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United States – E-Verify Resumes Operations with End of Government Shut-down

by KPMG Law LLP – Tax + Immigration, Canada (KPMG Law in Canada is a KPMG International member firm)

For coverage of services affected by the government shut-down, see [Flash International Executive Alert 2013-139](#), October 10, 2013.

flash International Executive Alert

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E-Verify has resumed operations following the re-opening of the U.S. federal government. Some E-Verify features and service were non-operational due to the partial federal government shut-down that lasted nearly two weeks. All E-Verify features and services are now available. The following information addresses questions on how the federal government's shut-down affected E-Verify and Form I-9.

Information for Employers

Form I-9

The Form I-9 requirements were not affected during the federal government shut-down. All employers must complete and retain a Form I-9 for every person hired to work for pay in the United States during the shut-down.

E-Verify

Employees Who Received a Tentative Non-Confirmation (TNC)

If an employee had a TNC referred between September 17, 2013 and September 30, 2013, and was not able to resolve the TNC due to the federal government shut-down, according to U.S. Citizenship & Immigration Services (USCIS)¹ he or she can add 12 federal business days to the date printed on the 'Referral Letter' or 'Referral Date Confirmation.' Employees have until this new date to contact the Social Security Administration (SSA) or the Department of Homeland Security (DHS) to resolve their cases.

If an employee decided to contest his or her TNC while E-Verify was unavailable, he or she may now initiate the referral process in E-Verify. Employers may not take any adverse action against an employee because of a TNC.

Employees Who Received a SSA Final Non-Confirmation or DHS "No Show" Result

According to USCIS, employees who received a Final Nonconfirmation (FNC) or No Show because of the federal government shut-down, should consider closing the case and select "The employee continues to work for the employer after receiving a FNC result," or "The employee continues to work for the employer after receiving a No Show result." The employer must then enter a new case in E-Verify for that employee. These steps are necessary if the employee wishes to be afforded the opportunity to timely contest and resolve the TNC that led to the FNC result.

Creating Cases: Three-Day Rule

An E-Verify case needs to be created for each employee hired during or otherwise affected by the shut-down by November 5, 2013. If, when doing so, individuals are prompted to provide a reason why the case is late (i.e., does not conform to the three-day rule), they should select 'Other' from the drop-down list of reasons and enter 'federal government shut-down' in the field.

Information for Employees

In cases where the federal government shut-down prevented an individual from contesting a TNC, he or she will be allowed additional time to contact the SSA or DHS. If the TNC was referred between September 17, 2013 and September 30, 2013, and the individual was not able to resolve the mismatch due to the federal government shut-down, he or she may take the following steps:

- Add 12 federal business days to the date printed on the 'Referral Letter' or 'Referral Date Confirmation' that the employer provided the employee after he or she contested the TNC. Federal business days are Monday through Friday and do not include federal holidays.
- Contact SSA or DHS by the new date to resolve the TNC.

If an individual received a FNC because he or she could not contact DHS or SSA during the federal government shut-down, or because he or she could not contact DHS or SSA in the first 10 days after the government reopened, the individual should contact his or her employer and request that the employer re-enter the query. For more information about contesting the TNC or FNC, individuals may refer to the "Employee" section of the E-Verify Web site.

Customer Support

E-Verify Customer Support expects an increase in requests for assistance. Due to this increase, customers may experience longer than normal delays and response times. For any questions or additional information about how the federal shut-down affects E-Verify, please e-mail <E-Verify@dhs.gov>. For questions about Form I-9, please visit I-9 Central or e-mail <I-9Central@dhs.gov>. Employers and employees may also contact E-Verify at telephone 1-888-464-4218. Customer Support representatives are available Monday through Friday 8:00 am to 5:00 pm local time.

Footnote:

- 1 See: <http://content.govdelivery.com/bulletins/gd/USDHSCIS-900f6d> .

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KPMG LLP (U.S.) does not provide any immigration services. For assistance with immigration-related matters pertaining to the U.S., please contact your local qualified immigration counsel, or:

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Now Available for Viewing -- Video on KPMG's Global Assignment Policies and Practices ("GAPP") Survey Report for 2013

The Global Assignment Policies and Practices ("GAPP") survey report for 2013 was recently released by KPMG's International Executive Services practice. The report on the GAPP survey – now in its 15th year – serves as a valuable resource in the international assignment arena, providing much valuable information for program managers. The GAPP survey allows program managers to benchmark their organization's global mobility program in relation to other survey participants, which in this year's report includes more than 600 organizations. It touches on the many aspects of the life-cycle of an international assignment.

We invite you to watch this short video which imparts some fascinating facts about organizations and their international assignment programs (current state and aspirations) revealed by this year's survey.

<http://www.kpmginstitutes.com/taxwatch/insights/2013/2013-gaap.aspx>

And to access a soft copy of the survey report for 2013, click [here](#).

The information contained in this newsletter was submitted by KPMG Law LLP in Canada. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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