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# BUDGET UNIT BRIEF – FY 2019

Fiscal Services Division

September 24, 2018



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## Employee Misclassification Program

### Purpose and History

Employee misclassification takes place when an employer incorrectly classifies workers as independent contractors rather than employees. An employer has different legal, tax, and financial obligations depending on how a worker is classified. Intentionally misclassifying workers is illegal and constitutes tax and insurance evasion.

Governor Chet Culver issued Executive Order Number 8 on July 16, 2008, creating a task force to examine and report on the issue of employee misclassification and make recommendations for enforcement of applicable laws. The task force submitted a report on December 17, 2008, that made the following recommendations:

- Enhance enforcement of existing statutes through the creation of a special Misclassification Unit within the Iowa Workforce Development (IWD).
- Develop misclassification education materials and increase outreach efforts.
- Execute a data-sharing agreement with the Internal Revenue Service (IRS) that allows State and federal agencies to exchange employment data necessary to track instances of employment misclassification of workers.

Following this report, the General Assembly appropriated \$500,000 in FY 2010 and authorized \$250,000 from the Special Employment Security Contingency Fund (also known as the Penalty and Interest Fund or P & I Fund) for enhancing efforts to investigate employers who misclassify workers. This appropriation was later reduced in an across-the-board reduction of all General Fund appropriations.

The IWD receives tips, leads, and referrals from workers, employers, government agencies, and the public. Investigators and auditors then conduct a review of many different factors surrounding the employment practices of the business. After the completion of an investigation and finding, the Misclassification Unit refers cases to the Division of Labor's Contractor Registration Program, the Iowa Workers' Compensation Division, and the Iowa Department of Revenue to determine what obligations are owed under those laws and programs. These entities also share information with the Misclassification Unit. The IWD also signed and still maintains a data-sharing agreement with the IRS that allows for the transfer of information related to employee misclassification.

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### More Information

Executive Order Number 8: [publications.iowa.gov/6451/1/Executive\\_Order\\_8%5B1%5D.pdf](http://publications.iowa.gov/6451/1/Executive_Order_8%5B1%5D.pdf)

Iowa Workforce Development: [www.iowaworkforcedevelopment.gov](http://www.iowaworkforcedevelopment.gov)

Internal Revenue Service: [www.irs.gov](http://www.irs.gov)

Division of Labor's Contractor Registration Program: [www.iowadivisionoflabor.gov/contractor-registration](http://www.iowadivisionoflabor.gov/contractor-registration)

Iowa Workers' Compensation Division: [www.iowaworkcomp.gov](http://www.iowaworkcomp.gov)

Iowa Department of Revenue: [tax.iowa.gov](http://tax.iowa.gov)

U.S. Department of Labor: [www.dol.gov](http://www.dol.gov)

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### **Funding**

The Employee Misclassification Program has received an annual State General Fund appropriation since FY 2010. The Employee Misclassification Program also utilizes funds from the Unemployment Insurance Base Administration Grant that the IWD receives from the U.S. Department of Labor.

### **Related Statutes and Administrative Rules**

This program has no specific Iowa Code chapter or administrative rules.

### **Budget Unit Number**

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