

# Client Alert

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## MAKING MISCLASSIFICATION A PRIORITY: DEPARTMENT OF LABOR TO FOCUS ON COMPANIES THAT MISCLASSIFY EMPLOYEES

The Department of Labor's ("DOL") budget includes \$25 million for a joint Labor-Treasury Misclassification Initiative that will enable the agency to better detect, investigate, and prosecute employers who misclassify their workers. The DOL's goal is to deter misclassification of employees as independent contractors, in order to protect employees. Because independent contractors are termed as self-employed, they are not employees of the company and are not covered by various labor and tax withholding laws.

While many companies unintentionally misclassify their workers, proponents of this initiative allege that some employers classify workers as independent contractors in order to avoid taxes, as well as to avoid the payment of overtime and benefits, such as unemployment and workers' compensation insurance.

It appears that the DOL is emphasizing the need for more investigations into misclassification so that more workers can receive unemployment insurance benefits in this time of record unemployment. More investigations will lead to more enforcement actions and, inevitably, the assessment of fines and penalties when misclassification is established. It is imperative that your employees and independent contractors are classified correctly to avoid these potential fines and penalties. Please contact us if you would like to see the full text of the DOL's "Budget in Brief" or if you have questions as to how this potential change might affect you.

*This client alert is intended to inform clients and other interested parties about legal matters of current interest and is not intended as legal advice.*

### ABOUT HBSS

Hall Booth Smith & Slover is a full-service and diverse law firm with eight regional offices in Georgia, Tennessee and South Carolina. The firm's practice areas are focused and diverse, and include complex civil defense litigation, employment, mass torts, medical malpractice, healthcare, regulatory and governmental matters, and international law.

Whether it's a matter of litigation taking place in the courtroom or negotiations happening in the board room, the attorneys at HBSS will aggressively represent your interests every step of the way.

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Heather Saum is a Senior Associate with over 11 years of litigation experience. She represents employers in claims involving Title VII, FLSA, FMLA, ADEA, and ADA. She has an interest in litigation prevention through on-site training and investigation, however when litigation is necessary, her experience handling discrimination and harassment cases enables her to provide a valuable service to our clients from investigation through trial. Heather is licensed in Georgia and Mississippi.



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