

New Laws Clamp Down On Employee Misclassifications

By Frank L. Brunetti on April 6th, 2012

Employers may be paying closer attention to how they classify workers in light of new state statutes that are being adopted in many areas of the country.

Business owners who misclassify employees as independent contractors may now be subject to harsher penalties, according to the Washington Post. Independent contractors are typically workers who operate their business with their own resources and determine their own schedules, according to the Internal Revenue Service. However, when employees telecommute or have unconventional schedules and responsibilities, the lines can be blurred.

Over the course of the year, the U.S. Department of Labor, along with several states, discovered several instances of employers misclassifying employees as independent contractors, the Post reports.

Employers who categorize workers as independent contractors rather than regular employees benefit from the tax law structure surrounding contractors, namely because they are not required to pay unemployment compensation, Social Security and worker's compensation. In addition, they are not required to extend employee benefits to contractors, such as health insurance, paid vacation and sick days and retirement programs.

However, as more employers appear to misclassify their workers, states that are facing financial shortfalls and declining revenues are being negatively impacted by the practice, and have implemented tough laws to curb the issue. In some states, such as Maryland, new laws have been established to expand workers' rights, one of which requires employers to pay restitution to miscategorized employees, the Post reports.

In states such as New Jersey, penalties of up to \$2,500 can be levied for first time offenses, and climb to a maximum of \$5,000 for repeat offenses, according to the New Jersey Department of Labor and Workforce Development. There are several factors laid out by the IRS that employers may use to classify workers. However, as many of these financial and behavioral indicators can be ambiguous, employers will need to be more careful about how they categorize their human resources.