

EMPLOYERS MAY SOON RECEIVE NOTICES ABOUT MISMATCHED NAMES AND SOCIAL SECURITY NUMBERS ON 2018 FORM W-2'S

SUMMARY

The Social Security Administration (SSA) recently announced that it is mailing “[Employer Correction Request Notices](#)” to employers and third-party submitters with at least one 2018 Form W-2 where the name and Social Security number (SSN) do not match the SSA’s records. The notice informs the employer that corrections are needed. While receiving the notice does not trigger a penalty, employers who fail to correct “no match” situations could owe IRS penalties (since IRS handles Form W-2 compliance).¹ The announcement includes [sample notices](#)² that are being sent, step-by-step instructions on how to find and resolve errors, and frequently asked questions.

WHEN WILL THE NOTICES BE SENT?

Starting at the end of March 2019, SSA will mail the notices to employers who filed their 2018 Forms W-2 electronically by the January 31, 2019, due date. In fall 2019, SSA will mail notices to employers who filed the 2018 Forms W-2 on paper or who filed them electronically after January 31, 2019.

WHAT'S THE PROBLEM?

Employees often simplify their name or use a nickname when completing employment forms. In other cases, employees may need to change or correct their name on their Social Security card — for example, if they legally changed their name due to marriage, divorce, court order, or any other reason (even typographical errors). Although employees must tell SSA about their name change and get a corrected Social Security card, sometimes they don’t act promptly, creating a disconnect with the employer’s Form W-2. Despite the famous quote from Shakespeare’s *Romeo and Juliet*: “A rose by any other name would still smell as sweet” — the SSA and IRS are quite concerned when an employee’s name and SSN on Form W-2 does not match official federal government records.

WHAT SHOULD EMPLOYERS DO NOW?

Regardless of whether they receive a notice, employers should communicate to employees to use their names exactly as they appear on their Social Security cards when completing Form W-4 and other paperwork. Employers should also ensure their procedures comply with IRS guidance for a penalty waiver. An employer can avoid IRS penalties by taking certain steps. First, the employer must be able to show that the

¹ See *Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs*, (IRS Publication No. 1586) for more information.

² Internet Explorer doesn’t seem to work with SSA’s website, so try a different browser (like Chrome or Firefox) if the links to the sample notices aren’t working.

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employer asked for the employee's SSN when the employee began work (such as having a completed Form W-4) and that the employer followed up on any missing SSNs with an annual solicitation during the same calendar year (or by January 31 of the following year for employees who began work during December). This is known as the "initial solicitation." If a valid SSN is still missing, the employer needs to show that it made a "second solicitation" by December 31 of the year following the calendar year during which the employee began work.

Additionally, (although it would be a lot of work) employers may want to consider checking to see if information they already gathered from employees matches the name and SSN on the employee's Social Security card. The SSA has even provided a [sample letter](#) that any employer can use (even if they didn't receive a mismatch notice from the SSA) to request this information from employees.

- If the information **does not match**, employers should ask the employee to provide the exact information as it is shown on the employee's Social Security card.
- If a notice is received on information that **does match**, employers should ask the employee to check with their local Social Security office to resolve the issue. Once resolved, the employee should inform the employer of any changes.

Employers may want to consider keeping a copy of each employee's Social Security card, which the [IRS has confirmed](#) is legally permissible, as evidence to defend against any potential IRS penalties.

Next, employers should make any necessary corrections using Forms W-2c and W-3c (either electronically or on paper). Employees do not need to make any other corrections to their earnings record, as long as the employer has submitted the Forms W-2c and Form W-3c.

Insight: If the employee's name or SSN was incorrectly reported, the employer should file Forms W-2c and W-3c for all years for which the statute of limitations is still open (generally three years) and tell the employee to correct the Form W-2 filed with his/her Form 1040. But if the employee obtains a new or reissued Social Security card (for example, due to a name change or change in U.S. resident status), then the employer should complete the Forms W-2c and W-3c for only the most current year.

ARE THERE ONLINE RESOURCES TO HELP?

Employers can register to use SSA's free "[Business Services Online](#)" (BSO) to ensure the accuracy of employee wage reporting, reconcile employer wage reports, and ensure individuals receive the benefits they have earned. Employers can use BSO before, during, and after submitting wage reports. Employers can proactively use BSO, even if they have not received a notice.

Insight: Employers may also want to consider using [E-Verify](#), a free, online tool operated by the federal government. E-Verify allows enrolled employers to confirm the eligibility of their employees to work in the United States. Enrolled employers can verify the identity and employment eligibility of newly hired employees by electronically matching information provided by employees on the Form I-9, Employment Eligibility Verification, against records available to the SSA and the Department of Homeland Security.

E-Verify is generally voluntary. But employers with federal contracts or subcontracts that contain the Federal Acquisition Regulation E-Verify clause are required to enroll in E-Verify as a condition of federal contracting. Employers may also be required to participate in E-Verify if their states have legislation mandating the use of E-Verify, such as a condition of business licensing. Finally, in some instances employers may be required to participate in E-Verify as a result of a legal ruling.

Employers may want to note that employees cannot apply for or make changes to a Social Security card online. On the SSA website, employees can view [Learn What Documents You Need](#) and fill out and print an [Application for a Social Security Card](#), then take or mail the application and documents to their [local Social Security office](#).

WHAT SHOULD EMPLOYERS NOT DO IN RESPONSE TO THE NOTICE?

The notice clearly says that the SSA is not implying that the employer or employee intentionally gave the government wrong information. The notice also says that it does not address the employee's work authorization or immigration status, and that employers should not use the letter to take any adverse action against an employee — such as laying off, suspending, firing, or discriminating against that individual, just because his or her SSN or name does not match SSA records. Any of those actions could violate state or federal law and subject the employer to legal consequences.

ARE NOTICES BEING SENT TO EMPLOYEES?

No. Notices are only being sent to employers and third party Form W-2 filers. So employers must take the lead in getting any necessary corrections made.

Insight: Some employers are using [Individual Taxpayer Identification Numbers](#) (ITINs) in place of Social Security numbers. An ITIN is a tax processing number issued by the IRS for individuals who are required to have a U.S. taxpayer identification number but who do not have, and are [not eligible](#) to obtain, a Social Security number. It is unclear if employers using ITINs may be included in this exercise.

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