NEWSLETTER

August 2023

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New Form I-9 To Be Released

The U.S. Citizenship and Immigration Services released the following statement on July 21, 2023:

On Aug. 1, 2023, U.S. Citizenship and Immigration Services will publish a revised version of Form I-9, Employment Eligibility Verification (PDF, 899.28 KB). Among the improvements to the form is a checkbox employers enrolled in E-Verify can use to indicate they remotely examined identity and employment authorization documents under an alternative procedure authorized by the Department of Homeland Security (DHS) described below.

On July 21, 2023, DHS announced a final rule in the Federal Register that recognizes the end of temporary COVID-19 flexibilities as of July 31 and provides DHS the authority to authorize optional alternatives for employers to examine Form I-9 documentation. At the same time, DHS also published an accompanying document in the Federal Register describing and authorizing employers enrolled in E-Verify the option to remotely examine their employees' identity and employment authorization documents under a DHS-authorized alternative procedure.

The Federal Register document provides an alternative for certain employers to remotely examine Form I-9 documents, instead of the current requirement to examine documents in-person. To participate in the remote examination of Form I-9 documents under the DHS-authorized alternative procedure, employers must be enrolled in E-Verify, examine and retain copies of all documents, conduct a live video interaction with the employee, and create an E-Verify case if the employee is a new hire.

Employers who were participating in E-Verify and created a case for employees whose documents were examined during COVID-19 flexibilities (March 20, 2020 to July 31, 2023), may choose to use the new alternative procedure starting on August 1, 2023 to satisfy the physical document examination requirement by Aug. 30, 2023. Employers who were not enrolled in E-Verify during the COVID-19 flexibilities must complete an in-person physical examination by Aug. 30, 2023.

The revised Form I-9:

- Reduces Sections 1 and 2 to a single-sided sheet;
- Is designed to be a fillable form on tablets and mobile devices;
- Moves the Section 1 Preparer/Translator Certification area to a separate, standalone supplement that employers can provide to employees when necessary;
- Moves Section 3, Reverification and Rehire, to a standalone supplement that employers can print if or when rehire occurs or reverification is required;
- Revises the Lists of Acceptable Documents page to include some acceptable receipts as well as guidance and links to information on automatic extensions of employment authorization documentation;
- Reduces Form instructions from 15 pages to 8 pages; and
- Includes a checkbox allowing employers to indicate they examined Form I-9 documentation remotely under a DHS-authorized alternative procedure rather than via physical examination.

The revised Form I-9 (edition date 08/01/23) will be published on uscis.gov on Aug. 1, 2023. Employers can use the current Form I-9 (edition date 10/21/19) through Oct. 31, 2023. Starting Nov. 1, 2023, all employers must use the new Form I-9.

The Many Wonders of Direct Deposit

Are you unsure about how to set up direct deposit for your employees or contract workers? Though it may seem daunting at first, especially if you're not familiar with the process, direct deposits can be set up rather quickly.

Let's start by defining direct deposit. In essence, a direct deposit is an electronic payment of funds from one bank account to another. It's that simple! You transfer the appropriate funds from your business bank account to your employees' bank accounts, all without having to worry about physical checks or cash.

When the direct deposit goes through, your employees will receive the electronic payment equivalent to their salary, and the payment goes directly from your bank account to theirs. Direct deposits result in an automated clearing house, or ACH, payment. Ultimately, direct deposits eliminate the need to pay employees physically. Instead, all payments are processed digitally.

How do direct deposits work?

You'll need to initiate direct deposit payments with your bank. As you strive to set up direct deposits, the ACH will receive the direct deposit orders and then allocate them to the appropriate bank accounts in accordance with each of your employees. From there, your employees' banks will receive those orders and distribute the proper amounts to the accounts of your employees.

The process of directly depositing funds into your

employees' accounts generally takes between one and two days. There are also many rules in place to eliminate safety and privacy risks.

Now, the exact timing of the direct deposits will often depend on your bank, the banks of your employees, the payroll software that you use and national holidays that may affect bank operations. Your payroll software and your bank can usually help you plan out your payroll schedule and subsequently your direct deposit schedule.

