Insights: Publications

Classifying Workers After DOL Contractor Rule Repeal

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Written by **Kayla M. Lazarus, Christopher M. Caiaccio, Kathleen B. Dodd Barton** and **Susan W. Pangborn**

On Jan. 7, when then-President Donald Trump was still in office, the U.S. Department of Labor published a new, employer-friendly rule for determining independent contractor status under the Fair Labor Standards Act. The independent contractor rule had an initial effective date of March 8, but the Biden administration postponed the effective date to May 7.

On March 12, the DOL issued a notice of proposed rulemaking to withdraw the rule. On May 6, after providing an opportunity for public comment, the DOL withdrew the rule.

As a result, employers are left without the benefit of concrete DOL guidance for conducting worker status assessments. Instead, they will have to rely on case law that has provided inconsistent direction on application of the standard known as the economic realities test.

Related People

Kayla M. Lazarus

t 415.273.4389

klazarus@ktslaw.com

Christopher M. Caiaccio

t 404.815.6203

ccaiaccio@ktslaw.com

Kathleen B. Dodd Barton

t 404.815.6158

kbarton@ktslaw.com

Susan W. Pangborn

t 404.815.6305

spangborn@ktslaw.com