

Form I-9 Updates: Temporary Policy for List B Identity Documents

May 6, 2020

Due to stay-at-home orders currently in place, in many states employees may experience challenges renewing a state driver's license or other List B identity document for purposes of Form I-9 Employment Eligibility Verification. As a result, the Department of Homeland Security (DHS) announced that effective May 1, 2020, identity documents found in List B which expired **on or after March 1, 2020**, and have not otherwise been automatically extended by the issuing authority due to COVID-19, may be treated by the employer as if the employee presented a valid receipt of an acceptable document for Form I-9 purposes.

DHS provides the following guidance for completion of Section 2 of the Form I-9:

When an employee provides a currently expired List B document which has not been extended by the issuing authority, the employer should take the following steps to complete Section 2 of the Form I-9:

- Record the document information in Section 2 under List B, as applicable; and
- Enter the word "COVID-19" in the Additional Information Field.

E-Verify employers should use the employee's expired List B document number from Section 2 of the Form I-9 to create an E-Verify case within three days of the date of hire.

When an employee provides an expired List B document that has been extended by the issuing authority, the employer should take the following steps to complete Section 2 of the Form I-9:

- Enter the document's expiration date in Section 2 under List B, as applicable; and,
- Enter "COVID-19 EXT" in the Additional Information Field.

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 due to COVID-19, the document is acceptable as a valid List B document for Form I-9 purposes (not only as a receipt) during the extended timeframe specified by the issuing authority.

This temporary policy will remain in effect until terminated by DHS. No later than 90 days after this temporary policy has been terminated, the employee must present a valid **unexpired document** to replace the expired document presented by the employee upon hiring.

Complete guidance regarding how to properly complete Section 2 of the I-9 Form during COVID-19 can be found at the following website: <https://www.e-verify.gov/about-e-verify/whats-new>

Employers should also be aware that on April 28, 2020 USCIS released a revised **M-274, Handbook for Employers: Guidance for Completing Form I-9**, with expanded information on properly completing Form I-9, Employment Eligibility Verification.

Additional information regarding temporary policies related to the I-9 Form and E-verify can be found at the following website: <https://www.uscis.gov/i-9-central/questions-and-answers-related-temporary-policies-form-i-9-and-e-verify>

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This is part of a series of our **COVID-19 alerts** providing clients with practical advice on measures they can take to navigate through these troubled times. Please contact the authors or your Miller Canfield attorney with further questions.

This information is based on the facts and guidance available at the time of publication, and may be subject to change.