

IRS Temporarily Liberalizes Requirements for Employment Tax Partial Amnesty Program

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But June 30th Deadline Looms

Many companies struggle with how to classify their workers for tax purposes. Are they employees? Or, are they independent contractors?

This is an important decision for many reasons. One of the most important is the taxes employers must pay with respect to their employees. For example, employers generally must withhold income taxes, withhold and pay social security and Medicare taxes, and pay unemployment taxes in connection with employees. On the other hand, companies generally don't have to pay or withhold payroll taxes with respect to independent contractors. A company would also typically provide employee benefits to employees but, not to independent contractors.

Many companies get this right. But, many misclassify workers. Typically, the more common mistake is to incorrectly classify employees as independent contractors. This is a serious problem because a company that misclassifies its workers can be liable for back taxes with respect to any misclassified workers.

The Internal Revenue Service offers businesses a program to correct misclassification errors. This program, the Voluntary Classification Settlement Program (VCSP), offers companies an opportunity to reclassify their employees and pay just a portion of the payroll taxes that would have otherwise been payable if the workers had been properly classified.

The IRS has temporarily liberalized the program's entry requirements. Previously, an employer that wanted to participate had to have filed 1099 forms for the prior three years with respect to the workers who would be reclassified as employees. However, in Announcement 2012-45, the IRS stated that employers who enter the VCSP before June 30, 2013 will not have to meet this requirement. However, companies that wish to resolve classification issues should consider whether

to enter the program as soon as possible because the June 30th deadline is quickly approaching.

It can be difficult to properly classify workers. These decisions, which are based on facts and circumstances, are often unclear. Mistakes can create serious and costly problems. However, the VCSP offers one way to resolve those problems.

We can assist in determining whether workers should be classified as employees or independent contractors. And, we can help resolve problems when workers have been misclassified.

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