

*From the desk of Jeanne M. Kerkstra, Esq., CPA*

**Viewpoint  
How Do You Spell Employee? FED EX**

Recently, four administrative rulings came down in which Fed Ex's independent contractors were deemed to be employees. On the one hand, it would appear that there should not be grave concern by employers over these findings due to the fact that they are administrative rulings and only determinative as to the individual plaintiffs. However, there is also a class action lawsuit pending in Indiana concerning this issue. Furthermore, Fed Ex is appealing the California Employment Development Department's ruling that Fed Ex owes \$7.88 million in back payroll taxes for independent contractors who should have properly been classified as employees. Consequently, in the grand scheme of things, these four recent administrative rulings can have a tremendous impact on Fed Ex's bottom line.

As any employer will tell you, there is a tremendous cost associated with having employees. According to the IRS, and what is also usually followed by the states, the general rule is that you are an independent contractor if the payor has the right to control or direct *only* the result of the work done by you and *not* the means and methods of accomplishing the result, hi the four recent administrative rulings, it was found that Fed Ex had the right to control the work done *as well as* directing the means and methods of accomplishing it.

Do you think you have employees or independent contractors working for you? This is something that can change over time and, as noted above, dramatically impact your bottom line. To see how the IRS classifies workers, go to their website.

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