

# Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 34 hr., 55 min.; **Learning about the law or the form**, 12 min.; and **Preparing and sending the form to the IRS**, 46 min. If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the tax form to this address. Instead, see **General Information** for where to file.

## Purpose

Employers and workers file Form SS-8 to get a determination as to whether a worker is an employee for purposes of Federal employment taxes and income tax withholding.

## General Information

Complete this form carefully. If the firm is completing the form, complete it for **ONE** individual who is representative of the class of workers whose status is in question. If you want a written determination for more than one class of workers, complete a separate Form SS-8 for one worker

from each class whose status is typical of that class. A written determination for any worker will apply to other workers of the same class if the facts are not materially different from those of the worker whose status was ruled upon.

**Caution:** Form SS-8 is **not** a claim for refund of social security and Medicare taxes or Federal income tax withholding. Also, a determination that an individual is an employee does not necessarily reduce any current or prior tax liability. A worker must file his or her income tax return even if a determination has not been made by the due date of the return.

**Where to file.**—In the list below, find the state where your legal residence, principal place of business, office, or agency is located. Send Form SS-8 to the address listed for your location.

Location:	Send to:
Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming	Internal Revenue Service SS-8 Determinations P.O. Box 1231, Stop 4106 AUSC Austin, TX 78767
Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, All other locations not listed	Internal Revenue Service SS-8 Determinations Two Lakemont Road Newport, VT 05855-1555
American Samoa, Guam, Puerto Rico, U.S. Virgin Islands	Internal Revenue Service Mercantile Plaza 2 Avenue Ponce de Leon San Juan, Puerto Rico 00918

Name of firm (or person) for whom the worker performed services		Name of worker	
Address of firm (include street address, apt. or suite no., city, state, and ZIP code)		Address of worker (include street address, apt. or suite no., city, state, and ZIP code)	
Trade name		Telephone number (include area code) (    )	Worker's social security number :        :
Telephone number (include area code) (    )	Firm's employer identification number :        :		

### Check type of firm for which the work relationship is in question:

Individual     Partnership     Corporation     Other (specify) ► .....

## Important Information Needed To Process Your Request

This form is being completed by:     Firm                     Worker

If this form is being completed by the worker, the IRS **must** have your permission to disclose your name to the firm.

**Do you object to disclosing your name and the information on this form to the firm?** . . . . .  Yes     No

If you answer "Yes," the IRS cannot act on your request. **Do not complete the rest of this form unless the IRS asks for it.**

Under section 6110 of the Internal Revenue Code, the information on this form and related file documents will be open to the public if any ruling or determination is made. However, names, addresses, and taxpayer identification numbers will be removed before the information is made public.

**Is there any other information you want removed?** . . . . .  Yes     No

If you check "Yes," we cannot process your request unless you submit a copy of this form and copies of all supporting documents showing, in brackets, the information you want removed. Attach a separate statement showing which specific exemption of section 6110(c) applies to each bracketed part.

This form is designed to cover many work activities, so some of the questions may not apply to you. You must answer ALL items or mark them "Unknown" or "Does not apply." If you need more space, attach another sheet.

Total number of workers in this class. (Attach names and addresses. If more than 10 workers, list only 10.) ▶ \_\_\_\_\_

This information is about services performed by the worker from \_\_\_\_\_ to \_\_\_\_\_  
(month, day, year) (month, day, year)

Is the worker still performing services for the firm? . . . . .  Yes  No

• If "No," what was the date of termination? ▶ \_\_\_\_\_  
(month, day, year)

- 1a Describe the firm's business .....
- b Describe the work done by the worker .....

- 2a If the work is done under a written agreement between the firm and the worker, attach a copy.
- b If the agreement is not in writing, describe the terms and conditions of the work arrangement .....

c If the actual working arrangement differs in any way from the agreement, explain the differences and why they occur .....

- 3a Is the worker given training by the firm? . . . . .  Yes  No
  - If "Yes," what kind? .....
  - How often? .....

- b Is the worker given instructions in the way the work is to be done (exclusive of actual training in 3a)? .  Yes  No
  - If "Yes," give specific examples .....

c Attach samples of any written instructions or procedures.

- d Does the firm have the right to change the methods used by the worker or direct that person on how to do the work? . . . . .  Yes  No
  - Explain your answer .....

- e Does the operation of the firm's business require that the worker be supervised or controlled in the performance of the service? . . . . .  Yes  No
  - Explain your answer .....

