

# Can Native Americans refuse to provide an SSN?

**Q. A new hire is refusing to provide his Social Security number because he does not want taxes withheld from his paycheck. He argues that since he is Native American, the U.S. government is not entitled to tax him. Is he required to provide this information? Can we withdraw our employment offer if he continues to refuse?**

**A.** While there are legal limits on how an employer can use employees' Social Security numbers under Minnesota law, an employer has legal obligations to provide employees' Social Security numbers to various government agencies.

The IRS requires employers to provide employees' Social Security numbers for tax withholding purposes. It is possible to hire an employee without a Social Security number and seek a waiver from IRS regulations, but it isn't clear that other agencies—such as the U.S. Department of Labor and the U.S. Department of Health and Human Services, to whom employers must submit mandatory new hire reports—allow such waivers.

Courts around the country, including the U.S. Court of Appeals for the 8th Circuit, have supported employers' decisions not to hire individuals who refuse to provide a Social Security number, even when employees withheld the information for religious reasons.

It is reasonable for you to demand a Social Security number in order to meet your legal obligations as an employer, and you can (and perhaps should) withdraw your employment offer if your new hire refuses to provide it.