

Increased ICE Enforcement Expected as Penalties Rise for Immigration Law Violations

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PRACTICES Labor and Employment

Immigration-related fines will rise on August 1, 2016, pursuant to a new U.S. Department of Justice rule. Issued on June 30, 2016, this inflation adjustment increases resulting penalty fines anywhere from 35 percent to 96 percent. The two main areas of immigration fines affected are: (1) the employment of individuals without work authorization; and (2) Form I-9 paperwork violations.

Prior to the increase, the employment of a single unauthorized worker in the first instance would result in a fine ranging from \$375 to \$3,200. The increased penalty now results in a first-offender fine anywhere from \$539 to \$4,313. Repeat offenses, which originally resulted in a penalty of \$4,300 to \$16,000, will now result in a fine of \$6,469 to \$21,563.

Form I-9 paperwork violations will see an even greater percentage increase in fines. While violations initially resulted in employer fines of \$110-\$1,100 per violation, this number will essentially double to \$216-\$2,156 in each instance. With this change, systemic I-9 errors for even mid-size employers could easily result in a \$50,000 fine from Immigration and Customs Enforcement (“ICE”).

In addition, the last two years have seen a dramatic decrease in workplace audits: 3,127 in 2013 to 1,320 in 2014, all the way down to only 435 in 2015. The fines in this timespan have decreased accordingly from \$9.5 million in 2013 to \$4.62 million in 2015. With the introduction of these increased fine amounts, we expect that this trend of reduction in enforcement will end. The fine increase reveals a refocusing on workplace immigration issues, as well as a strong financial incentive for ICE to conduct employer investigations and identify misconduct.

An audit with the assistance of counsel allows employers to detect and potentially correct any I-9 or other immigration issues. It can also help to train those personnel responsible for immigration compliance, preventing errors in the future. If you have any questions or would like to coordinate an immigration compliance audit, please contact the Immigration Practice Group lawyers listed below.