- 4a The firm engages the worker:
  - To perform and complete a particular job only
  - To work at a job for an indefinite period of time
  - Other (explain) .....

- b Is the worker required to follow a routine or a schedule established by the firm? . . . . .  Yes  No
  - If "Yes," what is the routine or schedule? .....

- c Does the worker report to the firm or its representative? . . . . .  Yes  No
  - If "Yes," how often? .....
  - For what purpose? .....
  - In what manner (in person, in writing, by telephone, etc.)? .....
  - Attach copies of any report forms used in reporting to the firm.

- d Does the worker furnish a time record to the firm? . . . . .  Yes  No
  - If "Yes," attach copies of time records.

- 5a State the kind and value of tools, equipment, supplies, and materials furnished by:
  - The firm .....
  - The worker .....

b What expenses are incurred by the worker in the performance of services for the firm? .....

- c Does the firm reimburse the worker for any expenses? . . . . .  Yes  No
  - If "Yes," specify the reimbursed expenses .....

- 6a Will the worker perform the services personally?  Yes  No
- b Does the worker have helpers?  Yes  No
  - If "Yes," who hires the helpers?  Firm  Worker
  - If the helpers are hired by the worker, is the firm's approval necessary?  Yes  No
  - Who pays the helpers?  Firm  Worker
  - If the worker pays the helpers, does the firm repay the worker?  Yes  No
  - Are social security and Medicare taxes and Federal income tax withheld from the helpers' pay?  Yes  No
  - If "Yes," who reports and pays these taxes?  Firm  Worker
  - Who reports the helpers' earnings to the Internal Revenue Service?  Firm  Worker
  - What services do the helpers perform? .....
- 7 At what location are the services performed?  Firm's  Worker's  Other (specify) .....
- 8a Type of pay worker receives:
  - Salary  Commission  Hourly wage  Piecework  Lump sum  Other (specify) .....
- b Does the firm guarantee a minimum amount of pay to the worker?  Yes  No
- c Does the firm allow the worker a drawing account or advances against pay?  Yes  No
  - If "Yes," is the worker paid such advances on a regular basis?  Yes  No
- d How does the worker repay such advances? .....
- 9a Is the worker eligible for a pension, bonus, paid vacations, sick pay, etc.?  Yes  No
  - If "Yes," specify .....
- b Does the firm carry worker's compensation insurance on the worker?  Yes  No
- c Does the firm withhold social security and Medicare taxes from amounts paid the worker?  Yes  No
- d Does the firm withhold Federal income tax from amounts paid the worker?  Yes  No
- e How does the firm report the worker's earnings to the Internal Revenue Service?
  - Form W-2  Form 1099-MISC  Does not report  Other (specify) .....
  - Attach a copy.
- f Does the firm bond the worker?  Yes  No
- 10a Approximately how many hours a day does the worker perform services for the firm? .....
- b Does the firm set hours of work for the worker?  Yes  No
  - If "Yes," what are the worker's set hours? \_\_\_\_\_ a.m./p.m. to \_\_\_\_\_ a.m./p.m. (Circle whether a.m. or p.m.)
- c Does the worker perform similar services for others?  Yes  No  Unknown
  - If "Yes," are these services performed on a daily basis for other firms?  Yes  No  Unknown
  - Percentage of time spent in performing these services for:  
This firm ..... % Other firms ..... %  Unknown
  - Does the firm have priority on the worker's time?  Yes  No
  - If "No," explain .....
- d Is the worker prohibited from competing with the firm either while performing services or during any later period?  Yes  No
- 11a Can the firm discharge the worker at any time without incurring a liability?  Yes  No
  - If "No," explain .....
- b Can the worker terminate the services at any time without incurring a liability?  Yes  No
  - If "No," explain .....
- 12a Does the worker perform services for the firm under:
  - The firm's business name  The worker's own business name  Other (specify) .....
- b Does the worker advertise or maintain a business listing in the telephone directory, a trade journal, etc.?  Yes  No  Unknown
  - If "Yes," specify .....
- c Does the worker represent himself or herself to the public as being in business to perform the same or similar services?  Yes  No  Unknown
  - If "Yes," how? .....
- d Does the worker have his or her own shop or office?  Yes  No  Unknown
  - If "Yes," where? .....
- e Does the firm represent the worker as an employee of the firm to its customers?  Yes  No
  - If "No," how is the worker represented? .....
- f How did the firm learn of the worker's services? .....
- 13 Is a license necessary for the work?  Yes  No  Unknown
  - If "Yes," what kind of license is required? .....
  - Who issues the license? .....
  - Who pays the license fee? .....

