

## **The Final Rule Will Be Officially Withdrawn After Its Publication in the Federal Register**

On May 5, 2021, the U.S. Department of Labor (DOL) announced it will officially withdraw the Independent Contractor final rule. The withdrawal will be effective on the day the DOL's official withdrawal is published in the Federal Register. The Federal Register is expected to publish the withdrawal on May 6, 2021.

### **Background Information**

The rule was originally published in January, but its effective date was delayed as the result of a freeze the Biden administration ordered on regulatory changes adopted late into the previous administration.

The independent contractor final rule would have required employers to use an economic reality test to gauge financial dependency in an employment relationship to determine whether workers should be classified as employees or independent contractors.

### **Rescinding the Rule**

After reviewing the rule, the DOL determined that the rule was inconsistent with the text and purpose of the Fair Labor Standards Act and that implementing the rule would have "a confusing and disruptive effect on workers and businesses alike."

### **Impact on Employers**

The DOL is withdrawing this rule before its May 7 effective date. As a result, employers are not required to change any practices or policies to comply with any new requirements.

Instead, employers should review their employee classification procedures to ensure they comply with existing DOL guidance.