



News & Trending

PUBLICATIONS & ALERTS

ETRENDS - SOCIAL SECURITY ADMINISTRATION RESUMES SENDING NO-MATCH LETTERS TO EMPLOYERS

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The Social Security Administration resumed sending "no-match letters" to employers in April 2011. The letters will be sent when employee information on a W-2 Form is either incomplete or a reported name or Social Security number does not match with information maintained by the Social Security Administration. These letters will be sent to employers concerning the 2010 tax year.

The Social Security Administration had used no-match letters for approximately thirty years but discontinued the process in 2008 in response to litigation concerning a proposed Department of Homeland Security regulation, "Safe Harbor Procedures for Employers Who Receive a No-Match Letter." The Department of Homeland Security subsequently rescinded the proposed regulation.

Employers are required to report wages annually for each employee on a Form W-2. The Social Security Administration uses the information on the W-2 to post the employee's earnings to the employee's earnings record for purposes of determining the individual's Social Security benefit amount. If the information on the W-2 does not match the Social Security Administration's records, the earnings will not be posted and the Social Security Administration will issue a no-match letter.

No-match letters may be used as evidence of an employer's constructive knowledge that specific employees may be unauthorized to work in the United States. Thus, the employer should not simply ignore the letter. The no-match letter, Form FSA-L4002-C1, is not evidence that the employee is using fraudulent documents or is not eligible for employment. In fact, the letter specifically states, "this letter does not imply that you or your employee intentionally provided incorrect information about the employee's name or SSN." The letter provides that reported information may not agree because of input errors by the Social Security Administration or a reporting error by the employee or employer.

Employers should not assume that the no-match letter conveys information regarding the employee's actual eligibility to work in the United States and should not use receipt of the letter as the sole basis for taking any adverse action, such as termination or suspension, against the employee. The Department of Justice has issued general guidance for employees and employers in the circumstances of "no matches." Employers should review their procedures for responding to a "no match" letter and update them if necessary.

Please contact [Susan Parrott](#) with any questions.

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