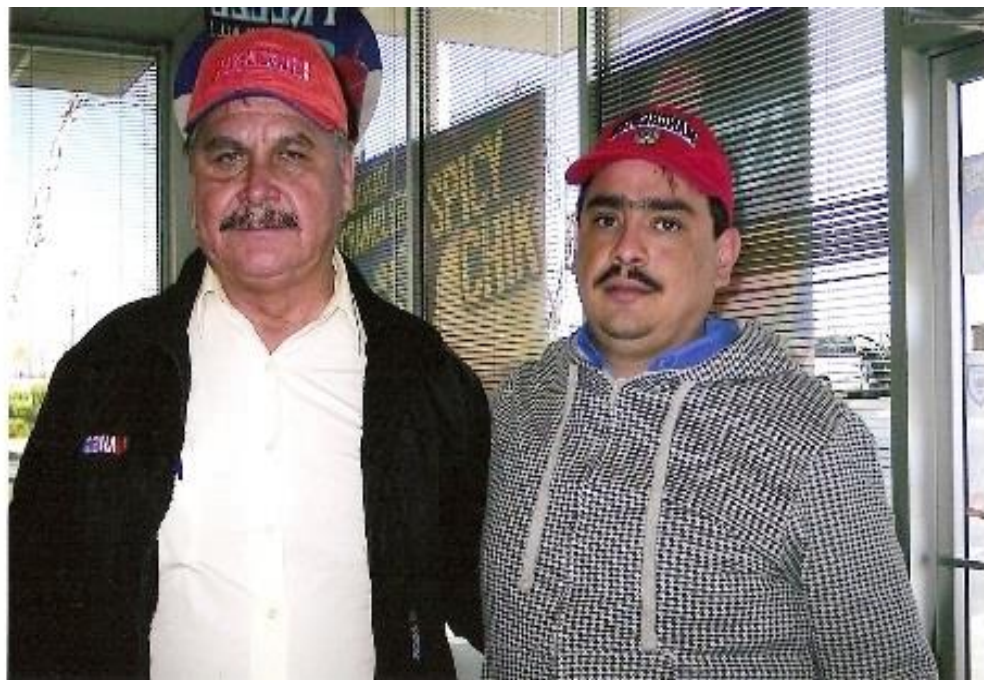


- Form I-9 Compliance Fundamentals
- Immigration
- DOL Wage & Hour Update
- Obamacare
- Unemployment Claims



# **Form I-9 Compliance Fundamentals**





# Form I-9 Order



Employee **accepts offer** for employment



Employee **completes Section 1** of the form no later than first day of work for pay



Employee **gives documents and form** to employer



Employer **completes Section 2** of the form no later than 3<sup>rd</sup> business day employee starts work for pay



If Employee's work authorization expires,  
**complete Section 3**

# New Form I-9 Employee



Instructions Start Over Print

## Employment Eligibility Verification Department of Homeland Security U.S. Citizenship and Immigration Services

USCIS

Form I-9

Obsoleted 10/13/2009

Revised 06/01/2019

**▶ START HERE:** Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.

**ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) an employee may present to establish employment authorization and identify. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

### Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)

Last Name (Family Name) First Name (Given Name) Middle Initial Other Last Names Used (if any)

Address (Street Number and Name) Apt. Number City or Town State ZIP Code

Date of Birth (mm/dd/yyyy) U.S. Social Security Number Employee's E-mail Address Employee's Telephone Number

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following boxes):

- ☐ 1. A citizen of the United States
- ☐ 2. A noncitizen national of the United States (See instructions)
- ☐ 3. A lawful permanent resident (Alien Registration Number/USCIS Number: )
- ☐ 4. An alien authorized to work (expiration date, if applicable, mm/dd/yyyy):  
Some aliens may write "NA" in the expiration date field. (See instructions)

Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.

