

DATE: January 20, 2017

TO: Hotel Association of New York City, Inc.
General Members
General Managers, Human Resources Directors and Controllers

FROM: Kane Kessler, P.C.
Labor and Employment Law Department

RE: USCIS Revises Form I-9 Effective January 22, 2017

The U.S. Citizenship and Immigration Services (“USCIS”) recently published a revised version of Form I-9, Employment Eligibility Verification. **By January 22, 2017, employers must use only the new version of the Form I-9, dated November 14, 2016 for all new hires.** Until then, employers can continue to use the version dated March 8, 2013 or the new version. Employers do not need to replace Forms I-9 that are already completed for current or former employees. You can access the new Form I-9 here: <https://www.uscis.gov/i-9>.

Employers can still print out the Form and fill it out manually but this new version is coined as the “smart” Form I-9 because employers can also complete the Form using an interactive PDF option that enables users to fill in the fields of the Form online before printing and signing a hard copy. Some of the new changes include the following:

- Validations on certain fields to ensure information is entered correctly. The Form will validate the correct number of digits for a Social Security number or an expiration date on an identity document, for example.
- Drop-down lists and calendars.
- Embedded instructions for completing each field.
- Buttons that will allow users to access the instructions electronically, print the Form and clear the Form to start over.

- Additional spaces to enter multiple preparers and translators. If the employee does not use a preparer or translator to assist in completing section 1, he or she must indicate so on a new check box labeled, “I did not use a preparer or translator.”
- The requirement that workers provide only other last names used in Section 1, rather than all other names used.
- The removal of the requirement that immigrants authorized to work provide both their Form I-94 number and foreign passport information in Section 1.
- A new “Citizenship/Immigration Status” field at the top of section 2.
- A dedicated area to enter additional information that employers are currently required to notate in the margins of the Form, such as Temporary Protected Status and Optional Practical Training extensions.
- A quick-response matrix barcode, or QR code, that generates once the Form is printed that can be used to streamline enforcement audits.
- Separate instructions from the Form. Employers are still required to present the instructions to the employee completing the Form, however.

Employers who complete and retain Form I-9 in paper format only must retain the Form with the original handwritten signatures. Employers must retain Forms I-9 for three years after the date of hire or one year after the date the individual’s employment is terminated, whichever is later. Photocopies or faxed copies of completed Form I-9 are not acceptable to meet this retention requirement. Employers may choose to scan and upload the original, signed forms to retain them electronically. Once the Form I-9 is securely stored in electronic format, the original paper Form I-9 may be destroyed.

If you have any questions, please do not hesitate to contact David R. Rothfeld, Lois M. Traub, Alexander Soric, Robert L. Sacks, Michael Lydakakis, Jennifer Schmalz or Jaclyn Ruocco.

cc: Vijay Dandapani, President and CEO
Hervé Houdré, Acting Chairman

This memo is provided for informational purposes only. It is not intended as legal advice and readers should consult counsel to discuss how these matters relate to their individual circumstances.