

# LEGAL ISSUES FOR BUSINESS

## Are there any employment law “hot topics” for business owners in 2014?

As employers make their way through the first quarter of the year, wage and hour compliance continues to be an area that employers will need to monitor. In Kansas and Missouri, it is expected that wage and hour issues will be aggressively pursued this year.

To start, employers should review their employees' classifications as “exempt” or “nonexempt” under the Fair Labor Standards Act (“FLSA”). The FLSA requires employers to pay employees minimum wage and to pay employees overtime for hours worked over forty hours per workweek. If an employer classifies an employee as exempt, but the employee is later deemed to be nonexempt and thus entitled to overtime pay, the employer can be obligated for payment of back wages and liquidated damages. Because it is the employer's burden to establish an employee's exemption, and because job descriptions alone do not determine whether an employee is exempt or nonexempt, it is important for employers to closely monitor their compliance with the FLSA and applicable state minimum wage laws.

In addition, state and federal agencies are expected to focus on misclassification of employees as independent contractors. The Missouri Department of Labor reported that in FY2013, more than 9,700 misclassified workers were identified, yielding \$2.5 million owed in unemployment taxes. Whether an independent contractor may be deemed an employee is a fact-specific analysis, and it is important to note that a written contractor agreement alone is not determinative of a worker's proper classification. For a successful 2014, employers should be proactive with respect to wage and hour compliance and self-audit their documentation practices, employee classifications and compensation practices, and consult an employment attorney on any close questions.



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