

IRS News Release

Media Relations Office

Washington, D.C.

Media Contact: 202.622.4000

www.IRS.gov/newsroom

Public Contact: 800.829.1040

Misclassified Workers to File New Social Security Tax Form

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WASHINGTON — The Internal Revenue Service has developed a new form for employees who have been misclassified as independent contractors by an employer. [Form 8919](#), Uncollected Social Security and Medicare Tax on Wages, will now be used to figure and report the employee's share of uncollected social security and Medicare taxes due on their compensation.

Generally, a worker who receives a Form 1099 for services provided as an independent contractor must report the income on Schedule C and pay self-employment tax on the net profit, using Schedule SE. However, sometimes the worker is incorrectly treated as an independent contractor when they are actually an employee. When this happens, Form 8919 will be used beginning for tax year 2007 by workers who performed services for an employer but the employer did not withhold the worker's share of social security and Medicare taxes.

In addition, the worker must meet one of several criteria indicating they were an employee while performing the services. The criteria include:

- The worker has filed [Form SS-8](#), Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, and received a determination letter from the IRS stating they are an employee of the firm.
- The worker has been designated as a section 530 employee by their employer or by the IRS prior to January 1, 1997.
- The worker has received other correspondence from the IRS that states they are an employee.
- The worker was previously treated as an employee by the firm and they are performing services in a similar capacity and under similar direction and control.
- The worker's co-workers are performing similar services under similar direction and control and are treated as employees.
- The worker's co-workers are performing similar services under similar direction and control and filed Form SS-8 for the firm and received a determination that they were employees.

- The worker has filed Form SS-8 with the IRS and has not yet received a reply.

By using Form 8919, the worker's social security and Medicare taxes will be credited to their social security record. To facilitate this process, the IRS will electronically share Form 8919 data with the Social Security Administration.

In the past, misclassified workers often used Form 4137 to report their share of social security and Medicare taxes. Misclassified workers should no longer use this form. Instead, Form 4137 should now only be used by tipped employees to report social security and Medicare taxes on allocated tips and tips not reported to their employers.