Cost of setting up direct deposits

So how much will it cost you to set up direct deposits for your employees? The exact amount that you can expect to pay will depend on a few different factors; namely, which direct deposit provider you choose.

Alternatively, if you use a bank, the costs of setting up direct deposits will depend on your bank's fees and regulations. Generally speaking, banks often charge a setup fee that usually ranges anywhere from $50 to $149, according to the National Federation of Independent Business.

Some banks charge ongoing monthly fees, though many do not implement this practice, and others charge transaction fees as well. These transaction fees might be charged per pay period or employee. Once again, it all depends on your specific bank's procedures and requirements.

Likewise, the dollar amount of the fees will vary, depending on the bank, the size of your business and your direct deposit agreement. According to NFIB, the average dollar amount of transaction fees can vary from $1.50 to $1.90 per deposit.

If you utilize payroll software or some sort of technology that has payroll capabilities, the fees that you pay will depend on the individual software. Many software programs give you access to direct deposit services at no additional cost, but not all software options include the direct deposit service as part of the subscription price. So look into these details before deciding which software program to utilize.

Setting up direct deposits with your bank

If you set up direct deposits through a bank, be prepared to provide recent financial statements to verify that you have the necessary finances to set up direct deposits for your employees. If you opt for a payroll software instead, you'll need to input your business's bank account information and respond to a verification email to confirm that you are the administrator of the account.

Most setup processes will require a direct deposit test as well as a small withdrawal from your bank account. From there, you'll verify that the transaction was successful to confirm that the direct deposit process is working as it should.

You'll also need to receive a signed authorization form from each of your employees before you can transfer funds to them electronically. With the help of HR software that employees can log in to and monitor as they please, employees can give direct deposit authorization within seconds.

It can take anywhere from seven to 10 days to officially set up direct deposits. The pay schedule that you set up for your employees will be up to you, but make sure the schedule you impose is one you can stick to so that your employees can rely on consistent payments.

Communicate the payment schedule with your employees and payroll administrators so that everyone is on the same page. Finally, you'll want to set up a cutoff date so employees know when they must submit their hours for review and timely processing as part of payroll.

The benefits of direct deposits

From an employee's perspective, they can expect to receive their

direct deposit every pay period. Direct deposits arrive in employees' bank accounts on a regular basis, so they will always know when to expect their payment and how frequently they'll be paid. The predictability factor will also help them plan their personal finances accordingly.

For you, the employer, direct deposits can provide you with much better control over your business finances because you'll know when money is going to be withdrawn from your account every month. Additionally, you won't have to worry about the possibility of payments being stolen or having important data about your business in the hands of thieves with ill intentions.

The drawbacks of direct deposits

A potential hassle that you may face when setting up direct deposits for you and your employees comes down to the maintenance involved in creating new accounts. There will likely be undesirable fees and security requirements.

But at the end of the day, direct deposits are worthwhile for everyone involved. For more information about setting up direct deposit payments for your employees, contact us.

State and Local Tax Issues Businesses Should Consider

State and local tax issues are a big part of a company's tax liability. In fact, they are so impactful that a lot of companies actively decide to relocate to states that are regarded as low-tax states by the Tax Foundation, such as Florida, Nevada and North Carolina.

That said, businesses that choose to operate in more than one state must consider the tax-related issues that each state poses for them. As a business, here are three factors you should definitely consider:

Learning about nexus

Businesses must file state taxes for each state in which they do business. However, there are state-mandated rules for what exactly constitutes "nexus," which is a term for doing business in a state. These rules vary from one state to the next, and the locality of matters will influence the outcome of the rules. As an example, factors such as where the business stores inventory and where remote workers or commuting employees live are two main considerations that impact how nexus is determined.

Federal laws are another contributing factor. More specifically, a law known as P.L. 86-272 makes it impossible for businesses to be subjected to a net income tax, no matter what state they operate in, as long as the net income tax pertains to income that stems from interstate commerce. One other caveat of this is whether the only business activity within the state in question involves the solicitation of tangible personal property orders.

In that situation, the fulfillment of the orders has to take place outside of the state's borders in order for protections like this to apply. Now, the increased popularity of remote work — in addition to the significant pivot from shopping in person at brick-and-mortar stores to making purchases online — has altered the economy in numerous ways. Furthermore, the U.S. Supreme Court ruling in South Dakota v. Wayfair, Inc., has also impacted the timeline of nexus and when specifically it will be triggered.

