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## Attorneys at Law

Immigration Law Updates

March 25, 2010

### I-9 Employment Eligibility Verification Compliance

U.S. Immigration and Customs Enforcement (ICE) recently announced that the agency is issuing Notices of Inspection (NOIs) to 180 businesses in 5 states – Louisiana, Mississippi, Alabama, Arkansas and Tennessee. The notices alert business owners that ICE will be inspecting their hiring records to determine their compliance with employment eligibility verification laws and regulations.

With the likelihood that inspections will be extended to businesses in other states, it is a good time to revisit your company's I-9 program.

#### I-9 Compliance Requirements

All persons hired after November 6, 1986 are required to complete a Form I-9. Employers are required to examine acceptable documents that establish identity and employment eligibility. The employee must provide required documents and sign the Form I-9 on the first day of employment, or within three business days of hire. Only individuals who are actually hired by the employer are required to complete and sign the Form I-9.

The Form I-9 and the "List of Acceptable Documents" should be presented to all new hires. The new hire must choose from the list which documents he or she wishes to present as proof of identity and employment eligibility. The employer should not specify which documents will be acceptable.

An employer is not required to complete a Form I-9 for:

- Persons who were hired before 11/7/86, who are continuing their employment with your company;
- Independent contractors;
- Persons providing labor to your company who are employed by a contractor providing contract services; and
- Persons who are not physically working on U.S. soil.

The completed Form I-9 must be retained by the employer for three years after the date of hire or one year after the date employment ends, whichever is later. An employer can be sanctioned with civil penalties for knowingly hiring or continuing to employ an unauthorized alien or for failing to comply with the Form I-9 requirements.

#### Words of Caution

According to ICE, the most common deficiencies found during I-9 audits are:

- No Form I-9 completed for an employee;
- Employee citizenship or employment eligibility attestation incomplete in Section 1 of the form;
- Employee's signature is missing in Section 1 of the form;
- Employer or its authorized representative has failed to complete Section 2 of the form verifying employment and identity documents; and
- Employer's signature is missing in Section 2 of the form.

As you can see, these deficiencies can easily be overcome by having the I-9 process supervised and monitored by persons familiar with the requirements. It is highly recommended that, if possible, all I-9 matters be handled through an employer's Human Resources department or by the individual responsible for overseeing HR issues for your company.

For details on completely I-9 forms and additional information on this topic, please contact our law firm.

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### Passport Day in the USA

On Saturday, March 27, the Department of State will celebrate its 2nd annual "Passport Day in the USA." U.S. citizens throughout the country can apply for a passport at any one of the 23 regional passport agencies without an appointment. With summer vacation right around the corner, now is the time to start making travel plans and apply for a passport.

The first Passport Day in the USA was held in March 2009. Over 57,000 passport applications were accepted at passport agencies, and 2,000 passport acceptance facilities.

On March 27, all passport agencies will be open and accepting passport book and passport card applications from 10 a.m. to 3 p.m., with no need to schedule an appointment. For this day only, U.S. citizens without urgent travel plans may apply directly at a regional passport agency and both routine and expedited processing service may be requested. Visit [www.travel.state.gov](http://www.travel.state.gov) to locate a passport acceptance facility in your area.

Remember that as of June 1, 2009, U.S. citizens have been required to present a passport book, passport card, or other travel document approved by the U.S. government when entering the United States from Canada, Mexico, the Caribbean, and Bermuda at land borders and sea ports of entry.

For additional information on this topic, please contact our law firm.

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