

Timeshare Sales Force? Employees, Of Course

By Jewell Lim Esposito on October 26, 2011



Lots of comments sent in regarding yesterday's [post](#) about California's penalties regarding intentional misclassification of workers. Now, onto timeshare sales people.

Timeshare and hotel companies who *think* their sales force is made up of *independent contractors* and not *employees* should really weigh the exposure. The case of *Whitehead et al v. Kalins* (August term 2008, No. 03764) (Court of Common Pleas of Philadelphia County, PA) shows how both the IRS and a Pennsylvania court concluded this year that timeshare sales people are indeed employees: [Timeshare Employee Determination.pdf](#). Class plaintiffs sued the timeshare company and won over \$2.2 million in wages, benefits, penalties, and interest for the employees.

TIMESHARE COMPANIES: AREN'T YOUR SALES PEOPLE REALLY EMPLOYEES?

Other timeshare and hotel companies have as much risk with penalties (at least in California), wage-and-hour liability, federal/state employment taxes, Medicare, unemployment insurance, workers compensation, and coverage under employee benefit plans (health/401(k)/stock option).

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