Taking Wayfair as a prime example, the company gave the state of South Dakota permission to impose statewide sales taxes on remote sellers despite their physical presence, or lack thereof, in the state. The main stipulation was that the remote sellers' sales had to exceed a certain transaction threshold, but as a result of the company's decision, the far-reaching consequences of Wayfair are still playing out to this day.

For example, since the ruling, many other states have passed what are called marketplace provider laws and marketplace facilitator legislation to either categorize sellers in the same marketplace or combine all marketplace sales with the sales of companies within the marketplace so that the threshold of the state's nexus is reached if not surpassed.

A lot more guidance is required in terms of mandating and monitoring nexus. However, businesses must make sure they consider all the factors that contribute to the determination of nexus.

The taxing authority response to digital businesses

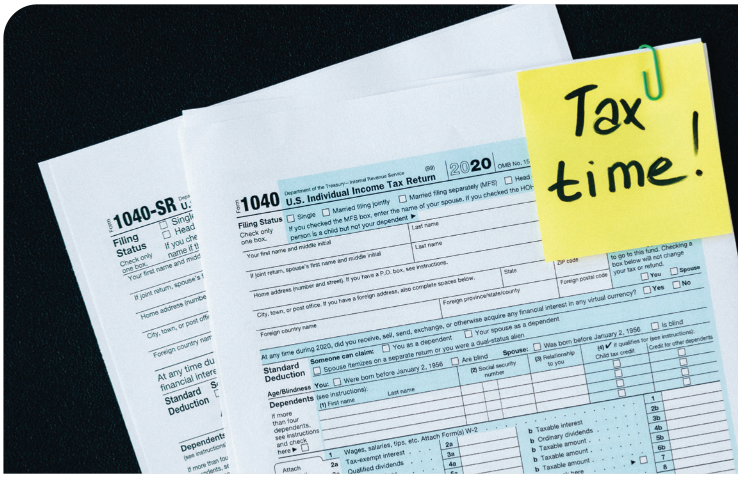
As mentioned earlier, the amount of online sales being made skyrocketed in the midst of the pandemic. In fact, according to the 2020 Annual Retail Trade Survey, sales relating to e-commerce transactions increased from $571.2 billion in 2019 to $815.4 billion in 2020.

Within no more than two years, e-commerce sales experienced a whopping 43% increase, and taxing authorities were amazed. Back in 2021, the Multistate Tax Commission revised how P.L. 86-272 is interpreted, with the new understanding being that, if states followed the law, then they would be able to eliminate the federal law's protections for most multistate sellers.

For instance, nexus could be triggered if post-sale assistance to in-state customers was provided via either chat or email. California is one example of a state that has officially adopted the new and improved MTC interpretation of nexus, while a number of other states are thinking about following suit.

Rules pertaining to apportionment

There are different rules for each state when it comes to allocating and apportioning multistate income. If companies are operating via a uniform method when determining multistate income, it is in their best interest to reconsider how they perform their calculations so that they are paying the



proper amount of money per state as opposed to overpaying or underpaying.

Together, the three factors we have spoken about today are only the beginning when it comes to taxes that businesses operating in more than one state should consider. Don't forget that there are other considerations that must be addressed as well, including passive income and how it is handled.

Tax credits on the state and local levels are important to address too, as are any applicable incentives. Ultimately, the best advice for any business that is in the process of determining tax liabilities is to consult a tax law expert who is local to the business' state.

Employment Probation Is Stale and Out of Date

In theory, a brief probation period allows both employee and employer to familiarize themselves with each other and learn the ground rules. Many newbies resign before their first 90 days have elapsed. How can you work around this?

What's in a name?

Probation began in the days of union dominance as a measure to protect employers temporarily from termination requirements of collective bargaining agreements. Union job holders may still forgo certain grievance procedures during probation months.

In today's labor environment, probation is next to meaningless. The relationship between worker and employer operates "at will" in all states except Montana. That means either party may terminate it at any time and for any lawful reason. In most other countries, employees can only be fired for cause. In the U.S., legislators have made the calculus that increased flexibility outweighs job security.

