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Social Security Resumes Sending No-Match Letters to Employers

Since 2007, employers have not received “no-match” letters from the U.S. Social Security Administration (SSA), but the SSA has announced that it will resume sending the letters this month for tax year 2010. The SSA will not issue the no-match letters it held for the years 2007 through 2009.

A no-match letter from the SSA alerts an employer that the Social Security number it provided on a Form W-2 for an employee does not match the SSA’s records. After receiving a no-match letter, the employer should follow up with the employee identified in the letter to confirm that the discrepancy is not indicative of identity theft or working under a false Social Security number. Employers are cautioned to take care when conducting an investigation related to an employee identified in a no-match letter to avoid committing national origin or citizenship discrimination.

The SSA and the Office of Special Counsel, which investigates citizenship discrimination claims, have both stated that employers should not terminate a worker based solely on the receipt of a no-match letter. Neither should employers automatically require re-verification of work authorization and the completion of a new Form I-9. Instead, the employer should provide the employee a reasonable amount of time to resolve the Social Security number discrepancy reported in the no-match letter from the SSA. The government agencies involved in this issue have not defined how long is reasonable.

Employers are encouraged to work with counsel to define policies under which employers will respond to no-match letters. Given the government’s increase in work site audit and enforcement activities since the time no match letters were last issued, revisiting policies on this issue or drafting new ones is very important.

FOR MORE INFORMATION

Our immigration lawyers can assist employers in reviewing or drafting policies on this issue as well as conducting investigations of no-match letters. For more information, please contact **Sarah Flannery**, **Staci Jenkins** or any other member of our **Labor & Employment** practice group.

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