What to Do If Your Business Is Investigated by the U.S. Department of Labor for FLSA Violations

Services

Employment & Labor Law

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The United States Department of Labor (DOL) takes allegations of wage and hour violations under the Fair Labor Standards Act (FLSA) very seriously. For businesses, a DOL investigation can be a stressful and disruptive process, potentially leading to significant financial penalties, legal action, and even criminal charges in extreme cases.

Key Issues in DOL Investigations

The FLSA sets federal standards for minimum wage, overtime pay, recordkeeping, and child labor. Common issues that trigger investigations include:

1. Misclassification of Workers

A significant area of focus for the DOL is the misclassification of workers as independent contractors rather than employees. Misclassification can result in violations of the FLSA's wage and hour requirements.

- **Employees:** Are entitled to minimum wage, overtime pay, and other protections under the FLSA. Employers must also withhold taxes, contribute to Social Security and Medicare, and provide unemployment insurance.
- **Independent Contractors:** Are not covered by the FLSA. They are responsible for their own taxes and typically have greater control over their work.

The DOL uses a multi-factor test to determine whether a worker is an employee or an independent contractor, focusing on the degree of control the employer has over the worker and the worker's economic dependence on the employer.

2. Minimum Wage Violations

The FLSA mandates that covered employees receive at least the federal minimum wage (or a higher state minimum wage if applicable). Businesses may face violations if they fail to meet this requirement due to:

- Improper payroll deductions.
- Misclassification of employees as exempt from minimum wage laws.

3. Overtime Pay Violations

Non-exempt employees are entitled to overtime pay at 1.5 times their regular rate for hours worked over 40 in a workweek. Common violations include:

- Failing to pay overtime for eligible employees.

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- Incorrectly classifying employees as exempt from overtime requirements.
- Manipulating time records to avoid paying overtime.

4. Vacation and Pay Benefits

Although the FLSA does not mandate vacation pay or benefits, confusion over employment agreements or state-specific laws can lead to disputes. Employers must adhere to any agreed-upon policies and ensure they do not unlawfully withhold wages or benefits.

The Consequences of FLSA Violations

A DOL investigation is serious and can result in significant consequences if violations are found:

- **Back Pay and Damages:** Employers may be required to pay back wages to affected employees, interest, as well as liquidated damages equal to the amount of back wages.
- **Civil Penalties:** The DOL may impose fines for willful violations, including penalties for failing to keep proper records.
- **Criminal Charges:** In cases involving intentional violations, such as falsifying records or repeated offenses, employers may face criminal prosecution.
- **Legal Fees:** Employers may also be liable for employees' legal fees if the case proceeds to court.

The financial and reputational damage from an investigation or lawsuit can be devastating for businesses, making it critical to address these issues proactively.

The Importance of Legal Counsel

Securing experienced legal counsel early in the process is essential for protecting your business and navigating a DOL investigation.

How Cohen Cleary, P.C. Can Help:

1. **Pre-Investigation Compliance Review:** Our attorneys can review your wage and hour practices to identify and correct potential issues before an investigation occurs.
2. **Representation During Investigations:** We will communicate with DOL investigators on your behalf, ensuring your rights are protected and minimizing the risk of self-incrimination.
3. **Worker Classification Guidance:** We can help determine whether workers are properly classified and recommend adjustments if needed.
4. **Defense Against Allegations:** If violations are alleged, we will build a strong defense to mitigate penalties and protect your business.
5. **Employee Handbook and Policy Review:** We provide guidance on crafting clear and legally compliant wage and hour policies to prevent future issues.

The Importance of Taking Fast Action to Retain Legal

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Counsel

If your business is being investigated by the U.S. Department of Labor for alleged FLSA violations, it's crucial to act quickly. The potential exposure to fines, damages, and even criminal charges makes these investigations a serious matter. Securing experienced legal representation can help protect your business, reduce liability, and ensure compliance with federal and state labor laws.

At Cohen Cleary, P.C., we provide knowledgeable, proactive legal counsel to Massachusetts businesses facing wage and hour disputes or investigations.

Contact Cohen Cleary, P.C. for a Complimentary Case Consultation

For assistance with DOL investigations, FLSA compliance, or worker classification issues, contact Cohen Cleary, P.C. today. Call us at **508-880-6677** to schedule a complimentary case consultation. Let us help you navigate these critical matters and protect your business

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