

Employment Liability Exposure

How CPAs Can Spot Problems and Reduce Client Exposure

Presented by:

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Spotting The Problem/Mitigating The Risk

- 1. Payroll Tax Liability**
- 2. Wage and Hour**
- 3. Trade Secrets**
- 4. Discrimination**

1. Payroll Tax Liability – Spotting The Problem

- **Employees misclassified as independent contractors**
- **Owner's personal tax liability**
- **Workers' compensation audit (NCCI)**

1. Payroll Tax Liability – Mitigation

- **Properly classify employees**
- **Draft appropriate independent contractor agreement**
- **Independent contractor incorporation**

2. Wage & Hour – Spotting The Problem

- **Poor record keeping of time worked**
- **All employees salaried – even at low pay**
- **No one ever paid overtime regardless of hours worked**

2. Wage & Hour Mitigation

- **Exempt salaried employees must earn \$23,600**
- **Salaried does not equal exempt**
- **Keep track of all time**
- **Permitting the work means you owe for it**

3. Protecting Trade Secrets – Spotting The Problem

- **Current and former employees present the greatest risk**
- **Companies must have physical and computer security to invoke court protections**
- **Handbooks and employment contracts should explicitly protect confidential material**

3. Protecting Trade Secrets - Mitigation

- **Password protect computers**
- **Physical locks on files or doors where sensitive materials are maintained**
- **Employment contract with confidentiality, return of company property, and non-solicitation provision**
- **Employee Handbook provisions mirroring employment contract**

4. Discrimination – Spotting The Problem

- **Non-current employee handbook**
- **No method to resolve issues except through direct supervisor**
- **No regular EEO training**

4. Discrimination - Mitigation

- **Annually updated employee handbook**
- **Routine EEO training for management and staff**
- **Employment Practices Liability Insurance (“EPLI”)**
- **Severance/Release**

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EMPLOYMENT PRACTICE AREAS

- **The Fair Labor Standards Act (FLSA)**
- **The Family and Medical Leave Act (FMLA)**
- **Title VII**
- **The Americans with Disabilities Act (ADA)**
- **Employee Retirement Income Securities Act (ERISA)**
- **Age Discrimination in Employment Act (ADEA)**
- **Employee Benefits**
- **Employment Agreements**

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Questions & Answers

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