

Jim Hammerschmidt Provides Commentary in Law360 Article on Misclassification Guidance

Jim Hammerschmidt provides commentary in Law360 article, “Attorneys React to DOL Misclassification Guidance” (July 15, 2015). On July 15, the U.S. Department of Labor issued guidance on how to determine whether a worker is an independent contractor or an employee under the Fair Labor Standards Act. In this article, attorneys across the nation weighed in on the significance of this guidance.

“The substance of the DOL’s memorandum is nothing new. The most significant aspect of the DOL guidance is the fact of issuance. I view the timing of the issuance of the DOL’s guidance immediately on the heels of the DOL’s issuance of the proposed changes to the FLSA overtime rules just two weeks ago to be a clear and coordinated message to the nation’s employers that its enforcement objective is to sweep as many workers as possible under the umbrella of the FLSA. President Obama provided the DOL with a clear mandate, and the agency is flexing its muscle; it’s putting employers on notice that it is coming after them because it believes ‘most workers are employees under the FLSA’s broad definition.’ Employers that use an independent contractor business model must examine those relationships very closely or risk significant liability.”

Jim is Co-Chair of the firm's Employment Law group. To see complete coverage, visit Law360 online: <http://bit.ly/1f5Abu2> (subscription required).