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250 new DOL investigators to take aim at independent contractors

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The U.S. Department of Labor Wage and Hour Division has added 250 new investigators to examine employment law violations, including misclassification of employees as independent contractors. This comes on top of an active state enforcement effort underway.

ABC Mass., in a proactive measure to document and promote compliance of member firms, will roll out a Contractor Employee Certification program next month. This program, currently completing a pilot phase, certifies through a full review by a licensed CPA that the contractor is in compliance with the independent contractor and other employment and tax laws and requirements. With the issue largely focused on the drywall that trade will be the initial focus of the ABC program.

"ABC's has been proactive on the independent contractor issue to ensure that legitimate contracting will not be hampered while also supporting strong enforcement against those who seek to break the law and gain an unfair competitive advantage," said ABC Mass. chapter president Greg Beeman. "The new contractor certification program is an important means of demonstrating that ABC members are professional, responsible contractors who follow the law and support fair competition and a level playing field," he said.

Beeman said ABC members have been actively behind the establishment of the new certification program. "Our members who play by the rules do not want to see their firms - and our industry - suffer as a result of those who choose to break the law. In addition, we know our reputable members are subjected to boiler plate attacks from certain unions and this program will allow these firms, with ABC's backing, to refute these charges with documentation," Beeman said.

The additional federal investigators were added in response to a Government Accountability Office report that found the Wage and Hour Division frequently responded inadequately to complaints.

In response to the same report, the IRS said it will begin conducting audits of 6,000 companies next month with the goal of reducing the number of misclassified independent contractors in addition to expanding revenue.

The audits will include line-by-line reviews of employment tax returns and related documents and will initially focus on four targeted areas: payroll taxes, independent contractor status, fringe benefits; and executive compensation. Companies will be selected at random and will be audited at the rate of 2,000 each year for three years.

Beeman said it is important that the law be fully enforced, but not extended so far that legitimate businesses are prevented from hiring one another. "As we have made the case to the Attorney General, the best approach is to make the law as clear and workable as possible, and then provide strong enforcement." Beeman said that while there have been many frustrating aspects of dealing with the independent contractor law, it has provided a great opportunity for ABC to show - with this new compliance program - that there are good merit shops that offer value to their clients while fully

complying with the law and providing for their employees.

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