Seventh Report of the
Joint Agency Task Force on
Employee Misclassification Enforcement

September 1, 2017

Executive Order #2010-3 dated September 3, 2010, and issued by Governor John H. Lynch, established the Joint Agency Task Force on Employee Misclassification Enforcement. The Task Force is comprised of eight commissioners and the attorney general, or their designees, from the departments of Labor, Insurance, Employment Security, Revenue Administration, Administrative Services, Transportation, Environmental Services, Information Technology, and Justice.

The Task Force mission statement, consistent with the enabling Executive Order, states as follows:

> The New Hampshire Joint Agency Task Force on Employee Misclassification Enforcement is committed to reducing the number of workers who are wrongly classified as independent contractors when their labor is truly employment.
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> Individuals and businesses who misclassify workers do so in violation of labor, employment, tax, insurance and occupational safety laws, by failing to pay required wages, carry workers' compensation insurance, comply with health, safety and licensing requirements, or pay income taxes and payroll taxes that fund unemployment insurance, disability insurance, and Medicare and Social Security benefits.
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> The Joint Task Force seeks ways to identify those situations where misclassification is occurring by sharing information each agency already has, and helping coordinate enforcement policies and procedures.
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> The Joint Task Force seeks to reduce the number of employers who fail to classify their workers properly and who fail to follow all legal steps to assure full legal protection for workers. The Joint Task Force will educate and encourage employers to learn how to treat workers appropriately. The Joint Task Force will recommend more effective mechanisms to sanction those employers who intentionally violate the law for their own unfair advantage over workers and business competitors.

Actions Taken During the Year

NH Employment Security (NHES) kept track of its enforcement efforts concerning misclassified workers specifically. For the calendar year 2016, it performed 553 field audits, resulting in determinations that 1176 workers had been misclassified. NHES ordered correction, including $28,869,717 in additional reported wages, and $425,228 in additional taxes. The Department of Labor (DOL) has enhanced its training and outreach efforts to employers through targeted training sessions with industry associations and employer focused labor attorney groups. These efforts are aimed at providing such sectors with an informed understanding of the criteria for independent contractors so that there is increased awareness relative to the engagement of workers.

Additionally, in terms of outreach and information, every newly organized business entity in New Hampshire receives from the Secretary of State a mailed welcoming packet that explains issues associated with misclassification and how employers can avoid such problems. The purpose of these mailings is to proactively provide notice of issues to be considered in aims of informing employers' decisions *in advance* of their engagement of workers.

We continue the process to refine the Task Force website (www.nh.gov/nhworkers) to report suspicions about employers who may be misclassifying workers, including anonymous reporting. We are in the process of implementing an improved misclassification referral form so that interested parties can more easily provide the task force with notice of their concerns.

Future Efforts

The Task Force will continue to expand its education and outreach efforts to prevent employee misclassification from occurring and those agencies with direct obligations attendant to addressing instances of misclassification shall continue to work collaboratively in such contexts.

The group continues to observe the experiences of surrounding states in order to discern if there are concepts or courses of action which should be investigated in New Hampshire for purposes of promoting improvements in this area.
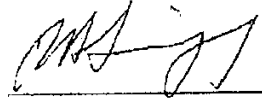
The Task Force welcomes any ideas or suggestions for other approaches that could address the serious problems associated with employee misclassification.
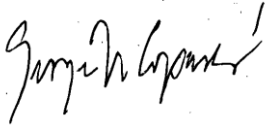
Respectfully submitted,

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