



SBLC WEEKLY

Via E-mail
July 27, 2009

Volume XI, Issue 27

INDEPENDENT CONTRACTORS

Rumor has it that Representative James McDermott (D-WA) will re-introduce this week his independent contractor bill from the last Congress. As you may recall, the bill in the last Congress would have repealed the safe harbor known as Section 530 and replaced it with one new safe harbor. In order to qualify for the new safe harbor, taxpayers would need a written determination from the IRS that the individual (or individuals holding a substantially similar position) was not considered an employee. Taxpayers could also rely on the safe harbor if the IRS concluded an examination of the individual (or individual holding a substantially similar position) and did not determine that such individual was an employee. Taxpayers could rely on a letter ruling or an examination that was completed up to seven years prior to the tax period in question. It also required that taxpayers must have consistently treated workers as independent contractors in order to qualify for the safe harbor.

The current-law section 530 safe harbor would remain in effect for up to one year after the date of enactment of the legislation. The bill would have provided individuals (or a designated representative) the ability to petition the IRS for a review of their classification status. If an individual is reclassified as an employee, the IRS would be required to report that fact to the U.S. Department of Labor.

The bill in the last Congress also included a program to expand the current Form 1099 reporting requirement to include all service vendors. (Yes, this is President Obama's tax gap closing proposal.)

For those SBLC members that were following developments in California regarding independent contractor withholding, the Governor and the legislature have come to a budget agreement and it does *not* include independent contractor withholding.

DO YOU FEEL THE LOVE?

You do not need me to tell you that we have become the primary battleground for determining the future of health care reform. The President featured small business and health care reform in his weekly Internet and Radio Address as did the Republican response. The Council of Economic Advisers (CEA) provided the President with his primary arguments that health care reform will help small business. If you would like to see the report for yourself, go to <http://www.whitehouse.gov/administration/eop/cea/Health-Care-Reform-and-Small-Businesses>. Some conclusions of the CEA:

- *Small firms face higher costs of employer-sponsored insurance and, as a result, are at a competitive disadvantage relative to large firms in both their product markets and in the market for hiring the best workers.*

- *By reducing future federal budget deficits relative to what they otherwise would have been, health care reform will serve to lower the cost of capital and reduce future tax increases for small businesses, which will lead to more investment and job creation in this key component of the economy.*

- *Perhaps most important of all, health care reform will improve both the health and the economic well-being of small business employees through the expansions in health insurance coverage and reductions in health care costs.*

IRONIC ISN'T IT

I just told you about the battle to win over the hearts and minds of small business on health care reform. Did I mention I hear Representative McDermott may re-introduce his bill to convert independent contractors into employees? Wasn't it just last week that I reported that the House majority's health care reform bill only exempts employers with payrolls of less than \$250,000? I have a hard time understanding if you are trying to win the hearts and minds of small business, why you would roll out a proposal to add employees to their payroll?

IRONIC II

Effective July 24, 2009, the minimum wage is now \$7.25. This may be a payroll increase in the thirty states that have a minimum wage at or below that level. This was the third and final increase mandated by a 2007 law.