



Independent Contractor Misclassification: DOL to Expand Crackdown

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Expanding the perfect storm of regulation, legislation, and litigation, the U.S. Department of Labor (DOL) expects to release in April a draft of proposed regulations affecting businesses that retain any worker classified as an independent contractor or other nonemployee status. In addition, the DOL's recently announced budget plans for 2011-2012 target the misclassification of workers as independent contractors. This comes on the heels of similar federal and state legislative initiatives and ongoing litigation.

Why the storm? It's largely about tax revenues. State and federal tax shortfalls are estimated in the billions of dollars owing to the improper classification of workers as independent contractors vs. employees. The alleged misclassification is said to result in massive uncollected employment-related taxes, including contributions to state unemployment benefit funds.

Regulators and legislators also say they want to "level the playing field" for businesses that properly pay employment-related taxes and are at a competitive disadvantage compared with the tax cheats. Hence, one proposed federal bill is titled the Fair Playing Field Act of 2010 (H.R. 6128, S. 3786), which, although not enacted in the last Congress, is expected to be reintroduced in March.

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Attachments

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