In reality, the rights and restrictions of both new workers and employers differ very little from those affecting regular employees. All are still covered by the applications of the Fair Labor Standards Act of 1928, including key elements such as minimum wages, discrimination and workers' compensation.

There are a host of other names for the concept, some designed to sound less intimidating. Probation may be labeled as orientation, training, initiation, eligibility or an introductory period, but the underlying principles are similar. The period usually spans one to six months, most commonly 90 days, and can be extended if necessary.

During probation, companies can still fire and workers can quit. And employers cannot avoid wrongful termination lawsuits just because the probation is ongoing; employees gain no added security after probation, although some misconstrue their status to believe they do.

Diluting trust and goodwill

Does probation give employers a better shake than employees? Is it a ploy to counter ineffective hiring? Are companies taking advantage?

Workers may not have access to a few benefits during probation. For example, if the company decides to let them go, they may lose eligibility for their new employer's unemployment benefits. Some firms also delay health insurance or pay smaller benefits. In addition, recent hires may not receive their full sign-on bonuses.

Other than relatively minor delays, the main downside is an erosion of trust from the git-go — a moment when firms are eager to impress employees with the cohesion of their office culture. On one hand, management is paying lip service to the myth that these newly engaged team members are joining a big, friendly corporate family. On the other, it can be uncomfortable to still feel unproven during evaluations. Companies might also lose out if the stigma associated with a probation period discourages talented candidates from applying. In particular, someone who might need to relocate from another city may be less inclined to risk an upheaval in their life. Others may continue to keep alternative job applications open, just in case.

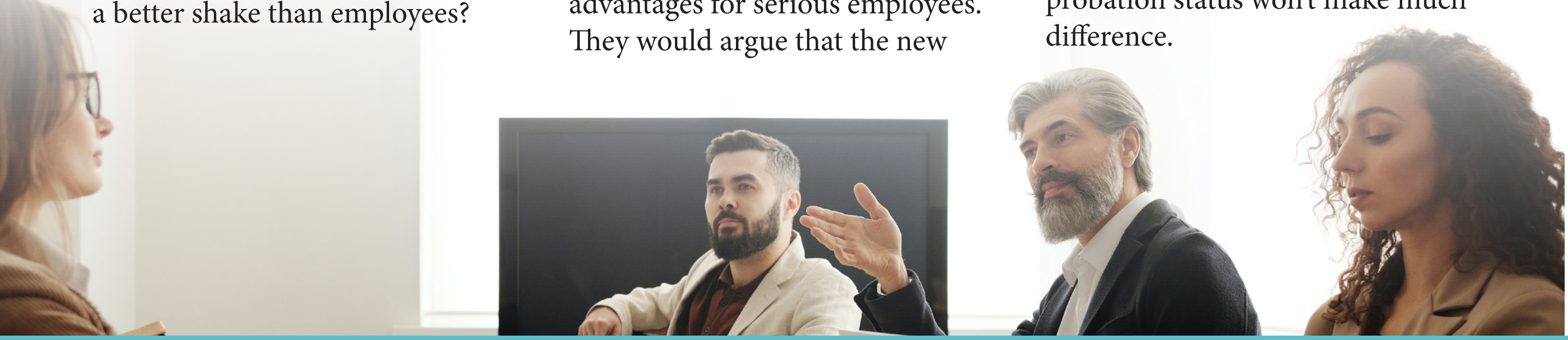
Managers contend that the trial time does provide concrete advantages for serious employees. They would argue that the new hires will be receiving extra support, attention, training and feedback during onboarding, including weekly performance evaluations and check-ins. It can be unsettling, they say, to drift in limbo at a new job, so an introductory stage encourages management to pay extra attention to starting workers' needs.

Facilitating the process

When organizations remain committed to probationary trials, management can follow a few guidelines, such as:

- Applying practices consistently with no exceptions.
- Consulting an attorney to ensure the policies are properly drafted and implemented.
- Establishing a paper trail if you must fire someone, in case your reasons are challenged as unfair dismissal.
- Including a disclaimer in the employee handbook, and always using clear language in defining at-will employment and termination.

