

Instructions for Form SS-8



Department of the Treasury
Internal Revenue Service

(Rev. March 2023)

Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form SS-8 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/FormSS8](https://www.irs.gov/FormSS8).

What's New

See [IRS.gov/Businesses/Small-Businesses-Self-Employed/Completing-Form-SS-8](https://www.irs.gov/Businesses/Small-Businesses-Self-Employed/Completing-Form-SS-8) for additional information about Form SS-8 and worker classification.

General Instructions

Purpose of Form

Firms and workers file Form SS-8 to request a determination of the status of a worker under the common law rules for purposes of federal employment taxes and income tax withholding. Generally, under the common law rules a worker is an employee if the firm has the right to control and direct what will be done and how it will be done. See Pub. 15-A, Employer's Supplemental Tax Guide, for more information on how to determine whether a worker providing services is an employee or independent contractor. The SS-8 unit doesn't handle supplemental wage issues.

A Form SS-8 determination may be requested only in order to resolve federal tax matters. If Form SS-8 is submitted for a tax year for which the statute of limitations on the tax return has expired, a determination letter will not be issued. For more information on the statute of limitations for individual income tax returns, see *How Long Should Records Be Kept?* in the Instructions for Form 1040.

The IRS does not issue a determination letter for proposed transactions, or on hypothetical situations, cases involving current worker classification litigation, cases involving state or local government workers who may be performing services under an agreement entered into pursuant to Section 218 of the Social Security Act, or business-to-business transactions, or for other reasons not in the best interests of tax administration. We may, however, issue an information letter when it is considered appropriate.

Definition

Firm. For the purposes of this form, the term "firm" means any individual, business enterprise, organization, state, or other entity for which a worker has performed services. The firm may or may not have paid the worker directly for these services.



If the firm was not responsible for payment for services, be sure to enter the name, address, and employer identification number of the payer on the first page of Form SS-8, below the identifying information for the firm and the worker.

Note. Workers for state and local governments and/or interstate instrumentalities may be covered by a Section 218 Agreement.

A Section 218 Agreement is a written, voluntary agreement between the State Social Security Administrator and the Social Security Administration. All 50 states, Puerto Rico, the Virgin Islands, and approximately 60 interstate instrumentalities have Section 218 Agreements extending social security coverage to specified employees. Workers covered under a Section 218 Agreement are subject to social security and Medicare tax regardless of any determinations made under the common law rules.

Whether a state or local government worker is subject to social security and Medicare tax depends on which of the following three categories the worker falls into:

1. Subject to social security under a Section 218 Agreement, or
2. Subject to social security under mandatory coverage provisions, or
3. Excluded from social security because there is no Section 218 Agreement **and** the employee is covered by a qualified retirement plan.

Only the Social Security Administration can determine if a Section 218 Agreement covers a position with a state or local government entity. The state or local government firm or the worker should contact the State Social Security Administrator for assistance.

For further clarification on a Section 218 Agreement, refer to Pub. 963, Federal-State Reference Guide.

The Form SS-8 Determination Process

The IRS will acknowledge the receipt of your Form SS-8. Because there are usually two (or more) parties who could be affected by a determination of employment status, the IRS attempts to get information from all parties involved by sending those parties blank Forms SS-8 for completion. Some or all of the information provided on this Form SS-8 may be shared with the other parties listed on page 1 of the form. The case will be assigned to a technician who will review the facts, apply the law, and render a decision. The technician may ask for additional information from the requestor, from other involved parties, or from third parties that could help clarify the work relationship before rendering a decision. The IRS will generally issue a formal determination to the firm or payer (if that is a different entity), and will send a copy to the worker. A determination letter applies only to a worker (or a class of workers) requesting it, and the decision is binding on the IRS if there is no change in the facts or law that form the basis for the ruling. In certain cases, a formal determination will not be issued. Instead, an information letter may be issued. Although an information letter is advisory only and is not binding on the IRS, a worker may use it in fulfilling their federal tax obligations.

Neither the Form SS-8 determination process nor the review of any records in connection with the determination constitutes an examination (audit) of any federal tax return. If the periods under consideration have previously been examined, the Form SS-8 determination process will not constitute a reexamination under IRS reopening procedures. Because this is not an examination of any federal tax return, the appeal rights available

in connection with an examination do not apply to a Form SS-8 determination. If you disagree with a determination, you can identify facts that were part of the original submission that you think were not fully considered. If you have additional information concerning the relationship that was not part of the original submission, you can submit the additional information and request that the office reconsider the determination.

Completing Form SS-8



Form SS-8 will be returned to the requestor if all required information is not provided.

The IRS cannot make a determination on your Form SS-8 unless you complete all questions in Parts I through IV. In addition, Part V must be completed if the worker provides a service directly to customers or is a salesperson. See below for more information on service providers.

You should provide full, clear, and concise responses to the questions in Parts I through IV, and, if applicable, Part V.

