



Human Resources

Committee

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# Lets Talk About PEOs for a minute...



# What is a PEO?

## Professional Employer Organization

It is a business entity that provides human resources outsourcing services to client companies through the use of a co-employment relationship.



# What are the “Pros” of a PEO?

Typically the PEO handles all the HR  
functions such as:

Payroll, Benefits, I-9, wage-hour  
compliance, safety compliance, etc.



# What are the “Cons” of a PEO?

Typically the PEO handles all the HR  
functions such as:

Payroll, Benefits, I-9, wage-hour  
compliance, safety compliance, etc.

**WAIT!! That is the same list!**



# What you should think about before engaging a PEO?

- Who is responsible for legal compliance?
- Who is on the hook if we are found to be out of compliance?
- What happens to employment records if the company ends the contract with the PEO?
- Is it really worth it?



Now lets talk about  
Employee vs.  
Independent Contractor  
for a couple minutes...



# Employee or Independent Contractor?

- Common Law Tests
- IRS Tests



# Employee or Independent Contractor?

Common Theme of

ALL tests is

*CONTROL*



# Employee or Independent Contractor?

## ■ Common Law Tests

- ◆ “Right to Control” test
- ◆ “Economic Realities” test
- ◆ “Hybrid” test



# Employee or Independent Contractor?

## ■ IRS Test

- ◆ “20 factors”
- ◆ No single factor is determinative



# Reporting Employees and Independent Contractors

## ■ Federal

- ◆ Employees - W-4
- ◆ ICs - 1099



# Avoiding Independent Contractor Traps!

- Written Agreements!
  - ◆ Not determinative
  - ◆ List who will be responsible for what...Keep the factors in mind!



# Avoiding Independent Contractor Traps!

## ■ Liability Issues

- ◆ Insurance
- ◆ Taxes
- ◆ Etc.



# Employee or Independent Contractor?

The REAL question – is it worth the risk for your shop?

- How much time do you have to educate yourself on IC law and spend making sure you are on the right side of the line?
- How much \$\$ do you have to fight lawsuits and pay penalties?



**In honor of Halloween this  
week...**

**The SCARIEST for last....**

# Want to sue your employer?

There's an App for that!





**5/9/11 -- WASHINGTON** — The U.S. Department of Labor today announced the launch of its first application for smartphones, a timesheet to help employees independently track the hours they work and determine the wages they are owed. Available in English and Spanish, users conveniently can track regular work hours, break time and any overtime hours for one or more employers. Glossary, contact information and materials about wage laws are easily accessible through links to the Web pages of the department's Wage and Hour Division.

Additionally, through the app, users will be able to add comments on any information related to their work hours; view a summary of work hours in a daily, weekly and monthly format; and email the summary of work hours and gross pay as an attachment.

This new technology is significant because, instead of relying on their employers' records, workers now can keep their own records. This information could prove invaluable during a Wage and Hour Division investigation when an employer has failed to maintain accurate employment records.

"I am pleased that my department is able to leverage increasingly popular and available technology to ensure that workers receive the wages to which they are entitled," said Secretary of Labor Hilda L. Solis. "This app will help empower workers to understand and stand up for their rights when employers have denied their hard-earned pay."

The free app is currently compatible with the iPhone and iPod Touch. The Labor Department will explore updates that could enable similar versions for other smartphone platforms, such as Android and BlackBerry, and other pay features not currently provided for, such as tips, commissions, bonuses, deductions, holiday pay, pay for weekends, shift differentials and pay for regular days of rest.

For workers without a smartphone, the Wage and Hour Division has a printable work hours calendar in English and Spanish to track rate of pay, work start and stop times, and arrival and departure times. The calendar also includes easy-to-understand information about workers' rights and how to file a wage violation complaint.



# So what can you do??

- 1. Make sure you are in compliance!**
- 2. Keep accurate time records!**
- 3. NO ONE works off the clock!**
- 4. Have employee review a printout of their official time records every pay period AND sign a certification that it is accurate!**
- 5. Have a written policy regarding use of mobile devices (cell phones, etc.) at work!**



**Thank You!**  
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