

## FEBRUARY 2020 GLO REPORT

**USCIS Publishes New Form I-9, Instructions** - On January 31, U.S. Citizenship and Immigration Services (USCIS) **released the new Form I-9, Employment Eligibility Verification**, along with the **updated instructions**. Employers must begin using the new version of Form I-9 (dated October 21, 2019) by April 30, 2020 [**85 F.R. 5683**, 1-31-20].

Employers should begin using the new Form I-9 immediately, but USCIS allows employers 90 days to make necessary updates and adjust their business processes for the new version.

### What's New

USCIS added Eswatini and North Macedonia to the Country of Issuance field in section 1 and the foreign passport issuing authority field in section 2 per those countries' recent name changes. The changes are only visible when completing the fillable Form I-9 on a computer.

USCIS updated these items in the instructions:

- Clarified that an authorized representative may be any person an employer designates to complete and sign Form I-9 on its behalf. However, the employer remains liable for any violations in connection with the form or the verification process, including violations of the employer sanctions laws committed by the person designated to act on the employer's behalf.
- Updated USCIS website addresses.
- Provided acceptable document clarifications.
- Updated the process for requesting the paper Form I-9.
- Updated the Department of Homeland Security Privacy Notice.

<https://www.americanpayroll.org/news-resources/apa-news/2020/01/31/uscis-releases-new-form-i-9-instructions>

**DOL Announces Annual Adjustments for FLSA, FMLA Violations** - The U.S. Department of Labor (DOL) released inflation adjustments to the civil penalties for violations of certain laws, including the Fair Labor Standards Act (FLSA) and the Family and Medical Leave Act (FMLA) [**85 F.R. 2292**, 1-15-20]. The new amounts apply only to civil penalties assessed after January 15, 2020, whose associated violations occurred after November 2, 2015.

Here are some of the inflation adjustments for 2020:

- *FLSA minimum wage and overtime penalties.* The penalty for willful violations of the minimum wage and overtime provisions increases from \$2,014 to \$2,050.
- *FLSA child labor penalties:*
  - Child labor violation penalties increase from \$12,845 to \$13,072.
  - Penalties for child labor violations resulting in serious injury or death increase from \$58,383 to \$59,413.

- Penalties for child labor violations that are willful and result in serious injury or death increase from \$116,766 to \$118,826.
- *FMLA*. The penalty for willfully failing to comply with the FMLA notice requirements increases from \$173 to \$176.
- *Contract Work Hours and Safety Standards Act*. The daily liquidated damages fine remains at \$27.

<https://www.americanpayroll.org/news-resources/apa-news/news-detail/2020/01/23/dol-announces-annual-adjustments-for-flsa-fmla-violations>

**IRS, Treasury issue proposed regulations updating income tax withholding rules** - The U.S. Department of the Treasury and the Internal Revenue Service today issued proposed regulations updating the federal income tax withholding rules to reflect changes made by the Tax Cuts and Jobs Act (TCJA) and other legislation.

In general, the proposed regulations, available now in the Federal Register, are designed to accommodate the redesigned Form W-4, Employee's Withholding Certificate, to be used starting in 2020, and the related tables and computational procedures in Publication 15-T, Federal Income Tax Withholding Methods. The proposed regulations and related guidance do not require employees to furnish a new Form W-4 solely because of the redesign of the Form W-4.

Employees who have a Form W-4 on file with their employer from years prior to 2020 generally will continue to have their withholding determined based on that form.

To assist with computation of income tax withholding, the redesigned Form W-4 no longer uses an employee's marital status and withholding allowances, which were tied to the value of the personal exemption. Due to TCJA changes, employees can no longer claim personal exemptions. Instead, income tax withholding using the redesigned Form W-4 will generally be based on the employee's expected filing status and standard deduction for the year.

The Form W-4 is also redesigned to make it easier for employees with more than one job at the same time or married employees who file jointly with their working spouses to withhold the proper amount of tax.

In addition, employees can choose to have itemized deductions, the child tax credit, and other tax benefits reflected in their withholding for the year. As in the past, employees can choose to have an employer withhold a flat-dollar extra amount each pay period to cover, for example, income they receive from other sources that is not subject to withholding. Under the proposed regulations, employees now also have the option to request that employers withhold additional tax by reporting income from other sources not subject to withholding on the Form W-4.

The proposed regulations permit employees to use the new IRS Tax Withholding Estimator to help them accurately fill out Form W-4. As in the past, taxpayers may use the worksheets in the instructions to Form W-4 and in Publication 505, Tax Withholding and Estimated Tax, to assist them in filling out this form correctly.

The proposed regulations also address a variety of other income tax withholding issues. For example, the proposed regulations provide flexibility in how employees who fail to furnish Forms W-4 should be treated. Starting in 2020, employers must treat new employees who fail to furnish a properly completed Form W-4 as single and withhold using the standard deduction and

no other adjustments. Before 2020, employers in this situation were required to withhold as if the employee was single and claiming zero allowances.

In addition, the proposed regulations provide rules on when employees must furnish a new Form W-4 for changed circumstances, update the regulations for the lock-in letter program, and eliminate the combined income tax and FICA (Social Security and Medicare) tax withholding tables.

<https://www.irs.gov/newsroom/irs-treasury-issue-proposed-regulations-updating-income-tax-withholding-rules>