

To: Unemployment Insurance Advisory Council  
From: Andy Rubsam  
Cc: Janell Knutson  
Date: October 12, 2015  
Re: Minnesota Worker Misclassification Penalties

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The Unemployment Insurance Advisory Council requested information regarding Minnesota's administrative assessments for misclassification of workers.

Minnesota' consumer protection law (not its unemployment law) has a contractor registration program for the construction industry.<sup>1</sup> The registration program requires all individuals and businesses that perform construction services to register as contractors. Registration is free and is not required for employees of contractor companies. A construction contractor that fails to register is assessed a \$2,000 penalty, which is forgiven if the contractor registers within 30 days of the assessment.<sup>2</sup> And Minnesota assesses a penalty for "contracting with or paying" an unregistered contractor in the amount of up to \$10,000, which is forgiven for the first violation.<sup>3</sup>

Minnesota's labor law provides that a contractor may not coerce an individual to adopt independent contractor status or to form a business entity.<sup>4</sup> It appears that the penalty for coercing an individual to adopt independent contractor status is \$10,000 per violation.<sup>5</sup> Violations of the Minnesota independent contractor statutes are reported to the Minnesota revenue and economic development agencies.<sup>6</sup>

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<sup>1</sup> Minn. Stat. § 326B.701.

<sup>2</sup> Minn. Stat. § 326B.701(6)(a).

<sup>3</sup> Minn. Stat. §§ 326B.701(6)(b) and 362B.082(7).

<sup>4</sup> Minn. Stat. § 181.723(7)(c)(1).

<sup>5</sup> Minn. Stat. § 362B.082(7)(a).

<sup>6</sup> Minn. Stat. §181.723(15).