

SECTION 530 RELIEF REQUIREMENTS

YOUR business has been selected for an employment tax examination to determine whether you correctly treated certain workers as independent contractors. However, you will not owe employment taxes for these workers if you meet the **relief requirements** described below. If you do not meet these **relief requirements**, the IRS will need to determine whether the workers are independent contractors or employees and whether you owe employment taxes for those workers.

Section 530 Relief Requirements:

To receive relief, you must meet all three of the following requirements:

I. Reasonable Basis

First, you had a reasonable basis for not treating the workers as employees. To establish that you had a reasonable basis for not treating the workers as employees, you can show that:

- You reasonably relied on a court case about Federal taxes or a ruling issued to you by the IRS; or
- Your business was audited by the IRS at a time when you treated similar workers as independent contractors and the IRS did not reclassify those workers as employees. You may not rely on an audit commenced after December 31, 1996, unless such audit included an examination for employment tax purposes of whether the individual involved (or any other individual holding a substantially similar position) should be treated as your employee; or
- You treated the workers as independent contractors because you knew that was how a significant segment of your industry treated similar workers; or
- You relied on some other reasonable basis. For example, you relied on the advice of a business lawyer or accountant who knew the facts about your business.

If you did not have a reasonable basis for treating the workers as independent contractors, you do not meet the **relief requirements**.

II. Substantive Consistency

In addition, you (and any predecessor business) must have treated the workers, and any similar workers, as independent contractors. If you treated similar workers as employees, this relief provision is not available. If you are paying an individual who is providing services as a test proctor or room supervisor assisting in the administration of college entrance or placements examinations, the substantive consistency requirement does not apply with respect to services performed after December 31, 2006, (and remuneration paid with respect to such services). The provision applies if the individual (1) is performing the services for a tax-exempt organization, and (2) is not otherwise treated as an employee of such organization for purposes of employment taxes.

III. Reporting Consistency

Finally, you must have filed all required federal tax returns (including information returns) consistent with your treatment of each worker as not being employees. This means, for example, that if you treated a worker as an independent contractor and paid him or her \$600 or more, you must have filed Form 1099-MISC for the worker. Relief is not available for any year and for any workers for whom you did not file the required information returns.

The IRS examiner will answer any questions you may have about your eligibility for this relief.

