

# Biden Administration Halts Independent Contractor Rule

**By Paul Jackson**

On January 20, 2021, President Biden's Chief of Staff signed an Order that immediately barred further advancement of a number of rules promulgated by the Trump Administration. That Order also froze rules that had been published in the Federal Register but had not yet gone in effect including the Department of Labor's sweeping independent contractor rule previously scheduled to take effect March 8, 2021.

That rule by the Trump Administration was intended to have far reaching effects as to the classification as workers as independent contractors. That rule set forth an "economic reality test" to determine whether an individual would be considered to be in business for himself or herself or was economically dependent upon the contracting entity for work. That rule also identified two factors that focus on the question as to whether such a worker was or is in fact an employee:

1. the nature and degree of control over the work; and
2. the worker's opportunity for profit or loss based on initiative investment.

A number of commentators believe the proposed rule favored how companies would treat workers because of the ability to classify workers as independent contractors rather than full-time employees, with the resulting tax and benefit implications.

We will continue to monitor this situation and advise as to the Biden Administration's (as well as the Department of Labor's) further pronouncements as to this issue.

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