

ABOUT E-VERIFY

FORM #04.107



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1. Introduction

Those seeking work as nonresident alien non-individuals are sometimes asked by companies to participate in the E-Verify system as part of the job application process. E-Verify is a method of online eligibility checking for those seeking "employment". It:

1. Uses SSA records to verify the validity of the SSN provided with the employment application.
2. Verifies the eligibility of "new hires" for "employment" in accordance with the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).

E-Verify information is shared with:

1. Department of Homeland Security (DHS).
2. Social Security Administration (SSA).

By the admission of the USCIS, participation in the E-Verify system is entirely voluntary:

Am I required to participate?

*No. Under federal law, **E-Verify is voluntary for all employers** with limited exceptions for federal government employers and violators of certain immigration laws that are ordered to participate.*

Employers should check to see if their state law requires participation in E-Verify.

[How Do I Use E-Verify - "How Do I" Guide for Employers (August 2008), p. 1;

SOURCE: <http://www.uscis.gov/USCIS/Resources/E4en.pdf>]

Because program participation is voluntary for "employers", participation must by implication be EQUALLY voluntary for "new hires".

If you would like further information on this subject, please see:



[Federal and State Tax Withholding Options for Private Employers, Form #09.001, Section 24.6](#)

DIRECT LINK: <http://sedm.org/Forms/09-Procs/FedStateWHOptions.pdf>

2. Traps to Avoid when confronting illegal or COMPELLED use of the E-Verify system

2.1 Confusing PUBLIC "employers" with PRIVATE employers/companies

None of the literature available from the E-Verify Program website:

1. Provides an accurate definition of "[employer](#)" for the purposes of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).
2. Tells you the WHOLE truth about the fact that you aren't allowed to rely on anything a government representative tells you about what the law says. [Click here for details.](#)
3. Tells you the WHOLE truth about the fact that the government has no legal authority to regulate PRIVATE conduct, and therefore PRIVATE companies. [Click here for details.](#)

The written law is therefore the ONLY accurate and reliable source for what the word "[employer](#)" means.

Within Title 26 of the United States Code, the following definition of "employer" is provided for the purposes of the national income tax:

[TITLE 26](#) > [Subtitle C](#) > [CHAPTER 24](#) > § 3401
[§ 3401. Definitions](#)

(d) **Employer**

*For purposes of this chapter, **the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person,** except that—*

(1) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" (except for purposes of subsection (a)) means the person having control of the payment of such wages, and

(2) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" (except for purposes of subsection (a)) means such person.

So in other words, you aren't an "employer" unless you have "employees". The term "employee" is then defined as follows:

[26 C.F.R. §31.3401\(c \)-1 Employee:](#)

*"...the term [employee] includes officers and employees, whether elected or appointed, of the United States, a [federal] State, Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes an **officer of a corporation.**"*

[26 U.S.C. Sec. 3401\(c \) Employee](#)

*For purposes of this chapter, **the term "employee" includes [is limited to] an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.***

Consequently, those who are not acting as instrumentalities of the national government are NOT STATUTORY "[employees](#)". This would include ALL PRIVATE companies or PRIVATE, non-statutory "[employers](#)". For further exhaustive details on this subject, see:

[Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes](#), Form #05.008

DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/WhyThiefOrPubOfficer.pdf>

FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>

In their defense, government workers will attempt to deceive you about the above with the following FRAUDULENT arguments:

1. That the use of the word "includes" allows them to add whatever they want to any definition that uses is.

2. That what appears in the statute ADDS to the ordinary meaning of the term.

The courts and the rules of statutory construction clearly forbid such deceitful and covetous and CRIMINAL tactics. Here is why:

1. The Rules of Statutory Construction say the following:

"Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that the expression of one thing is the exclusion of another. *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d 321, 325; *Newblock v. Bowles*, 170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded."
[Black's Law Dictionary, Sixth Edition, p. 581]

