



The Gig Economy and Utility Contractors: Government Agencies Can't Have It Both Ways

Insights

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There has been a long tradition of a “gig economy” in the utility contractor field (i.e., cable television, water, sewer, gas and electric). Often installers work by the job and have formalized their businesses by obtaining limited liability status and securing the necessary business insurance. However, government agencies often seek legal determinations which would make these individuals the employees of the utility provider from which they accept and receive job assignments.

The utility field has created multiple opportunities for entrepreneurial individuals to provide basic installation and repair work. However, despite securing workers’ compensation insurance, corporate formation, and obtaining the other indicia of self-employment, various state workers’ compensation and unemployment compensation taxing authorities have dismissed these efforts. They have often determined that these individuals, while gainfully employed for themselves, are also simultaneously the employee of the utility provider. Contractors and the utility providers have cried “foul” and have instituted legal challenges to the illogical and inconsistent position of the government taxing agencies.

For example, Ohio taxing authorities have determined that single member LLCs who have their own policy of workers’ compensation insurance, and their own Federal employer identification number, are the employees of the utility provider for purposes of establishing the provider’s workers’ compensation rates. While there are numerous legal challenges currently working through the system, it is worthwhile monitoring these challenges to determine what, if any, effect governmental agencies will have imposing further regulation on those serving the gig economy of the utility contractor field.