

# Federal Law Alert

## New 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. This policy is intended to account for the fact that many people are unable to renew their 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 their driver's license that expired on or after March 1 and it was not extended by the state, employers should:

- Record the documentation information in Section 2 under List B, 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 a different document or documents to satisfy the I-9 requirements.) At that time, in the Section 2 Additional Information field, employers must:

- Record the number and other required document information from the actual document presented; 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 a 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 Vehicles website.

The employee is not required to present a valid unexpired List B document later.

## **E-Verify**

Employers participating in E-Verify should use the employee's expired List B document number from Section 2 of the Form I-9 to create an E-Verify case as usual within three days of the date of hire. Even if a 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.

## **Reminders**

Employers are required to complete an employee's Form I-9 within three days of their first day of work. The DHS has temporarily suspended the physical presence requirement for fully remote workplaces. Additional information is available in Comply [here](#).

Helpful questions and answers on temporary I-9 and E-Verify policies have been created by the U.S. Citizenship and Immigration Services and are available [here](#).