



New Jersey Department of Labor & Workforce Development

Robert Asaro-Angelo
COMMISSIONER

mediacalls@dol.nj.gov
609.984.2841

FOR IMMEDIATE RELEASE

March 20, 2019

Labor Commissioner & Consumer Affairs Alert Garden State Accountants on Misclassification this Tax Season

Misclassifying workers as 1099 independent contractors denies benefits and costs the state

TRENTON – This tax season, the New Jersey Department of Labor and Workforce Development, in conjunction with the New Jersey Division of Consumer Affairs, sent a letter to Garden State accountants reminding them of the legal standard for proper classification of employees and reinforcing the state’s commitment to ending worker misclassification.

By misclassifying workers as independent contractors – workers who receive 1099s, not W-2s – employers avoid paying unemployment and disability taxes, costing state and federal taxpayers untold millions of dollars. In New Jersey alone, auditors have identified more than \$80 million in underreported employer contributions since 2010.

“One of the Labor Department’s primary responsibilities is protecting workers from unscrupulous business practices, and supporting responsible businesses by ensuring everyone plays by the same set of rules,” said Labor Commissioner Robert Asaro-Angelo. “We are engaging New Jersey’s accounting professionals to send the message to employers that they are not able to shirk their responsibilities simply because they have unlawfully elected to use a particular form.”

Workers misclassified as independent contractors are ineligible for the wage and overtime protections and benefits afforded to employees, and can find themselves underpaid and without basic labor and OSHA protections. Additionally, independent contractors are not covered under the National Labor Relations Act, which makes it more difficult for them to organize and collectively bargain with an employer.

Recently, the Appellate Division upheld the Labor Commissioner’s authority to determine that performers at a gentlemen’s club in Orange were misclassified as independent contractors, and their employer was liable for unpaid unemployment and disability taxes. It’s the second such case where dancers were found to be employees rather than independent contractors.

The New Jersey Division of Consumer Affairs oversees the State Board of Accountancy, which regulates the professional conduct of persons licensed as having special competence in accountancy.

“New Jersey’s licensed accountants are charged with assuring the accuracy and reliability of information contained in financial records,” said Paul R. Rodríguez, acting director of the New Jersey Division of Consumer Affairs. “Licensed accountants are often the professionals best situated to offer meaningful and timely advice to their clients about the appropriate classification of workers. In this letter, we are asking our licensees to educate their clients as they engage with them, whether as part of an initial business model design, an evaluation of an existing business, or simply assisting with the filing of periodic wage and contribution reports.”

Misclassification has risen approximately 40% in New Jersey over the past decade, denying workers access to a variety of safeguards and protections. While these violations can happen anywhere, those who work in construction, transportation, information technology, and other in-demand businesses have statistically been most vulnerable.

The Labor Department identified 6,067 employees who were misclassified in 2017, resulting in roughly \$42 million in underreported wages and \$1.7 million in unpaid unemployment and disability taxes. To address this growing problem, Gov. Phil Murphy established an interagency task force to combat misclassification.

Workers who believe they been wrongfully misclassified may visit wagehour.nj.gov for more information.

###