2. The U.S. Supreme Court held the following on this subject:

"When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning. *Meese v. Keene*, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition of the term excludes unstated meanings of that term"); *Colautti v. Franklin*, 439 U.S. at 392-393, n. 10 ("As a rule, 'a definition which declares what a term 'means' . . . excludes any meaning that is not stated'"); *Western Union Telegraph Co. v. Lenroot*, 323 U.S. 490, 502 (1945) ; *Fox v. Standard Oil Co. of N.J.*, 294 U.S. 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, *Sutherland on Statutes and Statutory Construction* § 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."
[[Stenberg v. Carhart, 530 U.S. 914 \(2000\)](#)]

For further exhaustive information on how to combat the CRIMINAL ABUSE of language so as to turn LAW into PROPAGANDA, see:

Meaning of the Words "includes" and "including", Form #05.014

DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/Includes.pdf>

FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>



2.2 Confusing CONSTITUTIONAL "aliens" with STATUTORY "aliens"

The authority for implementing E-Verify is [8 U.S.C. §1324](#), which makes it a crime to harbor or aid a CONSTITUTIONAL alien (foreign national) but not a STATUTORY alien (foreign national OR state national).

It is VERY important that you understand the distinction between "CONSTITUTIONAL aliens" and "STATUTORY aliens" if you are Member and you are attempting to apply for work as all of the following:

1. A STATUTORY "nonresident alien" per [26 U.S.C. §7701\(b\)\(1\)\(B\)](#).
2. Not a STATUTORY "alien" per [26 U.S.C. §7701\(b\)\(1\)\(A\)](#).
3. A CONSTITUTIONAL "citizen of the United States" or "Citizen".
4. NOT a STATUTORY "national and citizen of the United States" per [8 U.S.C. §1401](#). All such parties are domiciled on federal territory not within any constitutional state of the Union.

A very good place to learn about the distinctions between CONSTITUTIONAL and STATUTORY "aliens" is the following:

1.  [Why You are a "national", "state national", and Constitutional but not Statutory Citizen. Form #05.006. Sections 2 through 4](#)
DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/WhyANational.pdf>
2.  [Flawed Tax Arguments to Avoid. Form #08.004. Section 6.1](#)
DIRECT LINK: <http://sedm.org/Forms/PolicyDocs/FlawedArgsToAvoid.pdf>

If you DO NOT understand the distinctions between these contexts:

1. CONSTITUTIONAL v. STATUTORY..

2. [NATIONALITY](#) v. [DOMICILE](#).
3. CONSTITUTIONAL "citizen of the United States" v. STATUTORY "national and citizen of the United States".
4. ["FEDERAL" v. "NATIONAL"](#).

...then you will not be able to explain to the company receiving your application why you can be a STATUTORY "nonresident alien" WITHOUT being a CONSTITUTIONAL alien who is INELIGIBLE to work. Therefore, you should put a lot of time into thoroughly understanding the subject using the materials referenced above so that you can confidently educate prospective companies you do business with about the difference.

If you want a table that correlates the various permutations of nationality and domicile found within federal statutes with that found on specific federal government forms, examine the following:

[Citizenship Status v. Tax Status, Section 8: Citizenship on Government Forms](#) (OFFSITE LINK)

DIRECT LINK: <http://famguardian.org/Subjects/Taxes/Citizenship/CitizenshipVTaxStatus.htm>

3. Cases where E-Verify Cannot Lawfully be Used

The E-Verify program documentation indicates that although participation is voluntary and even the use of SSNs is voluntary, the requirement to furnish an SSN is mandatory for those who "volunteer" to participate:

"Newly hired employees must complete Section 1 of Form I-9 in its entirety. Providing a Social Security number (SSN) on Form I-9 is usually voluntary; however, a SSN is required by employers that use E-Verify. Therefore all newly hired employees, including seasonal, temporary, and rehires MUST have a SSN."

