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US Department of Labor Issues Administrator's Interpretation Aimed At Limiting Independent Contractor Classification

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As forecast in our June 12, 2015 blog post David Weil, Administrator of the Department of Labor's Wage and Hour Division (WHD) has released Administrator's Interpretation (AI) No. 2015-1, entitled "The Application of the Fair Labor Standards Act's 'Suffer or Permit' Standard in the Identification of Employees Who Are Misclassified as Independent Contractors." The AI provides the Department of Labor's (DOL) guidance for determining whether a worker is properly classified as an independent contractor under the Fair Labor Standards Act (FLSA), the primary federal law governing minimum wages and overtime pay, as well as other statutes like the Family and Medical Leave Act (FMLA) that adopt the FLSA's definition of "employee." This guidance represents a continuation of DOL's efforts to "crack down" on perceived misclassification of employees as independent contractors. The new guidance does not purport to change DOL policy but rather "provides additional guidance regarding the application of the standards for determining who is an employee" under the FLSA, which "may be helpful to the regulated community in classifying workers and ultimately in curtailing misclassification"... Continue Reading

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