



## **THE SHADOW WORKFORCE: BLURRED LINES CAN LEAD TO REAL WAGE & HOUR LIABILITY**

Many individuals perform work or services for businesses; however not all of them are employees as defined by the federal Fair Labor Standards Act (“FLSA”). Why is it important to draw clear lines between employees and non-employee workers? Federal and state laws provide various protections and benefits to employees that are not available to non-employees. For example, businesses must pay taxes on employees, insure them under workers’ compensation systems, and potentially provide them benefits. In contrast, non-employees are not entitled to such benefits. Additionally, many anti-discrimination laws protect employees, but do not protect other types of workers.

To avoid unnecessary cost and minimize the potential for liability, businesses should carefully examine whether a worker is an employee. However, the legal line between employees and non-employees is often vague.

This toolkit will help you find clarity in employee classification. This toolkit contains practical advice on how to:

- draw clear lines between employees and non-employee workers, and
- take steps to mitigate liability related to non-employee workers.

This toolkit analyzes employment under the FLSA. Analysis under various state laws and other federal laws may differ. Due to the fact-intensive nature of the analysis, this Toolkit is not intended to be legal advice.

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