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MEMORANDUM

November 28, 2011

TO: COUNTY PROBATE JUDGES, COUNTY REVENUE COMMISSIONERS, COUNTY TAX ASSESSORS, COUNTY TAX COLLECTORS, COUNTY LICENSE COMMISSIONERS, COUNTY LICENSING OFFICIALS, COUNTY LICENSING INSPECTORS, COUNTY DIRECTORS OF REVENUE

FROM: JULIE P. MAGEE, COMMISSIONER, ALABAMA DEPARTMENT OF REVENUE

RE: MODIFICATION TO PRIOR INSTRUCTIONS CONCERNING ACT NO. 2011-535, IMMIGRATION ACT

Pursuant to advice from the Attorney General's Office, this is written to modify previous instructions provided to you from the State of Alabama Department of Revenue concerning the application of Act No. 2011-535, the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. This modification concerns the process to be followed in determining an alien's lawful presence in the United States for the purpose of complying with Section 30 of the Act. It does not concern the process to be used in determining a person's United States citizenship. For the purpose of confirming an individual's United States citizenship, you can continue to use the AL-Verify Program to confirm that an applicant has a valid, unexpired Alabama driver's license or non-driver's identification card.

Section 30 of the Act requires that any person entering into a business transaction with the State of Alabama or political subdivision of the State shall be required to demonstrate his United States citizenship, or if he is an alien, his lawful presence in the United States. Pursuant to Section 30, an alien's lawful presence in the United States shall be verified through the use of the Systematic Alien Verification for Entitlements ("SAVE") Program operated by the United States Department of Homeland Security, or by other verification with the United States Department of Homeland Security pursuant to 8 U.S.C. §1373(c).

If a person presents himself to your office for the purpose of conducting a business transaction with your office and provides you with his valid, unexpired Alabama driver's license or non-driver's identification card, then you may use the AL-Verify Program to confirm that individual's lawful status as a citizen prior to conducting the transaction. If a person identifies himself as a United States citizen, but does not have a valid, unexpired Alabama driver's license or non-driver's identification card, then that individual may verify his U.S. citizenship through the use of one of the following documents:

1. A driver's license or non-driver's identification card issued by another state of the United States, if the state agency indicates on the driver's license or non-driver's identification card that the person has provided satisfactory proof of U.S. citizenship.

(The driver's license or non- driver's identification card must be valid which means it has not expired or been suspended.)

2. U.S. birth certificate.
3. Valid or expired U.S. passport identifying the applicant and applicant's passport number.
4. Naturalization documents or the number of the certificate of naturalization issued by the U.S Bureau of Citizenship and Immigration Services. (The number must be verified with the U.S. Bureau of Citizenship and Immigration Services by the county election officer or the Secretary of State.)
5. Proof issued by the federal government pursuant to the Immigration and Nationality Act of 1952.
6. Bureau of Indian Affairs card number, tribal treaty card number or tribal enrollment number.
7. Consular report of birth abroad of a citizen of the U.S.
8. Certificate of citizenship issued by the U.S. Citizenship and Immigration Services.
9. Certification of report of birth issued by the U.S. Department of State.
10. American Indian card, with KIC classification, issued by the U.S. Department of Homeland Security.
11. Final adoption decree showing the applicant's name and U.S. birthplace.
12. Official U.S. military record of service showing the applicant's place of birth in the U.S.
13. An extract from a U.S. hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the U.S.

If a person presents himself to your office for the purpose of conducting a business transaction with your office and states that he is a lawful alien (lawfully present in the United States), then the person's status as a lawful alien should be verified through the use of the SAVE Program or by other verification methods available through the United States Department of Homeland Security. To register for the SAVE Program, go to the U.S. Citizenship and Immigration Services ("USCIS") website, www.uscis.gov. A link from that website will direct you to the SAVE Program. A link on the SAVE Program page will connect you to the 'Sign Up for SAVE Program'. Follow the instructions for registration on that page.

Pursuant to its procedure, USCIS will review your agency's application to determine whether your agency is eligible for the SAVE Program. If USCIS determines that your agency is eligible for the SAVE Program, USCIS will provide you with a form entitled 'Memorandum of Agreement' ("MOA") and an Anticipated Collections Addendum. The MOA is the agreement between the SAVE Program and your agency which defines the responsibilities for payment and the use of SAVE. The Anticipated Collections Addendum establishes the financial obligation of your agency. Your agency's representative must review, sign, and return the agreements to the SAVE Program before your agency's complete access to the online SAVE system can be granted.

Upon completion of the MOA and the Anticipated Collections Addendum, by both your agency and the SAVE Program, SAVE determines the online SAVE system access method that best meets the needs of your agency. Upon execution of the MOA and the Anticipated Collections Addendum, your agency is enrolled in the SAVE Program and is also assigned an account number. SAVE provides your agency with the proper user identification numbers, passwords, instructions for accessing the online system, and training materials on making verification inquiries.

The SAVE Program also offers several training opportunities to prospective, new and current customer agencies, including 'webinars' and other customized training. Information concerning these training opportunities can be found at the SAVE website. Questions and inquiries about SAVE can be addressed via email to 'SAVE.help@dhs.gov'.

Under no circumstances is a State or county official or employee to make a determination as to whether an alien is lawfully present in the United States. For this reason, you can no longer allow an alien to document his lawful presence in the United States through the use of documents or legible photocopies of documents. The Department of Revenue's previously issued list of 'Lawfully Present Alien Documents' is no longer valid.

An alien may be denied the right to proceed with a business transaction with the State or a political subdivision only on the basis of a federal determination that the alien is unlawfully present. If you are unable to verify that an alien is unlawfully present in the United States through a determination by the SAVE Program or by other verification with the United States Department of Homeland Security, then you should allow the alien to conduct the requested business transaction with your office.

PLEASE NOTE: Because of the temporary restraining order issued in Central Alabama Fair Housing Center, et al. v. Magee, United States District Court, Middle District of Alabama, No. 2:11cv982-MHT, these instructions must not be implemented with respect to the registration of manufactured homes until further order of the Court. Until further order is received, you may not seek to verify the citizenship or alien status of applicants for manufactured home registration as stated in the memorandum from Commissioner Magee dated November 24, 2011. You may not refuse to issue the manufactured home decal required by 1975 Alabama Code Section 40-12-255 to any person because that person cannot prove his or her U.S. citizenship or lawful immigration status.

If you have questions concerning this modification to prior instructions, please contact one of my staff.