



## **Staying in Compliance with the Law When Hiring a New Employee**

- The Do's
- The Don'ts
- & The Records You Keep

# The Do's

## Form W4

- Every employee must provide an employer with a signed withholding exemption certificate (Form W-4) on or before the date of employment.
- The purpose of Form W-4 is so that the employer can withhold the correct federal income tax from your pay.
- If you are exempt from federal income tax, complete only lines 1, 2, 3, 4, and 7 and sign the form to validate it.
- You cannot claim exemption from withholding if your income exceeds \$950 and includes more than \$300 of unearned income (for example, interest and dividends) and another person can claim you as a dependent on his or her tax return.

## Form I-9

- All employees (citizens and noncitizens) hired after November 6, 1986, and working in the US must complete Form I-9.
- Federal law requires employers to verify an employee's eligibility to work in the United States. Within three days of hire employers must complete an Employment Eligibility Verification Form, (I-9 form), and by examining acceptable forms of documentation supplied by the employee, confirm the employee's citizenship or eligibility to work in the United States.
- Employers can only request documentation specified on the I-9 form. Employers who ask for other types of documentation not listed on the I-9 form may be subject to discrimination lawsuits.
- An employer is required to keep an I-9 form on file for 3 years after the date of hire or 1 year after the date the employee's employment is terminated, whichever is later.

## The Do's continued...

### New York State Department of Labor: Division of Labor Standards

- As of Oct 26, 2009 Labor Law requires all employers, other than governmental agencies and school districts, to give newly hired employees a written notice of their rate of pay and their regular payday.
- If the employee is covered by an overtime provision of labor law, the written notice must also include the overtime rate of pay.
- The written notice must be given at the time of hiring, before any work is performed.
- No particular form is required. We will put a template form on our website with the webinar.

FYI... New York State also has a Employee's Withholding Allowance Certificate (similar to the W4) used to withhold the correct State income tax. [Form IT-2104](#)

# Social Security Numbers

- You are required to get each employee's name and SSN to ensure the W-2s are correct. You should ask the employee to show you his or her SS card. You may, but are not required to photo copy it. If the SS card reads, Not Valid For Employment, the employee is not authorized for employment in the US. Such cards cannot be used as proof of work authorization, and are not acceptable as a List C document on the I-9 form.
- Any employee who is legally eligible to work in the US and doesn't have a SS card can get one by completing Form SS-5 (application) and submitting the necessary documentation.
- If you file a W2 and your employee has applied for a SSN, you must submit a corrected W2 once he or she receives the SSN.
- If you do not provide the correct name and SSN on the W2, you may owe a penalty unless you have reasonable cause.

# Social Security Cards

- Three different types of Social Security cards are issued. The most common type contains the cardholder's name and number. Such cards are issued to U.S. citizens and U.S. permanent residents. There are also two restricted types of Social Security cards:
- One reads "NOT VALID FOR EMPLOYMENT." Such cards cannot be used as proof of work authorization, and are not acceptable as a List C document on the I-9 form.
- The other reads "VALID FOR WORK ONLY WITH DHS AUTHORIZATION." These cards are issued for people who have temporary work authorization in the U.S. They can satisfy the I-9 requirement, if they are accompanied by a work authorization card.

SOCIAL SECURITY

VALID FOR WORK ONLY

WITH DHS AUTHORIZATION

[REDACTED]

THIS NUMBER HAS BEEN ESTABLISHED FOR

AVOID SNEAK

*[Handwritten Signature]*

SIGNATURE

ETS 26/26/2009

# The Don'ts

## **IRS Individual Taxpayer Identification Numbers (ITINs)**

- Do not accept an ITIN in place of a SSN for employee identification or for work.
- An ITIN is only available to resident and nonresident aliens who are not eligible to work in the US.
- You can identify an ITIN because it is a 9-digit number, beginning with the number “9” with either a “7” or “8” as the fourth digit and the card reads “Not Authorized to Work”
- Also, to date there are No SSNs that start with a “9” or “8”.



Department of the Treasury  
Internal Revenue Service

IRS Individual Taxpayer Identification Number

9

This number has been established for

**SAMUEL CHU**

To be used for tax purposes only

*Samuel Chu*

Signature

# Verification of SSNs

The SSA offers employers and authorized reporting agents three methods for verifying employee SSNs.

- Internet <http://www.socialsecurity.gov/employer> (batch files can be uploaded with up to 250,000 employees; click on Verify SSNs Online)
- Phone (800)772-6270 or (800)772-1213
- Paper (requires registration first if 50-300 SSN requests)  
<http://www.socialsecurity.gov/employer/ssnvshandbk/appendix.htm>

We have a method of generating a file with all employees names and SS#s from payroll that can be uploaded to the SSA. The **Employee Verification Service** is a seamless process of verifying the social of all terminated and active employees with YTD wages. We would just need a letter from you, the client, authorizing us to complete this process on your behalf. A template letter will be posted on our website with the webinar. Contact your CSR for more info and pricing.

## How We Handle Invalid SSNs

- Due to recent developments and the IRS increasing penalties, we have modified our systems to no longer accept SSNs that begins with a “8” or “9”
- We will inform the client the SSN is invalid, if client proceeds with the new hire, we must enter all 0s as the social
- At year end, the W2s are created with missing SSNs. When filed, these W2s are held in a suspense account with the SSA and the employer may be fined. Also, employers are penalized when filing wage reports and/or tax returns with missing employee SSNs

# Record Keeping Tips

Keep all records of employment taxes for at least four years. These should be available for IRS review. Records should include:

- Your employer identification number. (FEIN)
- Names, addresses, social security numbers, and occupations of employees. (Form I-9/ should be kept in a separate file for easy destruction and/or access in case of an audit)
- Copies of employees' income tax withholding allowance certificates (Forms W-4).
- Dates of employment.
- Amounts and dates of all wage, annuity, and pension payments.
- Amounts of tips reported.
- Direct Deposit Forms (with signature)
- Periods for which employees were paid while absent due to sickness or injury and the amount and weekly rate of payments you or third-party payers made to them.
- Any employee copies of Form W-2 that were returned to you as undeliverable.

# Labor Law Compliance Posters

- Federal and state labor law posters must be posted by all employers with at least one employee. Failure to post up-to-date labor law postings can result in hefty fines or lawsuits.
- Labor laws can change at any time. Since 2007, there have been over 100 changes in state and federal labor law.
- We do offer a labor law poster subscription. We will mail you out a Federal and State Labor Law Poster and whenever a change occurs we will mail you a revised poster.
- Registration & Initial Poster Set (Federal & Single State) \$49.95
- Monthly Subscription \$10 per set



# Resources

- IRS Website (Publication 15)

[http://www.irs.gov/pub/irs-pdf/p15\\_09.pdf](http://www.irs.gov/pub/irs-pdf/p15_09.pdf)

- Social Security Administration

[www.ssa.gov](http://www.ssa.gov)

- Advantage Payroll Website

- Forms (W4, I-9, Direct Deposit)

<http://liadvantage.com/ClientSetupForms/tabid/78/Default.aspx>

- Webinar Presentation & Related Documents

<http://liadvantage.com/ClientSetupForms/Webinars/tabid/564/Default.aspx>

- Advantage Compliance Poster Service

<http://library.constantcontact.com/doc201/1101384505739/doc/pxQZ7xsoEfoHTXzh.pdf>



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