- 14 Does the worker have a financial investment in a business related to the services performed?  Yes  No  Unknown
  - If "Yes," specify and give amount of the investment .....
- 15 Can the worker incur a loss in the performance of the service for the firm?  Yes  No
  - If "Yes," how? .....
- 16a Has any other government agency ruled on the status of the firm's workers?  Yes  No
  - If "Yes," attach a copy of the ruling.
- b Is the same issue being considered by any IRS office in connection with the audit of the worker's tax return or the firm's tax return, or has it been considered recently?  Yes  No
  - If "Yes," for which year(s)? .....
- 17 Does the worker assemble or process a product at home or away from the firm's place of business?  Yes  No
  - If "Yes," who furnishes materials or goods used by the worker?  Firm  Worker  Other
  - Is the worker furnished a pattern or given instructions to follow in making the product?  Yes  No
  - Is the worker required to return the finished product to the firm or to someone designated by the firm?  Yes  No
- 18 Attach a detailed explanation of any other reason why you believe the worker is an employee or an independent contractor.

**Answer items 19a through o only if the worker is a salesperson or provides a service directly to customers.**

- 19a Are leads to prospective customers furnished by the firm?  Yes  No  Does not apply
- b Is the worker required to pursue or report on leads?  Yes  No  Does not apply
- c Is the worker required to adhere to prices, terms, and conditions of sale established by the firm?  Yes  No
- d Are orders submitted to and subject to approval by the firm?  Yes  No
- e Is the worker expected to attend sales meetings?  Yes  No
  - If "Yes," is the worker subject to any kind of penalty for failing to attend?  Yes  No
- f Does the firm assign a specific territory to the worker?  Yes  No
- g Whom does the customer pay?  Firm  Worker
  - If worker, does the worker remit the total amount to the firm?  Yes  No
- h Does the worker sell a consumer product in a home or establishment other than a permanent retail establishment?  Yes  No
- i List the products and/or services distributed by the worker, such as meat, vegetables, fruit, bakery products, beverages (other than milk), or laundry or dry cleaning services. If more than one type of product and/or service is distributed, specify the principal one .....
- j Did the firm or another person assign the route or territory and a list of customers to the worker?  Yes  No
  - If "Yes," enter the name and job title of the person who made the assignment .....
- k Did the worker pay the firm or person for the privilege of serving customers on the route or in the territory?  Yes  No
  - If "Yes," how much did the worker pay (not including any amount paid for a truck or racks, etc.)? \$ .....
  - What factors were considered in determining the value of the route or territory? .....
- l How are new customers obtained by the worker? Explain fully, showing whether the new customers called the firm for service, were solicited by the worker, or both .....
- m Does the worker sell life insurance?  Yes  No
  - If "Yes," is the selling of life insurance or annuity contracts for the firm the worker's entire business activity?  Yes  No
  - If "No," list the other business activities and the amount of time spent on them .....
- n Does the worker sell other types of insurance for the firm?  Yes  No
  - If "Yes," state the percentage of the worker's total working time spent in selling other types of insurance ..... %
  - At the time the contract was entered into between the firm and the worker, was it their intention that the worker sell life insurance for the firm:  on a full-time basis  on a part-time basis
  - State the manner in which the intention was expressed .....
- o Is the worker a traveling or city salesperson?  Yes  No
  - If "Yes," from whom does the worker principally solicit orders for the firm? .....
  - If the worker solicits orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments, specify the percentage of the worker's time spent in the solicitation ..... %
  - Is the merchandise purchased by the customers for resale or for use in their business operations? If used by the customers in their business operations, describe the merchandise and state whether it is equipment installed on their premises or a consumable supply

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and to the best of my knowledge and belief, the facts presented are true, correct, and complete.

Signature ►

Title ►

Date ►

If the firm is completing this form, an officer or member of the firm must sign it. If the worker is completing this form, the worker must sign it. If the worker wants a written determination about services performed for two or more firms, a separate form must be completed and signed for each firm. Additional copies of this form may be obtained by calling 1-800-TAX-FORM (1-800-829-3676).

