

# NEW LEGISLATION IN CALIFORNIA REQUIRES EMPLOYERS TO LOOK MORE CLOSELY AT WORKER CLASSIFICATION

Advanced Clinical Payrolling Solutions to Minimize Risk

Worker classification is the act of determining whether an individual working in your organization should be considered an employee or an independent contractor. Proper classification has important impacts on the cost of employing your labor, including: Social Security (FICA) and Medicare taxes, overtime and minimum wage, health insurance premiums, retirement benefits, stock options, unemployment compensation taxes, and workers compensation premiums.

Organizations need to classify workers correctly or they face scrutiny and consequences from federal, local, and state governments (especially the IRS and the U.S. Department of Labor), and the employees themselves. Federal and state regulators take worker classification seriously as unreported or underreported employment taxes contribute to any overall tax gap. Employees who have been classified as independent contractors might feel that misclassification has caused them to miss out on benefits and retirement savings. The consequences for improper worker classification can be expensive and severe, including incarceration for willful violators.

## California Faces Unique Worker Classification Legislation

On September 18, 2019, the governor of California signed into law a new legislation ("ABS") that could reclassify millions of independent contractors as employees and reshape the future of independent workforces in California. The legislation was initially target towards "gig" workers, but has the potential to impact nearly all companies in California.

As of January 1, 2020, California employers must use the rigorous, three-pronged "ABC Test" to determine worker classification. Under the ABC Test, a worker is presumed to be an employee unless an employer can clearly document and show that the worker meets all three of the criteria in the ABC test (see right). The burden to demonstrate a worker's independent contractor status is placed squarely on the hiring company.

## THE "ABC" TEST PRESUMES A WORKER TO BE AN EMPLOYEE UNLESS THE EMPLOYER PROVES EACH OF THE FOLLOWING:

The worker is free from the employer's control and direction in connection with the performance of the work, both under the contract for the performance of the work and in reality.

# A

The worker performs work that is outside the usual course of the hiring entity's business.

# B

The worker is customarily engaged in an independently established trade, occupation or business of the same nature as the work performed.

# C

## What to Expect

Some worker groups are exempt from ABS, such as: doctors, dentists, insurance agents, lawyers, accountants, real estate agents, hairstylists, and a variety of creative professionals. However, many independent contractors will not pass the ABC test and will need to be hired as employees of a company or related agency.

ABS enables the California attorney general, city attorneys, and local prosecutors to sue companies over violations. Now is the time for companies to a) take steps to structure, implement, and document independent contractor relationships in compliance with ABS, or b) reclassify workers into the proper classification.

## STEPS YOU SHOULD TAKE

Get the right legal counsel. Consult an attorney that specializes in independent contractor and employment law.

Assess your risk. Audit your independent contractor management processes including: engagement guidelines, contractual terms, IC incorporation requirements, rate negotiations, documentation processes, work structure and level of control, staff and IC interactions.

Create separation. Establish an arm's length relationship with independent contractors to stay compliant. Demonstrate that the contractor operates as its own business entity.

## Advanced Clinical is Here to Help

Advanced Clinical's payrolling solution helps you comply with California legislation to reduce risk and liability while providing an exceptional transition experience for your existing independent contractors. Here's everything you can expect when you transition your independent contractors to Advanced Clinical to be employees of Advanced Clinical:

- Fully automated, seamless on-boarding process
- Federal and state tax administration and automatic end-of-year W-2
- Efficient and automated payroll and benefits administration
- Exceptional suite of employee benefit offerings
- Personalized consultant support from start to finish
- Custom invoicing and comprehensive business intelligence
- 0% disruption, 100% compliance

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