



Tax Information Publication

TIP

No: 2373B-01R

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June 15, 2023

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June 26, 2023

On June 15, 2023, the Department issued TIP 2373B-01. The TIP has been revised to remove the definition of “private employer.”

2023 Legislative Changes: E-Verify System Requirements and Florida Department of Economic Opportunity Name Change

E-Verify System Requirements – Effective July 1, 2023, Florida public agencies and private employers with 25 or more employees are required to use E-Verify. E-Verify is an internet-based application operated by the U.S. Department of Homeland Security that allows employers to electronically verify employment eligibility of newly hired employees. An employer must verify each new employee’s employment eligibility within three business days of the new employee working for salary, wages, or other remuneration. If the E-Verify system is unavailable for three business days after the first day the new employee begins working for salary, wages, or other remuneration, an employer must use the Department of Homeland Security, U.S. Citizenship and Immigration Services’ Employment Eligibility Verification (USCIS Form I-9) to verify employment eligibility. Information on how to register and access the E-Verify system is located at e-verify.gov/employers.

The following definitions apply to the E-Verify requirement:

- Public agency – Any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, state, county, city, town, village, municipality, or any other separate unit of government created or established pursuant to law, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.
- Employee – An individual filling a permanent position who performs labor or services under the control or direction of an employer that has the power or right to control and direct the employee in the material details of how the work is to be performed in exchange for salary, wages, or other remuneration. The term “employee” does not include:
 - An individual hired for casual labor that is to be performed entirely within a private residence.
 - An independent contractor, as defined in federal laws or regulations, hired to perform a specified portion of labor or services.

Certification – In addition to using E-Verify, each private employer required to use the system must certify on its first reemployment tax return filed each calendar year that it used the E-Verify system to confirm employment eligibility of each new employee. E-Verify certification is available through the Florida Reemployment Tax file and pay application, Extensible Markup Language (XML) file, or on the following returns:

- *Employer's Quarterly Report* (Form RT-6)
- *Employer's Quarterly Report Continuation Sheet* (Form RT-6A)

- *Employer's Quarterly Report for Employees Contracted to Governmental or Nonprofit Educational Institutions* (Form RT-6EW)
- *Quarterly Report for Out-of-State Wages* (Form RT-6NF)
- *Correction to Employer's Quarterly or Annual Domestic Report* (Form RT-8A)

Employee Leasing Companies – An employee leasing company (ELC) is responsible for certifying employment eligibility of any new employee of a client company that meets the definition of a public agency or private employer with 25 or more employees. Verification and certification of employment eligibility may be transferred from the ELC to the client company only by written agreement or written understanding. If this occurs, the ELC will continue to file reports with the Department, and the client company will be required to certify use of E-Verify.

Client companies required to certify use of E-Verify may complete this step on an *Employer E-Verify Certification* (Form RT-E-Verify) or *Correction to Employer's Quarterly or Annual Domestic Report* (Form RT-8A). The *Employer E-Verify Certification* form will be available in an online application or in paper format. Client companies that wish to use the RT-8A must have an active reemployment tax registration with the Department and are required to file an *Employer's Quarterly Report* (Form RT-6).

Agents and Management Companies – Agents or management companies do not have the statutory authority to certify use of the E-Verify system on behalf of an employer. Qualified agents or management companies will continue to file reports with the Department on behalf of the employer, and the employer will separately certify use of E-Verify. Employers required to certify use of E-Verify may complete this step on an *Employer E-Verify Certification* (Form RT-E-Verify) or *Correction to Employer's Quarterly or Annual Domestic Report* (Form RT-8A). The *E-Verify Certification* form will be available in an online application or in paper format. Employers who wish to use the RT-8A must have an active reemployment tax registration with the Department and are required to file an *Employer's Quarterly Report* (Form RT-6).

Penalties – The Florida Department of Commerce is required to issue a fine of \$1,000 per day if it is determined that the E-Verify system was not used three times in a 24-month period. The fine will continue to accrue until the employer demonstrates compliance with the law.

Name Change – Effective July 1, 2023, the Florida Department of Economic Opportunity is renamed the Florida Department of Commerce. The Florida Department of Commerce will be responsible for the administration of the reemployment assistance program. However, the Florida Department of Revenue will continue to perform registration, filing and payment acceptance, and audit functions pertaining to reemployment tax.

References: Chapters 2023-40 and 2023-173, Laws of Florida, Section 448.095, Florida Statutes

For More Information

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit the Department's website at floridarevenue.com or call Taxpayer Services at 850-488-6800, Monday through Friday (excluding holidays).

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services MS 3-2000, 5050 West Tennessee Street, Tallahassee, FL 32399-0112.

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