

New Data-Sharing Agreement Between DHS and IRS Will Impact Employers and Provide ICE with Unprecedented Access to Sensitive Data

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The Department of Homeland Security (“DHS”) and the Department of Treasury reached a data-sharing agreement in a Memorandum of Understanding (“MOU”) filed April 7, 2025.

Under the MOU, U.S. Immigration and Customs Enforcement (“ICE”) will provide the IRS with names and addresses of taxpayers living in the United States without legal status who have final removal orders or are under criminal investigation. The IRS will then cross-reference the names and addresses with existing taxpayer data and produce information to ICE.

The IRS maintains taxpayer data on undocumented persons who register with the agency and pay federal taxes. An undocumented worker can apply for an Individual Taxpayer Identification Number (“ITIN”) and use it to report earned income to the IRS. Employers commonly mistake ITINs for a Social Security Numbers because both contain nine-digits. Employers may even issue a W-2 or a 1099 to undocumented individuals as a result. Having undocumented worker pay data will provide the Department of Homeland Security (“DHS”) and ICE with additional intelligence regarding companies who employ undocumented workers.

The MOU does not provide when information-sharing between the two agencies will begin, but ensuring compliance with the Form I-9s identity and work authorization requirements is key for employers to minimize liability in the event of an ICE subpoena for documents or an unexpected raid.

In addition, employers should expect the revival of Social Security Administration (SSA) no-match letters. As we previously covered, these letters are issued to employers advising that the name or Social Security number (SSN) reported for one or more employees does not “match” a name or SSN combination reflected in SSA’s records. Employers are cautioned not to use the letters as evidence of immigration status but should notify affected employees. Employers should have a plan in place to terminate employees who are unable to establish continued authorization to work in the U.S.

Benesch will continue to provide updates on the impact of the MOU on employers. For more information, please contact a member of Benesch’s [Immigration Practice Group](#).