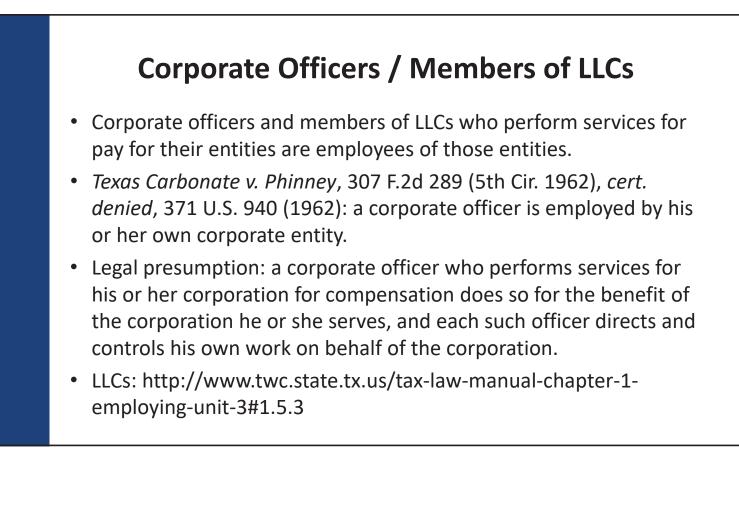
Texas Unemployment and Payday Law Update

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Transfers of Compensation Experience

- Successor in an acquisition of one business by another acquires the UI compensation experience of the predecessor, if:
 - the successor acquires all or part of the organization, trade, or business of the predecessor, and
 - there is shared ownership or officer-level management between the two entities.
- Partial transfer is possible within two years of an acquisition if the acquired portion is separately identifiable and segregable, if:
 - predecessor and successor jointly apply, and
 - they submit up to four years' worth of wage records.
- Take the potential transfer of compensation experience into account when determining the purchase price for the business

How Audits Get Started

- Former employee files unemployment claim TWC finds no wages reported and disallows the claim – claimant appeals – this is the highest priority Tax Department investigation – TWC may end up notifying IRS
- "Tattle-tale" letter from employees or competitors
- Random audit TWC tries to audit 1% of all employers each year (DOL guideline)
- Program audit targeted industries or regions examples: hair salon industry, landscape, and construction firms

Misclassification - Red Flags

- Terms such as "1099 employees" or "contract labor"
- Having contractors wear company badges or uniforms indicating their affiliation with the company
- Giving contractors a company e-mail address
- Inviting contractors to company parties and other events using the same invitation that goes to regular employees
- Giving contractors company benefits or wage advances
- Having contractors sign company policy handbooks
- Non-competition agreements

What TWC Looks For In Independent Contractor Cases

- Corporate status
- FEIN
- Registration with Texas Secretary of State
- TWC tax account number
- Reporting wages of their own employees
- Their own business cards

- Invoices on their own stationery
- Advertising
- Written contracts
- E-mails, letters, or other documentation relating to negotiating the parameters of the work
- Substantial investment in their own business

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Also available as part of the eCourse 2019 Labor and Employment Law eConference

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