On a personal level, managers who hope to construct a positive relationship with their new employees may gain extra points by leveling with them. Suggest to them that they should regard probation as a formality, not a make-or-break test. Add that if they make genuine efforts, their probation status won't make much difference.



Is This Your Situation: Considering HR Outsourcing

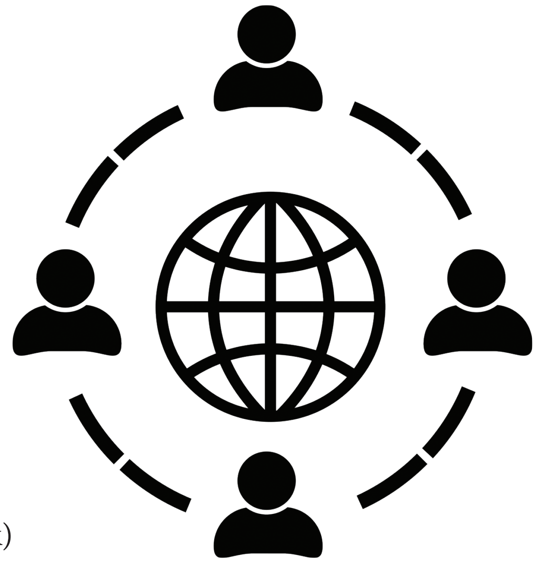
Outsourced HR services are designed to streamline functions, reduce expenses and help meet your firm's operational goals. You may hire a third party to oversee some or all of your HR functions, including payroll processing, employee benefits administration and talent acquisition.

Outsourcing is a partnership between your company and the outsourcing firm — sharing business liabilities can relieve some of your burdens in staying compliant and reducing your risks. You have the flexibility to outsource one or two tasks if that's all you need.

A big advantage is leveraging the power of offering competitive employee benefits, including health insurance, 401(k) retirement plans and health savings accounts. Third-party providers often have stronger buying power, so you can offer employees more variety and more affordable benefit options.

HR tasks that can be outsourced include:

- Attracting and developing talent as well as onboarding and retention.
- Keeping up with federal, state and local legislative and regulatory compliance for changing labor and employment laws as well as insurance claims management.
- Administering benefits and payroll for your remote workforce, time and attendance reporting, and new hire reporting. Cloud-based solutions support off-site access to the company. Employees can complete essential functions from their smartphones or tablets.
- Creating company policies for employee relations tasks. Develop a customized employee handbook — company policies, procedures, benefits and training — so employees know what's expected of them.



- Handling your Family and Medical Leave Act-related workload, making sure leave is administered properly and in compliance with applicable rules and regulations.
- Generating custom reporting on employee data, expense management, timekeeping, labor management and forecasting.
- Offering employee counseling, such as helping your staff access mental health services, as well as programs to promote attendance, productivity and morale.

How do you know if it's right for you?

Some scenarios that may lead to outsourcing HR include:

- You want access to technology that is too expensive or complex to run on your own.
- You feel that you're spending a disproportionate amount of time on HR tasks.
- You have liability exposure.
- Your HR functions are spread among employees in several departments.
- Your firm isn't large enough to have an in-house HR team and your staff is having trouble properly balancing hiring tasks and employee management.

How does outsourcing reduce costs?

- Frees up time and resources.
- Lowers health expenses.
- Reduces HR expenses.
- Reduces turnover.
- Helps generate higher revenue growth.

An outsourcer can review your talent acquisition strategy, offer a streamlined and integrated applicant tracking system, and assist in developing targeted job descriptions. Finding the right partner can help identify areas of concern and help you take the steps needed to stay on track — missteps can cost you a lot in fines and levies. Give us a call today. port when you need it, including providing coverage during gaps and on demand with team members who follow your existing processes, as well as helping with managing email, social media and customer onboarding.

The team structure of outsourcing means increasing or decreasing the number of people and the time spent on projects: You pay only for the services needed and not for unproductive time.

Outsourcing scales with your business as it changes

Outsourcing can mean bringing in a team of experts in their respective fields. By using the latest technologies and practices, they can work faster, cheaper and with fewer resources, adjusting to the changing needs of your business. At the end of the day, what is right for you? Give us a call so we can help you figure out what your next step should be.

Scan here for more blogs and insights