- 1. Alien Registration Number/USCIS Number: OR
- 2. Form I-94 Admission Number: OR
- 3. Foreign Passport Number: Country of Issuance:

Signature of Employee Today's Date (mm/dd/yyyy)

### Preparer and/or Translator Certification (check one):

- ☐ I did not use a preparer or translator. ☐ A preparer(s) and/or translator(s) assisted the employee in completing Section 1. (Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)

I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator Today's Date (mm/dd/yyyy)

Last Name (Family Name) First Name (Given Name)

Address (Street Number and Name) City or Town State ZIP Code

Click to Finish

Employer Completes Next Page

## Section 2. Employer or Authorized Representative Review and Verification

(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")

Employee Info from Section 1 Last Name (Family Name) First Name (Given Name) M.I. Citizenship/Immigration Status

List A Identify and Employment Authorization OR List B Identify AND List C Employment Authorization

Document Title Issuing Authority Document Number Expiration Date (if any) (mm/dd/yyyy)

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Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): (See instructions for exemptions)

Signature of Employer or Authorized Representative Today's Date (mm/dd/yyyy) Title of Employer or Authorized Representative

Last Name of Employer or Authorized Representative First Name of Employer or Authorized Representative Employee's Business or Organization Name

Employee's Business or Organization Address (Street Number and Name) City or Town State ZIP Code

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Click to Finish

# Form I-9 Increased Fines and Penalties



- **Fines Increased on August 1, 2016**

Type of Violation	Previous Max Penalty	New Max Penalty
Knowingly hiring or employing unauthorized aliens – first offense (per individual)	\$3,200	\$4,313
I-9 Paperwork errors (per individual)	\$1,100	\$2,156
Unlawful discrimination against an employment-authorized individual – first offense (per individual)	\$3,200	\$3,563



# No-Match Letters



- Issued by SSA to notify employers when employee W-2 information does not match its records.
- Example:

We are writing to you about your Wage and Tax Statement (W-2) or Corrected Wage and Tax Statement (W-2c) for the employee shown below. Please complete the information on the back of this letter and return it to us promptly. We cannot put these earnings on the employee's Social Security record until the name and Social Security number you reported agree with our records.

**Employee's Name:** [REDACTED]  
**Social Security Number:** [REDACTED]  
**Reported Earnings:** [REDACTED]  
**Tax Year:** [REDACTED]

The reasons the reported information does not agree with our records may include, but are not limited to:

- Typographical errors
- Incomplete or blank name reported
- Incomplete or blank Social Security number (SSN) reported
- Name changes

This letter does not imply that you or your employee intentionally provided incorrect information about the employee's name or SSN. It is not a basis, in and of itself, for you to take any adverse action against the employee, such as laying off, suspending, firing, or discriminating against the individual. Any employer that uses the information in this letter to justify taking adverse action against an employee may violate state or Federal law and be subject to legal consequences. Moreover, this letter makes no statement about your employee's immigration status.

# Practical Pointers – New Confessed Identity Scenario



- Employee “Carlos” changed his name to “Juan” and acquired work authorization after originally producing fraudulent Form I-9 documents.

# Practical Pointers – Innocent Bystander & Victim of Identity Theft



- Employee uses John Doe's SSN on work documents. Employer finds out from John Doe that Employee has been using his SSN and has prevented him from receiving his food stamps.
- What employers should do.



# Immigration

# New Administration's Potential Effect on Immigration



- Pledged to end President Obama's executive actions on DACA and DAPA
- Pledged to triple number of Immigration and Customs Enforcement (ICE) agents
- Called for mandatory E-Verify
- Called for changes to H-1B visas
- Travel Ban & 9th Circuit decision in *Washington v. Trump*
- We have already seen a huge increase in detainments and deportations

# MY SOCIAL SECURITY # IS 457-55-5462

I'm **Todd Davis**, CEO of LifeLock,

and this really is my social security number.\* I give it just to prove how safe your identity can be with LifeLock. All of us, no matter how careful, can become victims of identity theft. In fact, every three seconds another identity is stolen.

Do you ever worry about identity theft? If so, it's time you got to know LifeLock. We work to stop identity theft before it happens. We're so confident, we back our clients with a \$1 million dollar guarantee. If for any reason you fall victim to identity theft, we will spend up to \$1 million to hire the finest professionals to repair the damage and restore your good name. Period.

