



State cracks down on worker misclassification

By Scott Rothschild

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Topeka — The state has started investigating businesses that have been accused of misclassifying their employees for the purpose of avoiding the payment of taxes and other costs.

Kansas Department of Revenue Secretary Joan Wagon said earlier this week that the state could be losing as much as \$40 million a year in payroll taxes through the misclassification of workers.

In addition, she noted that businesses that break the law “have an unfair advantage” over those playing by the rules.

Worker misclassification occurs when an employer incorrectly classifies workers as independent contractors, rather than employees, to avoid state withholding taxes, unemployment insurance and workers’ compensation.

The department has estimated about 16 percent of employers are misclassifying workers. The problem is most evident in the construction industry, Wagon said.

A new law that went into effect July 1 authorizes penalties for intentionally misclassifying workers and allows the Department of Revenue and the Kansas Department of Labor to share information in an attempt to enforce the law.

In July, the agencies had seminars throughout the state to help businesses understand the correct way to classify employees.

A Web site has been established — www.kdor.org/misclass — that allows the public to report tips on allegations of misclassification.

Wagon said five complaints have been alleged through the Web site, and that agents were investigating those.

Sometimes misclassification occurs unintentionally, Wagon said, but “if they have a \$50 million contract, and list only four employees, you know something is wrong.”

At a legislative committee meeting, Wagon was asked if she could use the law to identify undocumented immigrants.

She said the law doesn’t go that far, and other legislators said the undocumented immigrant issue needs to be dealt with at the federal level.