Tips for Navigating New Employee Classification Rules

Presenters

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DOL Announces New (Old) Independent Contractor Rule

- Focuses on whether the worker is economically dependent on their employer with reference to six factors:
  - Opportunity for profit or loss*
  - Investments by the worker and potential employer
  - Degree of permanence of the work relationship
  - Nature and degree of control*
  - Extent to which work performed is an integral part of the business
  - Skill and initiative

- Why it matters: employees have rights under federal law that contractors don't
  - Like minimum wage and overtime requirements

What Should I Do Now?

- Job Descriptions
  - Duties, Responsibilities, Qualifications
  - Compare 1099 to W2 Workers
- Route of Work
  - Management by and how
  - Timeliness of - Project vs. Daily
  - Control of - Independent work
  - Invoicing of
- Historic 1099 review
  - How long of a tenure
  - How deep is the involvement
- State/City Review - Situs

Looming Changes to Exempt/Non-Exempt Status

- Current white collar exemption under FLSA requires salary of $648/week ($35,568/year)

  - Proposed rule would increase it to $1,059/week ($55,068/year)

- Current highly compensated employee exemption requires salary of $107,432/year

  - Proposed rule would increase it to $143,988/year

- The Proposed rule would automatically update the earning thresholds every three years to reflect current wage data

- Timeline: DOL target date to publish - April 2024, effective 60 days after

Upcoming Webinars

Spring Cleaning Your Employee Handbook
April 11th at 1pm ET

How to Navigate AI as an HR Leader
April 18th at 1pm ET

Thank you!

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