

## e-Alert

05.19.21

# DOL Withdraws Independent Contractor Final Rule

## Background

The US Department of Labor (DOL) has [announced](#) it has officially withdrawn the Independent Contractor rule.

## Summary

The Independent Contractor rule was initially published January 6, 2021. However, the Biden administration postponed the effective date to May 7, 2021, allowing time to evaluate the rule before it became effective.

The final rule would require 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 would be used to determine whether a worker is economically dependent on the employer — and is therefore an employee — or is really in business for themselves — and is therefore an independent contractor.

The DOL determined the rule was inconsistent with the text and purpose of the Fair Labor Standards Act. It believed that, if implemented, this rule would have caused a “confusing

This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this content, please contact [HR Knowledge](#).



and disruptive effect on workers and businesses."

## Employer Next Steps

- As the rule was withdrawn before taking effect, you don't need to change any practices or policies to comply with any new requirements for the Independent Contractor Final Rule.
- We recommend that you review your employee classification procedures, there are many layers to consider before making the decision between paying someone as an independent contractor vs an employee, as we outlined in a recent [Ask HRK](#).
- If you are a Full-Service or Virtual HR client and would like our assistance with an Independent Contractor Assessment, please [email us](#).

This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this content, please contact [HR Knowledge](#).



HR KNOWLEDGE  
HILL GROUP

## The People Simplifying HR

For almost twenty years, HR Knowledge has made it our mission to demystify the complex and daunting process of HR management. We do more than just provide the level of service and technology you'd expect from an industry leader. We combine unparalleled passion for service with our decades of HR, payroll, and benefits experience to provide our clients with personalized and actionable advice that is second—to—none. From managed payroll to employee benefits to HR support, we can help your organization thrive, grow, and reduce operating costs—no matter what industry you serve. Whether you're interested in our Full-Service solution or just need your employee handbook written, HR Knowledge can help you minimize risk while staying on top of compliance regulations. The bottom line? We're not just another cloud-based technology company that also does HR, #WeAreHR. [Get the scoop](#) on how we can help you simplify HR.



@WEAREHRK

This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this content, please contact [HR Knowledge](#).