Security, peace of mind, protection – that's what LifeLock provides, along with the added bonus of reduced junk mail and pre-approved credit card offers. Normally it's just \$10 a month, but now you can try us **free for 30 days**. Protect yourself, your family and all you've worked for. Guarantee your good name today.



**LifeLock**  
Guarantee Your Good Name

Here's what LifeLock offers you:

- **Proactive Identity Theft Protection**
- **\$1 Million Protection Guarantee**  
Full details available on our website
- **Reduction of Unsolicited Mail**
- **Reduction of Credit Card Offers**
- **Free Annual Credit Reports**  
We order your annual free credit report for you

## FREE TRIAL

Use promo code **ADV01**  
to take advantage of this offer.

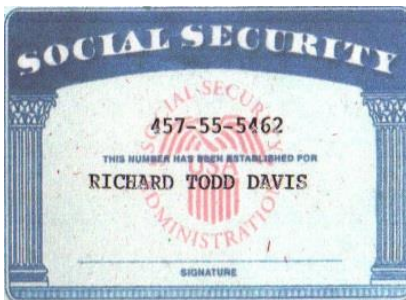
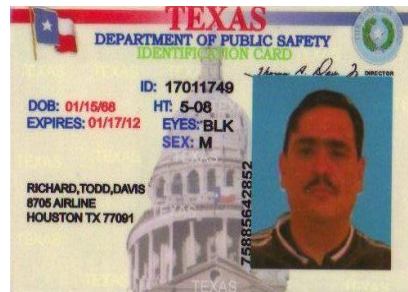
LifeLock.com • 877 LIFELOCK (543-3562)

- No payment, no obligation for 30 days.
- After 30 days your credit card will be automatically billed.
- You can cancel at any time without penalty.

LifeLock.com  
877 LIFELOCK  
(543-3562)



\*Do not share your Social Security Number or personal information unnecessarily.



**FAKEDOCUMENTS**

**HOME**

ABOUT US

PORTFOLIO

CONTACT

LOGIN

## CONTACT US

Our Whatsapp Contact: +43 660 5531070

Email: [info@buyfakedocuments.com](mailto:info@buyfakedocuments.com)

## Welcome to Our Home Page of Fake Documents

Buy fake and real passports, id cards, driver license online purchase registered and unregistered passport of all countries, visas, biometric passport, degrees, drivers license, I.D cards. Training certificates M GCSE, A-levels, High School Diploma Certificates, GMAT, MCAT, and Certificates, novelty Birth, Marriage, and Death Certificates, Novelty Passports and New Identity Packages, Replicated, False Degrees/Diplomas from most post-secondary institutions from around the world (we have over 3000 templates on file) all designed to look 100% identical to the original. Custom Printing.

We use high quality equipment and materials to produce authentic and counterfeit documents. All secret features of real passports are carefully duplicated for our Registered and unregistered documents. [Read More](#)





# **DOL Wage & Hour Update**

# ***State of Nevada v. U.S. Dept. of Labor – Overtime Rule Blocked***



- DOL issued a proposed rule that required exempt employees to be paid \$913/week; highly compensated employee be paid a base salary of \$134,004; and an automatic periodic adjustment to both of these
- DOL estimated 4.2 million employees would be affected by the change
- 21 states filed suit against DOL seeking declaratory relief and an injunction that would block the revisions to FLSA
- On November 22, 2016, the U.S. District Court of Eastern District of Texas enjoined the Department of Labor from implementing and enforcing the proposed rule

# Fight for \$15



- The “Fight for 15” is a nationwide movement to increase the minimum wage to \$15/hour.



# Arbitration Agreements and Class Action Waivers



- **The U.S. Supreme Court to decide whether class action waivers in employment arbitration agreements violate the NLRA**
  - *NLRB v. Murphy Oil USA, Inc.*, *Epic Systems Corp. v. Lewis*, and *Ernst & Young LLP v. Morris*





# Obamacare

# Sample of a Marketplace Notice



Health Insurance Marketplace

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
465 INDUSTRIAL BOULEVARD  
LONDON, KENTUCKY 40750-0001

June 21, 2016



Dear Benefits Manager:

The person listed below submitted an application for health coverage through the Health Insurance Marketplace in Texas and indicated that he or she is an employee of [REDACTED] at the address shown above.

