



# Your Advantage

## NEWS AND INFORMATION TO HELP YOU AND YOUR BUSINESS SUCCEED

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### Employer Advantage announces

#### SAS 70 Report

We have received our annual SAS 70 Type II Report from our auditors and we received an unqualified opinion.

To better serve our clients with calendar year financial reporting needs, we are changing our 2011 audit period to end on September 30, 2011. The American Institute of CPA's new SSAE 16 auditing standards will be in effect for this audit period.

#### Education

Tom Jones completed 16 credit hours of education to renew his Producers license in Property and Casualty Insurance through Doerhoff Education Services on March 17, 2011.

## Missouri Ranks Lowest in Finding Misclassified Workers

The Missouri State Auditor's Office recently released a report on an audit of Misclassified Worker Investigation Procedures in the State of Missouri. The report noted that Missouri ranks 50th out of 51 state agencies (including District of Columbia) in misclassified worker audit effectiveness based upon data from calendar years 2005-2009. During that timeframe the national average of misclassified workers identified was 1.36 per audit compared with Missouri's average of .14 per audit.

Recommendations from the audit include:

- Changing the selection process from random to targeting high risk, high error industries.
- Utilizing the IRS Form 1099 data.
- Follow up audits to ensure compliance.
- Simplifying Missouri's definition of "employee" and "independent contractor".
- Assessing monetary penalties on companies even when there isn't any evidence of fraud.

The economic downturn has played a significant role in the United States and state Departments of Labor increased enforcement on misclassification of workers.

What this means to Missouri employers in the identified high risk industries, (construction, janitorial, home health care, child care, transportation, warehousing, meat/poultry processing and personnel service industries) now is the time to review worker classifications and independent contractor agreements. The cost of misclassification can be significant with back taxes, penalties and fines.

The service team of Employer Advantage can assist clients in auditing worker classification. For more information please contact your Human Resources Professional.

## Employers Must Take Verbal Complaints Seriously

On March 22, 2011, the US Supreme Court decided a case concerning retaliation that changes how employers handle oral complaints.

Kevin Kasten, a former Saint-Gobain Performance Plastics Corporation employee, made a verbal complaint about the location of time clocks and workers not receiving pay for the time they spent dressing and undressing in work-related protective gear. He was discharged a short time later for “unrelated reasons” and filed a lawsuit that he was terminated in retaliation of his verbal complaint.

The lower court ruled that the Fair Labor Standards Act (FLSA) did not cover oral complaints and dismissed the case. However, in the appeal that finally went to the US Supreme Court, Justice Breyer indicated that “filed” (under the FLSA) “sometimes” included verbally submitted complaints. According to Justice Breyer, not all oral complaints count, but a valid complaint from an employee is one that is “sufficiently clear and detailed for a reasonable employer to understand it . . . as an assertion of rights protected by the statute and a call for their protection.”

In a nutshell, the Supreme Court has indicated that Congress actually meant to protect the illiterate and less educated workers when the FLSA was written in 1938 and thus cannot limit the protection of complaints to only a written format. Employers need to be aware that an oral complaint by an employee should be taken seriously and that adverse employment action taken against the employee may be considered unlawful.

Employer Advantage offers online training for supervisory personnel on terminations and employee complaints. Please contact your Human Resources Professional for more information on online training or on employee complaints and termination processes.

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## Expanded 1099 Reporting Rules Repealed

President Obama signed legislation to repeal the expanded 1099 reporting rules included the Affordable Health Care Act. The new 1099 rules would have been in effect for landlords in 2011 and for businesses in 2012.

1099 rules in effect prior to 2011 have not changed and carry stiff penalties for noncompliance. For more information about 1099s please contact Employer Advantage.

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## The Great Central U.S. Shake Out

It's hard to believe sometimes, but the central part of the United States is considered “earthquake country”. With the devastation that was seen with the 8.9 magnitude earthquake that hit Japan in March, many experts are urging United States businesses to get prepared.

The Central United States Earthquake Consortium created the “Great Central U.S. ShakeOut” to encourage businesses and residents to participate in a drill on April 28 and to create awareness of this potential widespread disaster. Drill guidelines are available in four different levels at [www.dropcoverholdon.org](http://www.dropcoverholdon.org) so your business can work at a level that best suits your needs.

