

## Social Security Administration Announces Resumption of No-Match Letters

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On April 12, 2011, the Social Security Administration (SSA) announced that, effective April 6, 2011, it resumed its practice of sending “No-Match” letters to employers when the employer’s wage reports provide social security numbers that do not match with SSA’s records of the person to whom those numbers were assigned.

The new version of the SSA No-Match letter lists only one employee per letter, and specifically cautions the employer that the letter “does not imply that you or your employee intentionally provided incorrect information about the employee’s name or SSN.” The letter specifically provides that it “is not a basis, in and of itself, for you to take any adverse action against the employee, such as laying off, suspending, firing, or discriminating against the individual.”

Official guidance on how to handle inquiries regarding SSA No-Match letters remains vague. Thus, employers should consult with counsel to establish effective and lawful strategies to address SSA No-Match letters. Such strategies will typically include an effort by the employer to first double-check its own records to ensure it provided accurate

information to the SSA, followed (as necessary) by informing the employee of the no-match issue and giving the employee a reasonable amount of time to resolve it. If the employee used the mismatched social security number to establish work authorization on the employee’s Form I 9, and the employee is unable, after a reasonable amount of time, to resolve the social security number mismatch, the employer may have to consider whether it can or should request that the employee provide an alternative document verifying work authorization.

What constitutes a “reasonable amount of time” for the employee to resolve the social security mismatch issue is subject to debate. Different entities have suggested anywhere between two weeks and 120 days may be appropriate, depending on the circumstances. The attached memorandum prepared by a committee of the American Immigration Lawyers Association provides a more detailed review of the issues raised by the issuance of the Social Security No-Match letters. If you have questions or wish to discuss the issue further, please contact us at your convenience.

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