

The Stakes Have Been Raised: Increased Government Scrutiny of Contingent Workers

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The federal government estimates that 20 to 40 percent of all workers are misclassified as independent contractors, as opposed to employees. Federal and State-level task forces, commissions, and agencies are auditing unemployment insurance and workers' compensation data to document the scope of independent contractor misclassification. The Internal Revenue Service is currently auditing numerous employers nationwide in an attempt to address this misclassification issue. State and city taxing authorities – in need of money – are also aggressively challenging workers categorized as independent contractors in an attempt to recover what they perceive as lost revenue in the form of payroll taxes and unemployment benefits.

At the end of the day, the concept of contingent workers and independent contractors is here to stay and the law is rapidly evolving to address the potential liabilities for all parties concerned. With the increased spotlight on enforcement and proposed legislation to crack down on misclassifications, every employer should reduce their exposure by taking note of their obligations and potential liabilities for contingent workers.

This article was submitted to the ABA Employment Rights & Responsibilities Committee Midwinter Meeting in Las Vegas, Nevada, March 2012.

Click the link below to view the full article.

Attachments

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