### Level 1 – Simple

The drill uses simple steps to show people how to perform the “Drop, Cover, and Hold On actions for safety.

### Level 2 – Basic

This drill helps participants with emergency response actions during the drill and with suggestions for improvement after the drill.

### Level 3 – Intermediate

This drill is for key staff members to look at the business operations during and after an earthquake and to look at planning and procedures in the event of a disaster.

### Level 4 – Advanced

This drill focuses on a business continuity plan in case of catastrophic damage to your company.

Even if your business doesn't plan to participate in the drill on April 28, your management staff will want to start thinking about adding earthquakes to your disaster recovery plan. It's better to have plans in place and never use them, than to have a disaster happen for which you are not prepared.

# April Showers Bring...a Tornado Season?

In the United States, "Tornado Season" is usually the months of April through July with May being the peak month. With the recent "Mid-April Outbreak" (April 14 through April 16 of this year) communities from Oklahoma to North Carolina reported 241 tornados in 14 states in just three days. Meteorologists have said that this outbreak will be counted among the largest in history.

Now is the time to review severe weather plans for your company and make any changes if necessary. Here are some simple steps to create or update your company's plan:

## Be Aware of Watches and Warnings

**Severe Storm Watch** – Storms are likely in your area. Stay updated with radio, television or computer access.

**Severe Storm Warning** – A severe storm has been observed or is indicated on radar. It is occurring or imminent in the warned area.

**Tornado Watch** - Tornadoes are likely. Be ready to take shelter. Stay tuned to radio, TV, or computer for additional information.

**Tornado Warning** - A tornado has been sighted in the area or is indicated by radar. Take shelter immediately.

## Severe Weather Plan for your Business

- If feasible, develop a system for knowing who is in your building in case there is an emergency.
- Establish a warning system.
  - o Test system periodically.
  - o If necessary, plan to communicate with people with hearing impairments or other disabilities or who do not speak English.
- Account for all workers, visitors and customers as people arrive in the shelter.
  - o Take a head count.
- o Use a prepared roster or checklist.
- Assign specific duties to employees in advance; create checklists for each specific responsibility. Designate and train employee alternates in case the assigned person is not there or is injured.
- Get emergency supply kits and keep them in your shelter locations.
- Practice your shelter-in-place plan on a regular basis.

## Determine Where You Will Take Shelter In Case Of a Tornado Warning

You need to know that buildings that are covered with a flat, wide-span roof are not considered safe. This includes auditoriums, cafeterias, gymnasiums and many large retail buildings.

- Make plans for evacuating personnel away from lightweight modular buildings.
- Go to a pre-designated shelter area such as a safe room, basement, storm cellar, or the lowest building level. If there is no basement, go to the center of an interior room on the lowest level (closet, interior hallway) away from corners, windows, doors, and outside walls. Put as many walls as possible between employees and the outside. Do not open windows.
- Once in the shelter, employees should protect their heads with their arms and crouch down.

## Prepare Your Business Continuity Plan now - BEFORE Bad Weather Strikes

- Prepare an inventory of the items and equipment used in your business. Back up your business computer records at least weekly and store a copy of this information in a safe location off-site.
- Develop a list of your computer hardware and software, including model names and serial numbers. Also include the name of one or two computer equipment suppliers who could assist you in setting up in an emergency.
- Consider where you could temporarily relocate your business in an emergency to continue operations.
- Construct a financial plan to cover continuing payroll expenses and debt obligations.
- Keep a name and telephone number list of contractors or repair firms who could make emergency temporary repairs or board up windows should some of your buildings be damaged.
- Maintain a list of key suppliers, creditors, customers and employees you need to contact in case your business operations are interrupted.

## How to Plan?

The Risk Management Department of Employer Advantage can assist companies in creating a tornado preparedness plan. Contact your Loss Prevention Specialist or the Risk Management Department for more information.

# Employer Advantage Ribbon Cutting

Representatives from various Joplin area businesses toured Employer Advantage during the First Friday Coffee on April 1, 2011. Over 200 people attended the event which included coffee, networking and a Ribbon Cutting to mark Employer Advantage's new location.

Employer Advantage staff members conducted tours of the office and welcomed local businesses and clients to the 4th floor of the recently remodeled Gryphon Building.