

California Law Turns Contractors into Employees



Although it is not yet in effect, the law passed in California that reclassifies many contract workers as employees has already had an effect on businesses, including RV dealerships, in California and elsewhere.

After the state Supreme Court ruled in April that many contract workers are actually employees, the California legislature approved a bill that codified the court ruling and expanded it

beyond compensation into the broader labor code.

That bill, California AB 5, passed and was signed by Gov. Gavin Newsom on Sept. 18. It becomes effective Jan. 1, 2020.

Aimed squarely at the large corporate app-based, gig economy programs such as Uber, Lyft and Task Rabbit, the new law classifies many such workers as employees whose paychecks include deductions for taxes and who are entitled to regular employee benefits.

RV dealerships in California and other states with similar labor laws are advised to review their contractor policies, KPA Vice President of Product Management Kathryn Carlson says.

KPA provides consulting and regulatory compliance services in environment health and safety, HR and F&I among its roster of products.

“Making a determination on the appropriate status can be especially tricky in California,” Carlson says.

Managers are advised that “there are multiple state agencies involved in the determination (of contractor status) and different laws may apply depending on the unique situation of the employer,” she adds.

The California law also expressly excludes a list of professions whose workers are not classified as employees even though there are plenty of similarities.

Among the list of professions excluded from the gig economy group are physicians and other medical professionals, lawyers, securities brokers, private investigators, architects, direct salespersons, engineers, licensed insurance agents, accountants and commercial fisherman.

Not excluded are temporary workers, truck drivers, service technicians, clerical workers and others commonly brought in to keep an RV dealership running.

Learning Your ABCs

Using what is referred to as an ABC test, the law spells out a three-part test for determining if a worker is classified an employee or an independent contractor.

Workers can only be classified an independent contractor if they are:

- A. Not under the direct control of the employer when doing their work;
- B. Performing work that is outside the employer's general course of business;
- C. Have been and continue to operate as an independent business, doing the same type of work that is being done for the employer.

Carlson notes that if an employer is not sure "they should conduct a more complete analysis than just the ABC test."

"They would be well advised to consult with an expert resource," she concludes.

An updated description of California's contractor versus employee rules can be found on the Dept. of Industrial Relations website [here](#).

On the federal side, the Trump administration is unlikely to go along with the reclassification of contract workers as employees.

As he signed AB 5, Gov. Newsom declared "federal government will be no help here."

The Trump administration "has declared that workers in the gig economy are independent contractors," Newsom said.

On the books, the IRS criteria for determining if a worker is a contractor or employee is less stringent.

The feds do consider when, where and how the work is done but provide broader interpretations. Overall, the classification questions applied under federal rules are more general and avoid including specifics.

For example, IRS questions include: where the work is done; if hours worked are set by the employer; whose tools are used; how much training is given; and if the project ongoing or does it have a set end point.

In total, the IRS considers 20 factors in determining if the worker is a contractor or employee. However, those listed above are the most commonly used.

Online article: [California Law Turns Contractors into Employees](#)