Hypothetical Scenario For Independent Contractor Vs Employee Classification – Federal



Mac-O Productions is a marketing company that helps entrepreneurs develop a professional and polished online presence by creating eye-popping content and images on different social media platforms. Recently, Mac-O Productions has been having cash flow issues because it lost three of its biggest client accounts. Mac-O Productions has to reduce its employee headcount to save money fast, but it still must be able to deliver high quality service to all of its remaining clients. The executive team at Mac-O Productions came up with the idea of firing its highest paid graphic artist, Camila, to save $120,000 a year since it would no longer have to pay Camila's high salary or any healthcare benefits for her. Camila loves her job and enjoys working at Mac-O Productions. When she finds out about the company's plan to terminate her, she proposes that Mac-O Productions classify her as an independent contractor. Mac-O Productions likes this proposal and plans to enter into an agreement with Camila where she agrees to be an independent contractor with a pay cut and no healthcare benefits. Executives at Mac-O Productions thinks this is a win-win because it will also save a ton of money in taxes by having Camila as an independent contractor and nothing else has really changed – she will keep her job and still continue to use her awesome graphic artistry skills for the company and its clients. The executive team asks its in-house corporate attorney for approval of the independent contractor classification.

Camila cannot be properly reclassified as an independent contractor under federal law. Other than her reduced compensation and benefits package, nothing has changed from Camila's status as an employee performing graphic design, which is an integral part of the company's marketing operations. In addition, it appears that Mac-O Productions will continue to control Camila's scope of work as well as provide the facilities and resources to her necessary to perform her job duties. If Mac-O Productions wishes to retain Camila in the capacity of working on graphic design for the company's clients, it should classify her as an employee and comply with all required wage and hour laws applicable to employees as well as appropriate tax withholdings.