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Be Proactive In Tracking Form I-94 Expiration Dates For Each Of Your Foreign National Employees:

Introduction:

Except for U.S. Citizens and green card holders, all foreign nationals who enter the United States are issued a new Form I-94 Arrival/Departure record (I-94) upon every entry. In 2013, U.S. Customs and Border Protection (CBP) chose to automate this process, and the automated process is, unfortunately, riddled with errors. For example, a CBP officer may enter an incorrect expiration date on the I-94, or input the wrong class of admission. Such errors, if undetected, may result in grave consequences for your employee and your organization and, thus, should be promptly identified and corrected.

What is a Form I-94?

Despite popular belief, a visa is only an entry document [*i.e.*; allowing one with a valid visa to enter the United States], whereas an I-94 accords status to a foreign national in the United States. So, the I-94 record dictates (i) the class of admission (visa status) the foreign national has been granted and (ii) how long the foreign national is permitted to remain in the United States in that status. On that basis, the most important date to a foreign national present in the United States is the expiration date of his/her I-94.

Why is this important?

The I-94 is, by far, the most overlooked immigration document among foreign national employees and U.S. employers. It is also the most harmful document to overlook, with the potential for serious consequences should your employee overstay its expiration date and, thus, engage in unauthorized employment for your organization while accruing unlawful presence.

Given the number of errors with CBP's automated system, it is incumbent upon your foreign national employees to access individual I-94 records each and every time he/she returns from a trip outside the United States.

How can I obtain a copy of my I-94?

One can access his/her I-94 record at the following site: <https://i94.cbp.dhs.gov/I94/#/home>. A foreign national should go to this site to check the expiration date (referred to as the “admit until” date) of the I-94 of the principal beneficiary and each accompanying dependent.

HR Tip:

Many I-94 errors are fixable by contacting the appropriate CBP Deferred Inspection Office and following their local procedure. So get your foreign national employees into the habit of providing Human Resources with a copy of their most recent I-94 records after every trip outside the United States. This can be achieved by circulating recurring email reminders to your foreign national employees or posting a physical reminder in conspicuous locations around your workplace.

Also, educate your supervisors/managers on this issue – especially if employees are required to notify the organization (via one’s supervisor) about business and/or personal time.

Conclusion:

Having an effective Human Resources process in place to encourage your foreign national employees to verify that they remain in valid, work authorized status is a good practice that will avoid potentially catastrophic results for your organization, its foreign national employees and their family members.

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