

# HR Brief

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## Form I-9 Self-audit Guidance

Conducting a Form I-9 self-audit is not required by law. However, many employers are conducting such audits. Immigration and Customs Enforcement (ICE) and the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) have issued [guidance](#) for employers conducting Form I-9 audits. If conducting an I-9 audit is on your agenda for 2016, read on for some important things to consider.

Prior to conducting an audit, it is recommended that the employer consider the purpose and scope of the audit and how it will communicate to, and field questions from, employees. For example, an employer may choose to review all Forms I-9 or a selected sample of Forms I-9 based on neutral and non-discriminatory criteria. If a subset of Forms I-9 is audited, the employer should consider carefully how it chooses which Forms I-9 will be audited in order to avoid discriminatory or retaliatory audits, or the perception of discriminatory or retaliatory audits.

ICE and OSC also recommend that an employer develop a transparent process for communicating with employees during the internal audit. This includes informing the employees in writing that the employer will conduct an internal audit of Forms I-9, explaining the scope and reason for the internal audit, and stating whether the internal audit is independent of or in response to a government directive.

According to the guidance, when an audit reveals a deficiency in an employee's Form I-9, the employer should notify the affected employee, in private, of the specific deficiency. The employer should provide the employee with copies of his or her Form I-9, any accompanying Form I-9 documents, and any other documentation showing the alleged deficiency.

In general, correcting deficiencies or errors on a Form I-9 is an area many employers may have questions on. Fortunately, the guidance includes detailed information on the procedure for correcting various errors. For example, only the employee should correct any errors or omissions in Section 1 by drawing a line through the incorrect information, entering the correct or omitted information, and initialing and dating the correction or omitted information. Also, only the employer should correct any errors in Sections 2 or 3 of the Form I-9 using a similar procedure.

The guidance also addresses missing Forms I-9, E-Verify issues and what to do when an employee is not authorized to work in the United States. The guidance is instructive and should be reviewed if an I-9 audit is in your organization's future.

## DID YOU KNOW?

The Consolidated Appropriations Act of 2016 changed the filing deadlines for various information returns, including the Form W-2 and Form 1099-MISC.

Currently, the deadline to file Forms W-2 and 1099-MISC is Feb. 29 (or March 31, if filing electronically). This remains the deadline for the 2015 reporting year.

Beginning with the 2016 reporting year, Form W-2 and Form 1099-MISC must be filed by **Jan. 31** following the reporting year. In addition, there is no extended deadline if filing electronically.

See the IRS' [website](#) for more information on new filing due dates.

## Educate Employees on 401(k) Loans

Employers should advise employees about taking out loans on their 401(k) and how those loans may affect their long-term financial goals.

When an employee takes money out of his or her 401(k) savings, that money is no longer there to provide additional growth. In addition, many 401(k) plans prohibit a plan participant from making further contributions to their 401(k) until the loan is repaid. This results in even more lost time and potential growth of retirement savings.

Further, many 401(k) plans require an outstanding loan to be repaid in full upon separation from the company. This is a risk employees should be made aware of.

In December, the Federal Reserve announced it will raise interest rates by a quarter of a percentage point. This rise in interest rates will affect the cost of taking out a 401(k) loan. A higher interest rate means the employee will be required to make higher payments when repaying the loan. If an employee is unable to repay the loan, the loan will be treated as an early withdrawal subject to income taxes and additional tax penalties.