

Increased Penalties for Violations of Federal Immigration Laws

By Daniel J. Fetter

Effective August 1, 2016, the Department of Justice (DOJ) increased penalties on employers found to be in violation of the federal immigration law. The new rule applies to the employment of unauthorized workers, Form I-9 paperwork violations and unlawful employment practices. While the new fine schedule became effective August 1, 2016, it will be applied to any violations that occurred after November 2, 2015.

Under the new rule, the minimum DOJ fine for hiring unauthorized workers has increased from \$375 to \$539, while the maximum penalty has increased from \$3,200 to \$4,313 for an initial offense. If an employer has been cited on multiple occasions, it may be subject to the new maximum penalty of \$21,563 per worker, a significant increase from \$16,000.

First offenders found to be engaging in unlawful employment practices (e.g., discrimination) will face a fine range of \$445 to \$3,563 per violation. This is up from the prior range of \$375 to \$3,200. Employers facing multiple charges, however, may be subject to the maximum penalty of \$17,816 per violation.

The most significant increase applies to Form I-9 paperwork violations. Form I-9 is used to verify the identity and employment authorization of individuals. Under the prior rule, failure to comply with Form I-9 requirements resulted in a fine range of \$110 to \$1,100 per violation. However, under the new rule, fines have nearly doubled costing employers \$216 to \$2,156 per violation.

These penalties may be damaging for any employer, especially those with large scale operations and numerous employees. To reduce exposure, employers should review company policies and practices and conduct an internal audit to ensure compliance with Form I-9 requirements.

If you have any questions, please feel free to contact me or the attorney in our office with whom you typically work.