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California Updates ABC Test Exemptions

On Sept. 30, 2021, California [updated](#) its exceptions to the law that regulates [independent contractor classification](#) (AB 5). AB 5 requires a three-part test, also known as the ABC test, to determine whether workers are employees or independent contractors.

When an exception to the ABC test applies, employers need to revert to previous multifactor determination worker classification methods. Updates to the exceptions become effective on Jan. 1, 2022.

Updated Exceptions

Licensed manicurists—The exemption was set to expire on Jan. 1, 2022; the update extends the exemption through Jan. 1, 2025.

Construction trucking services—Specific requirements apply. The exemption applies to work performed before Jan. 1, 2022. The update extends the exemption to work performed before Jan. 1, 2025.

Data aggregators—Specific conditions apply. The amendment revises the exemption to apply to the relationship between a data aggregator and a research subject. The update removes the requirement that any consideration paid for the feedback provided if prorated to an hourly basis is equivalent to or greater than the minimum wage.

Insurance-related services—The amendment expands the exemption to persons who provide claims adjusting or third-party administration.

Manufactured housing salespersons—The update clarifies that employers should not consider the statutorily imposed duties of a manufactured housing dealer as factors under the multifactor test.

Important Dates

Jan. 1, 2020

Effective date for AB 5 (and the ABC test) across the state of California.

Sept. 4, 2020

California expanded the list of occupations exempt from AB 5.

Sept. 30, 2021

California amends some exemptions to AB 5. The updates become effective Jan. 1, 2022.

When an exception to the ABC test applies, employers need to revert to previous multifactor determination worker classification methods.

Impact on Employers

Employers should become familiar with the ABC test, its exemptions and the updates that become effective in 2022.

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