

Incidents and Implications of Worker Misclassification in Ohio

In February 2009, the Ohio Attorney General's office released a report on the Economic Impact of Misclassified Workers for State and Local Governments in Ohio. You can read the entire report here.

Summary of Findings

Breadth of the Problem

- In 2005, the population of Ohio was estimated at 11.46 million people, with 5.4 million workers
- It is estimated that 8.5 percent of employees are misclassified, which translates to approximately 459,000 misclassified workers

Losses to workers

- Unemployment insurances losses to Ohio workers of nearly \$35 million
- Lost Bureau of Workers Compensation premiums of \$86 million

Losses to the state of Ohio

- Foregone state income tax revenues between \$112 million and \$223 million annually
- More than \$510 million in Bureau of Workers' Compensation (BWC) premiums annually

Losses to local Government

- In Ohio, many municipalities and some school districts levy their own income taxes
- It is estimated that misclassification could cost Ohio cities and villages more than \$100 million in local income tax revenues annually and that all school districts can lose a total of millions each year.

Task Force

Attorney General Richard Cordray formed a task force to tackle the issue of worker misclassification. The task force is a collaborative effort among the Ohio Attorney General's office, the Ohio Bureau of Workers' Compensation (BWC), the Ohio Department of Job and Family Services (ODJFS) and the Ohio Department of Taxation (ODT).

2010 Task Force Accomplishments

1. The Attorney General's Revenue Recovery Section is currently seeking collection related to 1099 violations on 818 open collections files against 55 employers in the overall amount of \$614,202.03.
2. The Attorney General's Office worked with the Ohio Bureau of Workers' Compensation, the Ohio Department of Jobs and Family Services, the Ohio Department of Taxation and the Ohio Department of Commerce to draft a common definition of "employee" for consideration by the General Assembly. This would allow for more uniform enforcement by state agencies.
3. The Attorney General settled a case with five home health care companies. The settlement provided that workers would be classified as employees rather than 1099 contractors beginning July 1, 2010 and provided for payment to the Bureau of Workers Compensation in the amount of \$329,815.61.

2009 Task Force Accomplishments

1. Implemented an information sharing agreement allowing ODJFS, BWC and ODT to share confidential data or information with each other to assist in identifying employers that misclassify employees as independent contractors or fail to properly report and pay their taxes.
2. Attorney General's office's collections efforts were modified to identify separate 1099 account referral codes and shorten the collections process.
3. Increased/Reassigned Agency Resources applied to the misclassification:
 - ODJFS has funding approval for nine additional auditors
 - Taxation is implementing a data warehousing program that will allow IT searches for violators
 - BWC has reallocated its resources to increase its targeted audits to 30 percent
4. At the request of the Department of Commerce, Attorney General Cordray issued formal opinion 2009-035, which said that 1099 subcontractors had to be separately licensed.
5. The Attorney General's office implemented a constituent hotline for employees and business competitors to report 1099 violations; information is then forwarded to the client agencies for investigation.
6. Language was drafted and adopted by the General Assembly allowing the Ohio Department of Taxation to share information with ODJFS and BWC
7. Ohio is teaming up with 15 other states in negotiations to end worker misclassification by FedEx.
8. State agencies are working together to develop a process to identify 1099 violators by computer searches.
9. Increased targeted audits:
 - Number of workers reclassified as employees: 5,646
 - The number of workers reclassified in 2009 is a 53.5 percent increase over the total number reclassified in 2008.
 - Sixty targeted audits (1.3 percent out of more than 4,500 audits), created from leads received from the IRS, random complaints and the AG hotline, resulted in the reclassification of 2,634 (or 46.65%) of the workers.
 - Total wages previously unreported: \$35,799,030.78