This person reported that he or she:

- didn't have an offer of health care coverage from [REDACTED]
- did have an offer of health care coverage, but it wasn't affordable or didn't provide minimum value; or
- was in a waiting period and unable to enroll in health care coverage.

The employee has been determined eligible for advance payments of the premium tax credit (APTC) or cost-sharing reductions (CSRs) for at least one month during 2016 to help pay for Marketplace coverage and has enrolled in coverage through the Marketplace.

Employee Name	Birthdate	Last 4 digits of Social Security Number (if available)	Marketplace Application ID
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

## Why am I getting this notice?

This notice informs you that your employee was found eligible for APTC or CSRs and that, if various conditions are met, you may have to pay an employer shared responsibility payment to the Internal Revenue Service (IRS) in the future. It also notifies you of your opportunity to appeal this eligibility determination.

Certain employers (those with at least 50 full-time employees or full-time equivalent employees, called applicable large employers) might have to pay an employer shared responsibility payment for any month that

at least one full-time employee enrolled in Marketplace coverage and receives APTC or CSRs.

If IHOP is an applicable large employer, at least one of its employees received APTC or CSRs for at least one month during 2016, and it meets other Internal Revenue Service (IRS) criteria, the IRS may determine that it must pay an employer shared responsibility payment.

**Important:** This is only a notification that [REDACTED] may have to pay an employer shared responsibility payment. **Only the IRS, not the Marketplace, can determine whether this employer will owe an employer shared responsibility payment.**

## What can I do next?

To learn more, you can visit [IRS.gov/aca](http://IRS.gov/aca) or contact the IRS at 800-829-4933 Monday – Friday, 7 a.m. – 7 p.m. your local time (Alaska & Hawaii follow Pacific Time).

You may file an appeal to the Marketplace if you believe there's been a mistake regarding the employee's eligibility for APTC or CSRs. If you believe your employee was incorrectly determined eligible for APTC or CSRs because you offered the employee affordable, minimum value health coverage, filing an appeal could help reduce the employee's potential tax liability. Filing an appeal could also eliminate reports from the Marketplace to the IRS that your employee received APTC or CSRs following an appeal decision in your favor. **However, filing an appeal won't necessarily affect whether you have to pay an employer shared responsibility payment to the IRS, because the IRS will determine independently whether you have to pay.**

If you appeal, the Marketplace will consider evidence provided by both you and your employee to determine if the employee is eligible for APTC or CSRs.

Remember, it's a violation of the Fair Labor Standards Act to discriminate against any employee because he or she received APTC or CSRs.

## What are my appeal rights?

You have 90 days from the date of this notice to request an appeal from the Marketplace. For more information about the employer appeal process and to download the employer appeal request form, visit [HealthCare.gov/marketplace-appeals/employer-appeals](http://HealthCare.gov/marketplace-appeals/employer-appeals) and mail the completed form to:

Health Insurance Marketplace  
465 Industrial Blvd.  
London, KY 40750-0061

You may also fax the form through this secure fax line: 1-877-369-0129.

**You must include a copy of this notice with your appeal request.**

## Where can I find more information?

For more information about the employer shared responsibility provisions, visit [www.irs.gov/aca](http://www.irs.gov/aca).

# Obamacare Under the New Administration



- Repealing and replacing Obamacare has been an identified priority under the new administration
- Appointment of Obamacare critic, Tom Price as head of Department of Health and Human Services also indicates it may be repealed and replaced





# Unemployment Claims



# Avoiding a Claim for Unemployment



- Think before you terminate! Just because an employee is at-will does not mean their termination will not cost you
- Create and follow clear employee discipline procedures and keep records
- When misconduct occurs, take timely statements from other employees who witnessed it
- Take employee complaints seriously