

COVID-19 Updates on Form 941, EEO-1, Form I-9, E-Verify and COBRA

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Revised Form 941 for COVID-19 Related Employment Tax Credits

On April 30, 2020, the IRS released a draft Form 941. Revised Form 941 includes various additional entries to report and reconcile payroll tax credits and deferral opportunities available under the CARES Act and the FFCRA. The form is expected to be available for use by employers beginning with the second quarter of 2020. The draft version of Form 941 requires an employer to report any employment taxes retained by the employer in anticipation of refundable tax credits or the deferral opportunity, as well as to report any advances received from filing Form 7200, advanced payment of employer credits due to COVID-19 for the quarter. Members are encouraged to communicate with their CPA or their bookkeeping services to ensure that they are maximizing their return of tax credits and are properly reporting employment taxes retained by the employer. [Please click here to view the draft Form 941.](#)

EEOC Will Not Collect Employer EEO-1 Data in 2020

Because of the Coronavirus pandemic, the Equal Employment Opportunity Commission (EEOC) announced on May 7, 2020, that it will delay until March 2021, collection of EEO-1 Component 1 information which asks for the number of employees who work for a covered business sorted by job category, race, ethnicity and gender.

Under the law, businesses with at least 100 employees and federal contractors with at least 50 employees and a contract of \$50,000 or more with the federal government, generally must file the EEO-1 Form each year.

Pending approval from the OMB, the EEOC expects to begin collecting 2019 and 2020 EEO-1 Component 1 data in March 2021. The EEOC will notify filers of the precise date the surveys will open as soon as available.

New Form I-9 Policy Due to COVID-19

The Department of Homeland Security (DHS) has issued a *temporary* policy to allow employers to accept expired List B documents when completing the Form I-9 beginning May 1, 2020. This temporary policy is intended to account for fact that many people are unable to renew driver's licenses or State ID cards at this time due to Stay-At-Home Orders. While some States have extended the expiration of driver's licenses and State Identification Cards, which are common List B documents, others have not. The temporary policy addresses both situations.

Temporary Extension for Expired List B Documents That Have Not Been Extended:

List B documents that expire on or after March 1, 2020, and have not been extended by the State may be treated the same as if the employee presented a valid receipt for an acceptable document for Form I-9 purposes. If an employee presents his/her driver's license that expired on or after March 1, 2020, and it was not extended by the State, employers should:

- Record the documentation information in Section 2 under List B on the I-9 Form, as applicable; and
- Enter the word "COVID-19" in the Additional Information field.

When the DHS ends this temporary policy, employers must require the employee to provide a valid unexpired document within 90 days. [The replacement for the expired document is preferred, but employees may choose to present different documents to satisfy the I-9 requirements.] At this time, in the Section 2 Additional Information field, employers must:

- Record the number and other required document information from the actual document present; and
- Initial and date the change.

Procedure for List B Documents That Have Been Extended:

If the employee's List B identity document expired on or after March 1, 2020, and the issuing authority has extended the document expiration date because of COVID-19, the document is acceptable as a List B document for Form I-9 (not as a receipt) during the extension timeframe specified by the issuing authority. In that case, the employer must:

- Enter the document's expiration date in Section 2; and
- Enter "COVID-19 EXT" in the Additional Information field.

Employers may also attach a copy of the webpage or other notice indicating that the issuing authority has extended the documents. Employers can confirm that their State has auto-extended the expiration date of State IDs and driver's licenses by checking the State Motor Vehicle Administration or Department of Motor Vehicle's website.

The employer is not required to present a valid unexpired List B document at a later date.

E-Verify

Employers participating in E-Verify should use the employee's expired List B number from Section 2 of the Form I-9 to create an E-Verify case as usual within three days of date of hire. Even if the State has automatically extended the employee's driver's license because of COVID-19, employers should enter the expiration date as printed on the employee's document when creating the E-Verify case.

Additional questions and answers on temporary I-9 and E-Verify policies have been created by the U.S. Citizenship and Immigration Service and are available on its website at www.uscis.gov.

The new Form I-9 which must be used with all new hires effective May 1, 2020 can be downloaded at <https://www.uscis.gov/i-9>.

U.S. Department of Labor Extends COBRA Dates

The U.S. Department of Labor (DOL), has released a final rule that temporarily extends the period in which eligible employees can elect COBRA health insurance coverage, and the deadline to begin making COBRA benefit premium payments. This new rule will be of assistance to employers in situations where employees are laid off or terminated, or where COBRA benefits may be stated in severance or settlement agreements.

The new rule extends most COBRA deadlines beyond the “outbreak period” which is defined in the rule as March 1, 2020, to 60 days after the end of the declared COVID-19 national emergency. As currently written, that date would be June 29, 2020. Therefore, the “outbreak period” would end on August 28, 2020.

The new rule extends to both the election period which would not start until the end of the “outbreak period” and it extends the initial premium payment and grace period deadlines beyond the “outbreak period”.