- If you cannot answer a question, enter “Unknown” or “Does not apply.”
- If you need more space for a question, continue your answer on another sheet with the part and question number clearly identified. Attach that sheet to your Form SS-8. Write your firm's name (or worker's name) and employer identification number (or social security number) at the top of each additional sheet attached to your Form SS-8.
- If you have a current or past litigation involving you and the worker or firm, please explain. The IRS won't provide a ruling in cases where there's pending worker classification litigation. If you believe the litigation doesn't involve worker classification, or the litigation has been settled, please include documentation (for example, a Copy of Complaint, First Pleading, Court Docket or any other supporting information you want us to consider).
- Ensure you complete Part V, For Service Providers or Salespersons, if the worker provided a service directly to customers (for example, dry cleaning service, massage therapy, grocery delivery, beverage delivery, etc.), or is a salesperson who sells to individuals or businesses.

Provide all the years you provided services to the firm.

Indicate if there were any significant changes in the work relationship between the firm and the worker over the service term. Determinations are based on the entire relationship between the firm and the worker.

A determination can only be made for years with open statutes. See below for information on the [time for filing a claim for refund](#).

Include copies of the Forms 1099-MISC, Forms 1099-NEC, and/or Forms W-2 that were issued from the firm for all years in question. If you are unable to provide copies of these forms, submit a letter with a breakdown of how much was earned for each year, along with any copies of checks, paystubs, bank statements, etc.

Incomplete Forms SS-8 will not be processed.

Form SS-8 may be downloaded at [IRS.gov/Forms](https://www.irs.gov/Forms), or received by mail when you order the copies on [IRS.gov/OrderForms](https://www.irs.gov/OrderForms), or by calling 800-TAX-FORM (800-829-3676). For more information, see [IRS.gov/Businesses/Small-Businesses-Self-Employed/Completing-Form-SS-8](https://www.irs.gov/Businesses/Small-Businesses-Self-Employed/Completing-Form-SS-8).

Fee

There is no fee for requesting a Form SS-8 determination letter.

Signature

Form SS-8 must be signed and dated by the taxpayer. Neither a stamped signature nor your power of attorney representative's

signature will be accepted. A Form SS-8 that is not properly signed and dated by the taxpayer cannot be processed and will be returned.

The original of a request for an SS-8 determination should generally include:

- An original handwritten signature; or
- An electronic signature (for example, a faxed or digitally signed PDF Adobe document).

The person who signs for a corporation must be an officer of the corporation who has personal knowledge of the facts of the business. If the corporation is a member of an affiliated group filing a consolidated return, the Form SS-8 must be signed by an officer of the common parent of the group.

The person signing for a trust, partnership, or limited liability company must be, respectively, a trustee, general partner, or member-manager who has personal knowledge of the facts of the business.

Where To File

You can mail or fax your completed and signed Form SS-8.

If you are mailing the form, send the completed and signed Form SS-8 and attachments to:

Internal Revenue Service
Form SS-8 Determinations
P.O. Box 630
Stop 631
Holtsville, NY 11742-0630

If you are faxing the form, fax the completed and signed Form SS-8 and attachments to the IRS at 855-242-4481.

Do not submit Form SS-8 with your tax return as that will delay the processing time.

Instructions for Workers



Form SS-8 is not a claim for refund of social security and Medicare taxes or federal income tax withholding.

If you are requesting a determination for more than one firm, complete a separate Form SS-8 for each firm.

If the IRS determines that you are an employee, you are responsible for filing an amended return for any corrections related to this decision as applicable. A determination that a worker is an employee does not necessarily reduce any current or prior tax liability. For more information, call 800-829-1040.

Time for filing a claim for refund. Generally, you must file your claim for a credit or refund within 3 years from the date your original return was filed or within 2 years from the date the tax was paid, whichever is later.



Filing Form SS-8 does not prevent the expiration of the time in which a claim for a refund must be filed.

If you are concerned about a refund, and the statute of limitations for filing a claim for refund for the year(s) at issue has not yet expired, you should file Form 1040-X, Amended U.S. Individual Income Tax Return, to protect your statute of limitations. File a separate Form 1040-X for each year.

Completing your Form 1040-X. On the Form 1040-X you file:

- Leave lines 1 through 23 blank.
- Write “Protective Claim” at the top of page 1, and sign and date the form.
- Enter the following statement in Part III: “Filed Form SS-8 with the Internal Revenue Service Office in Holtsville, NY. By filing this protective claim, I reserve the right to file a claim for any

refund that may be due after a determination of my employment tax status has been completed.”

Filing Form SS-8 does not alter the requirement to timely file an income tax return. Do not delay filing your tax return in anticipation of an answer to your Form SS-8 request. In addition, if applicable, do not delay in responding to a request for payment while waiting for a determination of your worker status.

Instructions for Firms

If a **worker** has requested a determination of his or her status while working for you, you will receive a request from the IRS to complete a Form SS-8. In cases of this type, the IRS usually gives each party an opportunity to present a statement of the facts because any decision will affect the employment tax status of the parties. Failure to respond to this request will not prevent the IRS from issuing an information letter based on the facts available to it so that the worker can fulfill their federal tax obligations. However, the information that you provide is extremely valuable in determining the status of the worker.

