Don't Forget About I-9 Compliance and Monitoring!

What do Krispy Kreme, Abercrombie and Fitch, and a Washington apple orchard have in common?

The answer is fines of between $40,000 and several million dollars for violations of the Form I-9 requirements under the Immigration Reform and Control Act (IRCA).

IRCA requires employers to verify, document, and maintain records of the work eligibility of their employees through Employment Eligibility Verification Form I-9. Non-compliant employers face federal civil and criminal penalties. The form number is commonly used to describe audits and investigations carried out by U.S. Immigration and Customs Enforcement (ICE).

Avoid an audit—know your I-9 responsibilities

In the last several years, ICE has increased the number of its annual I-9 inspections. Correspondingly, the amount of money lost to violations by employers has risen.

Creating a strong process and chain of responsibility for your internal I-9 audit practice is critical. McCloskey Partners, LLC works routinely with companies putting compliance measures into place. Failure to understand your responsibilities as an employer do not defer violations, or decrease the amount of fines you pay, if your company is found out of compliance.

Stringent monitoring of I-9 requirements shifts responsibility for verifying employment eligibility from federal immigration officers to employers. **Employment sectors that experience high turnover, or employ a high number of seasonal employers, bear an increased burden for keeping records current and accurate. It is your job as an employer to verify the individual you hire is legally authorized to work in the United States.**

While ICE offers informational support to help you create and maintain an accurate I-9 trail for each employee, the work is daunting. The ICE program E-Verify is required in some states and can be used along with Form I-9.

Some frequent errors made by employers include:

- **Inadequate staffing:** Responsibility for I-9 reporting is important. Employers often fail to recognize the training, or staff, needed to adequately address compliance issues. Ensure that you have dedicated staff who are trained on I-9 compliance.

- Investigate and consider obtaining appropriate software support for I-9 audits as part of your risk management procedures.

- **Missing forms or information:** Non-compliant I-9 Forms are a common problem. Incorrect or missing dates, data, documentation, and signatures are all I-9 violations.

- **Identifying documents:** Particular forms of identifying documents are required. Failure to record, and code, documents is a common mistake made by employers.

- **Timing:** The I-9 process begins after hire. When your employee accepts your offer of employment, they must complete the employee information and provide the documentation requested on Form I-9. Within three days, you must verify this information, complete, date, and sign the form. Errors are made when I-9 documentation is delayed until well after hire. It is prohibited to backdate incomplete documents.

If ICE chooses to investigate your company, you will receive a Notice of Inspection (NOI) that requires you to produce I-9 forms and other documents relative to your business, such as payroll, within approximately three business days. For most companies, without an ongoing internal I-9 audit process, citations for violations and fines are likely to follow.

What seems like a nuisance now can be a costly headache later. Properly trained staff, use of software, and an internal I-9 audit structure help ensure your company is ready if you receive an NOI. When you have questions about the I-9 process, McCloskey Partners, LLC can help. Contact McCloskey Partners, LLC at info@mccloskeypartners.com 215-716-3035.