[E-Verify User Manual, Section 2.1, 2010, p. 13;

SOURCE: <http://www.uscis.gov/USCIS/E-Verify/Customer%20Support/E-Verify%20User%20Manual%20for%20Employers%20R3%20-%20Final.pdf>]

Consequently, the program is unavailable and cannot lawfully be used in any of the following circumstances:

1. Applicant for work does not have and is not eligible to have or is not required to have an SSN.
2. Company receiving application is a PRIVATE company that is NOT a statutory "employer" and therefore [public office](#) in the federal and not state government government.
3. Company does NOT want to use E-Verify. They can't be compelled and participation is voluntary by their government's own admission. To conclude otherwise would be involuntary servitude in violation of the Thirteenth Amendment.
4. Either Applicant or Company accepting application does NOT want to validate the SSN but only the work eligibility of a PRIVATE worker who is not a statutory "employee".
5. Company is geographically located outside the statutory "[United States](#)" and therefore outside of exclusive federal legislative jurisdiction.

The fact that the E-Verify system cannot be used, does NOT mean that eligibility to work cannot be verified. The [I-9 form](#) is still available as a paper substitute for the E-Verify process.

4. Compelled use of Social Security Numbers or Taxpayer Identification Numbers by Companies

With or without the E-Verify system, it has always been a crime to compel the application for or use of Social Security Numbers (SSNs). Because E-Verify participation is voluntary, companies may not use the system in the case where the applicant is not eligible for a Social Security Numbers (SSN). This is covered in:

[About SSNs and TINs on Government Forms and Correspondence, Form #07.004, Section 9 and 10](#)

DIRECT LINK: <http://sedm.org/Forms/04-Tax/Procedure/AboutSSNs/AboutSSNs.htm>

We emphasize that:

1. It is a CRIME to compel the use of Social Security Numbers (SSNs) per [42 U.S.C. §408\(a\)\(8\)](#).
2. The only cases in which the use of SSNs is mandatory by statute are listed in 26 CFR §301.6109-1.
3. The specific cases in which use or disclosure of SSNs is mandatory are:
 - o The applicant is LAWFULLY acting as a public officer in the U.S. government. The only method of lawfully CREATING a public office is through election or appointment.
 - o The applicant is lawfully engaged in a "[trade or business](#)", which is defined in [26 U.S.C. §7701\(a\)\(26\)](#) as "the functions of a

public office".

- The applicant declares a status that is connected with a public office in the U.S. government. Namely, they claim to be a STATUTORY but not CONSTITUTIONAL "[U.S. citizen](#)" (per [8 U.S.C. 1401](#)) or "U.S. resident" (per [26 U.S.C. §7701\(b\)\(4\)](#)).
- 4. One is NOT a statutory "[individual](#)" UNLESS they are lawfully engaged in a public office in the U.S. government. [5 U.S.C. §2105\(a\)](#) identifies how one becomes an "individual", which is by consenting to become a public officer within the national and not state government and therefore statutory "[employee](#)".
- 5. It is a CRIME to impersonate a public officer per [18 U.S.C. §912](#) and therefore, by implication, to ELECT yourself into public office by either applying for, using, or disclosing a Social Security Number or Taxpayer Identification Number when acting as a PRIVATE human being or when operating OUTSIDE the only place that public offices may lawfully be exercised, which is the District of Columbia per [4 U.S.C. §72](#).

Therefore, if you are NOT lawfully engaged in a public office in the U.S. government at the time you seek work with any company, it constitutes FRAUD to disclose or use an SSN or TIN, and the applicant is committing the crime of impersonating a public officer in criminal violation of [18 U.S.C. §912](#). For those who are illegally compelled to acquire or use said numbers, we highly recommend attaching the following form to any request for such a number, and especially a COMPELLED request.

 [Why It is Illegal for Me to Request or Use a Taxpayer Identification Number. Form #04.205](#)

DIRECT LINK: <http://sedm.org/Forms/04-Tax/Withholding/WhyTINIllegal.pdf>

5. How to Complete E-Verify When Compelled

Various agencies of the government use different methods for dealing with applicants who do not have a Social Security Number. For instance, the Department of State tells applicants for passports who do not have SSNs or TINs to put all zeros in the SSN block of the DS-11 passport application. We haven't tried this with the E-Verify online application, but that may work.

