



BY NANCY A. CHILLAG

Essential Employment Issues

Hiring employees today is a very complex procedure. In addition to the general concern about hiring the right person for the position, you must make sure you obtain all the required paperwork. Businesses must comply with taxation, immigration and state documentation requirements.

Internal Revenue Forms. The IRS requires employees to complete a W-4 form to indicate

Immigration Forms. The Immigration and Naturalization office is concerned with issues involving a person's right to work. Three categories of persons have a right to work in the United States: (1) citizens or nationals, (2) lawful permanent resident aliens and (3) aliens with work authorization. Employers are required to obtain from their employees INS form I-9. On this form, the employee provides basic information about themselves and provides to the employer proof of their right to work. It is then the employer's responsibility to do the following:

(a) Record which documents have been examined. Do not just attach copies of the documents. You must fill out the form.

(b) Determine if the document appears valid. Beware, rejecting a document because it does not appear valid may present you with legal problems.

(c) Verify that the documents belong to the person presenting them. If the employee submitted an application with the name "John Smith" on it and he submits INS required documents that state Jim Smith, it is your obligation to reconcile the discrepancy.

Do not ask applicants to complete the form as part of their application process because the form contains information regarding age, national origin and alienage which could be grounds for a discrimination action if the applicant is not hired.

The I-9 forms must be kept on file by the employer for three years after hiring or one year after termination of an employee, whichever is later. Failure to

comply could result in fines up to \$1000. In addition, if you hire a person who is not eligible to work, you could be subject to fines up to \$20,000 per individual. For assistance with the forms, you can refer to the INS Publication, *Handbook for Employers: Instructions for Completing Form I-9*.

State Forms. Many states have taxing and unemployment agencies that require forms to be completed and/or filed. These forms are used to compile state employment statistics, collect state withholding taxes, track down parents who are delinquent on child support payments and reduce welfare fraud. Local accountants can assist with the required forms or you can contact your local tax authority for information.

Employer Forms. If you decide to hire employees, you will be required to file for an Employer Identification Number (EIN). Your social security number, while adequate, should not be used because you should separate your personal and business records with the IRS. You can apply for an EIN by completing IRS Form SS-4 and submitting it to the IRS. You can also call the IRS and obtain an EIN over the phone, but you still need to file the paperwork afterwards. You can obtain assistance through IRS Publication, Circular E, *Employer's Tax Guide*. ♦

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their tax identification number, address, marital status and number of allowances they wish to claim. The employer uses this form to determine the amount of withholdings for each paycheck.

There are several IRS publications which can assist the employer with these forms and with the withholding issues in general. See IRS Publication 15, *Employer's Tax Guide*, and IRS Publication 334, *Tax Guide for Small Businesses*.

Employers need to keep the W-4 form on file in the office. It does not get filed with the IRS, unless the employee claims more than 10 allowances or if the employee claims tax exemptions and earns over \$200 per week. If the employee does not give you a W-4 form, you must withhold as though the employee were single with no allowances.