



BRIEFING UPDATE SSA No-Match Letters

Issue: Last year some employers received an informal notice from the Social Security Administration (SSA) advising that at least one W-2 Form with a name and social security number combination did not match SSA’s records. This spring, employers will receive a formal Employer Correction Request. The letter **will not** include the individuals’ name(s) for the W-2 forms that do not match the SSA record; instead, employers will receive a specified number of W-2 forms that do not match. The employer will be responsible to determine which employee’s W-2’s do not match. The SSA provides the Social Security Verification System (SSNVS) as an option for employers to check W-2 forms. A link to SSNVS can be found at ssa.gov.

Summary:

Under the Immigration National Act (INA), it is a federal offense to knowingly hire an undocumented worker. The Employer Correction Request is not a determination that the employer knowingly hired someone who is unauthorized to work in the country. Employers **should not** ignore this letter **OR** use the letter as the sole basis to determine an employee’s work status. In the past the SSA has made errors, employees sometimes use multiple surnames, etc. The employer is responsible to maintain accurate records and to act in good faith to investigate and correct the discrepancy.

Background:

SSA is seeking to correct its database so that employees receive benefits they are entitled to receive. Employers should provide employees with a reasonable opportunity to correct the information they have provided to the employer. The Immigrant and Employee Rights (IER) division of the Department of Justice protects employees from being terminated solely based on a SSA correction request. IER has fined employers who do not provide employees a reasonable amount of time to respond. Courts have determined that three days is not reasonable, and many advisors counsel that 30 - 60 days is probably a reasonable period of time to offer employees to correct their records.

The Immigration and Customs Enforcement (ICE) enforces the INA. ICE conducts Form I-9 audits. We expect an increase of I-9 audits, and we expect that ICE will request a copy of the Employer Correction Request, along with records to document steps the employer took to correct social security mismatches. Employers who do not respond to the SSA Correction Request may face fines by ICE, on a theory that it is not reasonable to ignore the information provided by the SSA. Thus, it is important to respond to the SSA, and important to maintain good records. WafLa can audit and/or provide your company with I-9 training. Learn more and request information

**Retirement, Survivors and Disability Insurance
Employer Correction Request**

(Insert SSA Address)
(Insert SSA Address)
Date:
EIN:
Tax Year:
Receipt Year:
WFID:
Version #:
W3 Sequence#:
Processed W2 Count:

EMPLOYER'S NAME
STREET ADDRESS
CITY, STATE ZIP

Why You Are Getting This Letter

You reported **X#** employee names and Social Security numbers (SSN) on the Wage and Tax Statements (Forms W-2) for tax year xxxx that do not match our records. We need corrected information from you so that we can reconcile employer wage reports and credit your employees’ earnings to their Social Security records. It is important because these records can determine if someone is entitled to Social Security retirement, disability, and survivors benefits, and how much he or she can receive. If the information you report to us is incorrect, your employee may not get benefits he or she is due.

There are a number of reasons why reported names and SSNs may not agree with our records, such as typographical errors, unreported name changes, and inaccurate or incomplete employer records.

IMPORTANT: This letter does not imply that you or your employee intentionally gave the government wrong information about the employee’s name or SSN. This letter does not address your employee’s work authorization or immigration status.

You should not use this letter to take any adverse action against an employee, such as laying off, suspending, firing, or discriminating against that individual, just because his or her SSN or name does not match our records. Any of those actions could, in fact, violate State or Federal law and subject you to legal consequences.

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about this service at <https://wafla.org/I-9compliance>.

Analysis:

The employer must take the necessary steps to avoid issues with the SSA, IER or ICE. As soon as the employer receives an Employer Correction Request the employer should use the Social Security's Number Verification Service (SSNVS) or use some other service to verify which W-2's need corrections. Once the employer has determined which employees' W-2's are a no-match, the employer should inform the employee in writing to address the discrepancy. This letter should not be used to *"to take adverse action against an employee, such as laying off, suspending, firing, or discriminating against that individual."* The employer should not ask for specific identity documents nor require the employee to complete a new I-9. The employer should advise the employee of the discrepancy, ask the employee to check that their information matches your records, and further ask that the employee contact the social security office to make corrections. A sample letter to employees can be obtained from the SSA website. View sample on the right.

If a correction is warranted, the employer must file a W-2C. It is best to complete the investigation and W-2C process within 90 days of receipt or the SSA Correction Request. It is important to keep the original Form I-9 and Employer Correction Request letter. Make a note of what occurred and document your steps to resolve the documentation in case of an I-9 audit.

What if the employee has not fixed the problem after a reasonable time? Must I terminate the worker?

As previously noted, it is unclear what constitutes reasonable amount of time – certainly 30 days or more. After providing the worker ample time to make the correction, make sure your records are in order, have a frank conversation with the worker, implement an HR policy for no-match letters to avoid inconsistent practices among workers, and contact an employment attorney before terminating the worker.

For more information on the SSNVS and to view a copy of SSA no-match letters go to:

SSNVS: <https://www.ssa.gov/employer/notices.html>

Employer Correction Request: <https://www.ssa.gov/employer/notices/EmployerCorrectionRequest.pdf>

Sample letter to give to Employees: <https://www.ssa.gov/employer/notices/SSNVSsampleLetter.pdf>

For compliance information go to:

Wafla I-9 assistance: <https://wafla.org/I-9compliance>

Dos and Don'ts: <https://www.justice.gov/sites/default/files/crt/legacy/2014/12/04/Employers.pdf>

Sample Letter Employers Can Give to Employees

We verified the following information with Social Security on this date:

_____.

Name _____

Social Security Number _____

According to Social Security, the information above does not match Social Security's records. You should:

- Check to see if the information above matches the name and Social Security Number on your social security card. If it does not match, please provide me with the exact information as it is shown on your Social Security card.
- If the information above matches your card, please check with any local Social Security office to resolve the issue. Once resolved, please inform me of any changes. Go to www.ssa.gov or call 1-800-772-1213 to find the office nearest you.

NOTE: This notice does not imply that you intentionally provided incorrect information about your name or Social Security Number, nor does this adversely affect your employment.