6. Situational Resources Relating to E-Verify

6.1 Asked to Fill Out an I-9

We have prepared an amended form I-9 that defines all words of art on the form in order to remove any presumed any connection to the I.R.C. and correctly reflect your citizenship status as a non-citizen national domiciled outside the statutory but not constitutional "United States":

[I-9 Form Amended](#), Form #06.028

DIRECT LINK:  <http://sedm.org/Forms/06-AvoidingFranch/i-9Amended.pdf>

FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>

If you would like to read a forum that discusses the pros and cons of our form, see the following OFFSITE link. You will need an account to view or contribute to the forum. We didn't write it, so please don't ask us questions about it:

<http://famguardian.org/forums/index.php?showtopic=4746&st=0&p=10838&hl="i-9%20form"&fromsearch=1&#entry10838>

6.2 Asked for a Social Security Number for E-Verify

The subject of compelled use of Social Security Numbers for E-Verify is discussed in:

 [Federal and State Tax Withholding Options for Private Employers. Form #09.001. Section 24.6](#)

The compelled (and therefore ILLEGAL) use of government identifying numbers is described in:

[About SSNs and TINs on Government Forms and Correspondence. Form #07.004. Section 9](#)

DIRECT LINK: <http://sedm.org/Forms/04-Tax/Procedure/AboutSSNs/AboutSSNs.htm>

7. Forum discussions of this form







The content of this form has been the subject of discussion in the following forums. You will need an account on each of the respective websites in order to read the discussion:

1. [SEDM Forums](#)
 - [Discussion 1](#)

2. [Family Guardian Forums](#) (OFFSITE LINK)- DO NOT ask us questions about anything on this website. We ARE NOT responsible.
 - [Discussion 1](#)
 - [Discussion 2](#)

If you have questions about the content of this article, please direct them to the above forms. DO NOT submit them through our Contact Us page.

8. Further reading and research

1. [National Immigration Law Center \(NILC\)](#) (OFFSITE LINK) - complete, up-to-date information on the use of the E-Verify System
2.  [Federal and State Tax Withholding Options for Private Employers. Form #09.001. Section 24.6](#)- further discusses the E-Verify system in the context of employment.
3. [Citizenship Status v. Tax Status. Section 8: Citizenship on Government Forms](#) (OFFSITE LINK)-correlates statutory nationality and domicile options in Title 8 of the U.S. Code with tax status in Title 26, and status on government forms.
4. [8 U.S.C. §1324](#) (OFFSITE LINK) - the authority for verifying worker eligibility. This statute makes it a crime to harbor CONSTITUTIONAL but not STATUTORY aliens. It only applies on federal territory but is often illegally enforced outside of federal territory in a foreign state, namely states of the Union, because of deliberate confusion over "words of art".
5.  [Why You are a "national", "state national", and Constitutional but not Statutory Citizen. Form #05.006](#)-background on citizenship issues. The ONLY subject of the IIRIRA act are CONSTITUTIONAL aliens, not STATUTORY aliens.
6. [E-Verify Program Website](#)-USCIS
7.  [USCIS E-4 Customer Guide. Publication M-655](#)
8.  [E-Verify User Manual for Employers. Publication M-655](#)
9. [About SSNs/TINs on Tax Correspondence](#)-why you don't want to put an identifying number on the correspondence
 - [HTML](#)
 -  [PDF](#)
10.  [Why It is Illegal for Me to Request or Use a Taxpayer Identification Number. Form #04.205](#) -use this form as an attachment to an work application as legal evidence that you are NOT eligible for an SSN or TIN.
11. [You're Not a "citizen" under the Internal Revenue Code](#) (OFFSITE LINK)
12. [You're Not a "resident" under the Internal Revenue Code](#) (OFFSITE LINK)
13. [About IRS Form W-8BEN. Form #04.202](#) - withholding form to complete for members in tandem with this article

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