

Publications

The Return of Worker Classification Audits: Impacts More Than Employment Taxes

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In February, the Internal Revenue Service (the “IRS”) launched a National Research Program (the “Program”) study of employment taxes and the impact of worker classification issues on the estimated \$345 billion tax gap – which measures the difference between what taxpayers should have paid and what they actually paid on a timely basis. The Program will include random audits of approximately 6,000 employers over a three-year period. These audits appear to be focused on the SB/SE division, which covers employers with under \$10M in assets, but may well be extended to larger employers, as well. Although the audits will focus on employment tax liabilities for worker misclassification – i.e., improperly treating workers as independent contractors rather than common law employees who are subject to employment taxes – any reclassification of workers impacts various federal and state issues and, importantly, participation in employee benefits programs.

The attached article briefly reviews the applicable federal tax laws that may be impacted by a reclassification and the relief provisions available (and legislative proposals to limit such relief). It then focuses on the impact of qualified plans and what steps plan sponsors can take now to prepare for these issues and limit any potential federal tax and benefits exposure.

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