

## e-Alert

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# Independent Contractor Rule New Effective Date

## Background

The US Department of Labor's (DOL's) Wage and Hour Division (WHD) has [proposed](#) delaying the effective date for the Independent Contractor [final rule](#) from March 8, 2021, until May 7, 2021. This delay will allow the Biden administration time to evaluate the rule before it becomes effective.

## Summary

The final rule that was issued on January 6, 2021, clarified how employers can determine whether a worker is an employee or an independent contractor. Adequate worker classification is necessary to determine whether workers are protected by employment laws or entitled to employer benefits. The final rule reaffirms that employers must consider whether there is a financial dependency in the employment relationship with their workers based on the Economic Realities Test. This test is used to determine whether a worker is economically dependent on the employer — and is therefore an employee — or is really in business for him or herself — and is therefore an independent contractor.

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## Employer Next Steps

- Employers are not currently required to use the DOL's Economic Realities Test until the rule becomes effective.
- We recommend that employers become familiar with this final rule and consider how they would implement any necessary changes into their work classification practices by May 7, 2021.
- HRK will continue to monitor the DOL website for updates on whether the Biden administration chooses to accept, amend, or reject the final rule before the rule's effective date.
- If you are a Full-Service or Virtual HR client and would like our assistance with an Independent Contractor Assessment, please [email us](#).

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