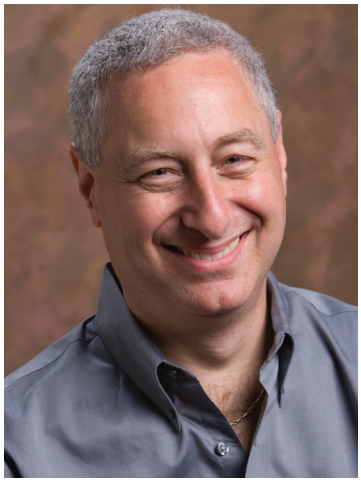
ASK ALAN | BY ALAN FRIEDMAN

Worker Status Laws, Pt 1

Like many others, the music retail industry has long favored treating certain workers as independent contractors. Years ago, music store operators saw the wisdom of integrating music education and repair services into their revenue-earning activities, yielding value-added and profitable revenues to the bottom line. Some of that profitability came from treating teachers and/or repair technicians as independent contractors instead of as employees. This classification allowed retailers to pay workers a gross compensation and escape the payroll tax, reporting, and employment benefits trappings associated with classifying workers as employees.



Not abiding by worker status laws can mean hefty penalties

But over the years, both federal and state tax authorities have gotten wise to the billions of lost revenue dollars from not collecting employer-matched Social Security and Medicare tax, unemployment tax, and income tax on profits aggressively lowered by business deductions or not reported at all.

THE NEW BOSS, SAME AS THE OLD BOSS

According to recent studies, the U.S. is made up of approximately 12.5 million independent contractors, who are typically defined as individuals who work with an organization but are not counted as employees. This classification prevents them from enjoying various employment benefits that permanent employees get, as well as protective employment laws for minimum wages, overtime, vacation and other benefits.

While most businesses do their best to be fair with all workers, business owners are keenly aware of the cost-saving exploitations they derive when working with independent contractors. But as many businesses are starting to find out, those cost savings could pale in comparison to a surprise labor audit assessment of back taxes, unpaid employment perquisites (like health insurance and 401(k) contributions), punitive interest and heinous penalties if the audit reveals worker misclassification.

Accordingly, it is critical for business owners to correctly determine whether individuals providing them services are contractors or employees. Any worker deemed an employee should have all Social Security, Medicare and federal, state and city income taxes withheld from their paycheck and remitted to corresponding tax authorities by their employer. Additionally, employers need to pay all applicable federal and state unemployment tax, non-discriminating employment benefits, and operate in compliance with all federal and state labor laws, including the U.S. Fair Labor Standards Act that establishes minimum wage, overtime pay, recordkeeping and youth employment standards for all employees.

While many business owners have grown tired of hearing about these ever-increasing stringent labor laws and audits, a recent edict on worker classification from the California State Supreme Court should have all business owners, whether California-based or not, shaking in their boots — and wallets.

CALI DREAMING (OF NEW REVENUE)

In a unanimous decision hailed as a landmark move that will significantly change the workplace, a California Supreme Court ruling now makes it much harder for employers to classify their workers as independent contractors.

The new ruling means independent contractors now have a safeguard against exploitation with their employment rights protected by the new law. While there's still speculation regarding the overall application of the ruling, there's a renewed sense of stability in terms of pay scale, breaks and benefits an individual can expect when working with any given business. But the increased payroll cost of abiding by this new ruling may impair an employer's ability to