If you are requesting a determination of worker status, the information you must provide depends on what you are requesting.

- If you are requesting a determination for a specific worker, complete the form with that worker’s information.
- If you are requesting a determination for a particular class of worker, complete the form for one worker in that class of workers and provide a list with the names, addresses, and social security numbers (if available) of all workers potentially affected by the determination.
- If you want a written determination for more than one class of workers, complete a separate Form SS-8 for each class and provide a list with the names, addresses, and social security numbers (if available) of all workers potentially affected by the determination.

Your request will be returned as incomplete if more than one person provides the same services but a list of workers providing the service is not provided.

If you have a reasonable basis for not treating a worker as an employee, you may be relieved from having to pay employment taxes for that worker under section 530 of the Revenue Act of 1978. However, this relief provision cannot be considered in conjunction with a Form SS-8 determination because the determination does not constitute an examination of any tax return. For more information regarding section 530 of the Revenue Act of 1978 and to determine if you qualify for relief under this section, visit [IRS.gov](https://www.irs.gov).

How To Get Tax Help

If you have questions about a tax issue; need help preparing your tax return; or want to download free publications, forms, or instructions, go to [IRS.gov](https://www.irs.gov) to find resources that can help you right away.

Online tax information in other languages. You can find information on [IRS.gov/MyLanguage](https://www.irs.gov/MyLanguage) if English isn’t your native language.

Free Over-the-Phone Interpreter (OPI) Service. The IRS is committed to serving our multilingual customers by offering OPI services. The OPI Service is a federally funded program and is available at Taxpayer Assistance Centers (TACs), other IRS offices, and every VITA/TCE return site. The OPI Service is accessible in more than 350 languages.

Accessibility Helpline available for taxpayers with disabilities. Taxpayers who need information about accessibility services can call 833-690-0598. The Accessibility Helpline can answer questions related to current and future accessibility products and services available in alternative media formats (for

example, braille, large print, audio, etc.). The Accessibility Helpline does not have access to your IRS account. For help with tax law, refunds, or account-related issues, go to [IRS.gov/LetUsHelp](https://www.irs.gov/LetUsHelp).

Note. Form 9000, Alternative Media Preference, or Form 9000(SP) allows you to elect to receive certain types of written correspondence in the following formats.

- Standard Print.
- Large Print.
- Braille.
- Audio (MP3).
- Plain Text File (TXT).
- Braille Ready File (BRF).

Understanding an IRS notice or letter you’ve received. Go to [IRS.gov/Notices](https://www.irs.gov/Notices) to find additional information about responding to an IRS notice or letter.

Note. You can use Schedule LEP (Form 1040), Request for Change in Language Preference, to state a preference to receive notices, letters, or other written communications from the IRS in an alternative language. You may not immediately receive written communications in the requested language. The IRS’s commitment to LEP taxpayers is part of a multi-year timeline that is scheduled to begin providing translations in 2023. You will continue to receive communications, including notices and letters in English until they are translated to your preferred language.

The Taxpayer Advocate Service (TAS) Is Here To Help You

What Is TAS?

TAS is an **independent** organization within the IRS that helps taxpayers and protects taxpayer rights. Their job is to ensure that every taxpayer is treated fairly and that you know and understand your rights under the [Taxpayer Bill of Rights](https://www.irs.gov/TaxpayerBillOfRights).

How Can You Learn About Your Taxpayer Rights?

The Taxpayer Bill of Rights describes 10 basic rights that all taxpayers have when dealing with the IRS. Go to [TaxpayerAdvocate.IRS.gov](https://www.irs.gov/TaxpayerAdvocate) to help you understand what these rights mean to you and how they apply. These are **your** rights. Know them. Use them.

What Can TAS Do for You?

TAS can help you resolve problems that you can’t resolve with the IRS. And their service is free. If you qualify for their assistance, you will be assigned to one advocate who will work with you throughout the process and will do everything possible to resolve your issue. TAS can help you if:

- Your problem is causing financial difficulty for you, your family, or your business;
- You face (or your business is facing) an immediate threat of adverse action; or
- You’ve tried repeatedly to contact the IRS but no one has responded, or the IRS hasn’t responded by the date promised.

How Can You Reach TAS?

TAS has offices [in every state, the District of Columbia, and Puerto Rico](https://www.irs.gov/TaxpayerAdvocate). Your local advocate’s number is in your local directory and at [TaxpayerAdvocate.IRS.gov/Contact-Us](https://www.irs.gov/TaxpayerAdvocate). You can also call them at 877-777-4778.

How Else Does TAS Help Taxpayers?

TAS works to resolve large-scale problems that affect many taxpayers. If you know of one of these broad issues, report it to them at [IRS.gov/SAMS](https://www.irs.gov/SAMS).

TAS for Tax Professionals

TAS can provide a variety of information for tax professionals, including tax law updates and guidance, TAS programs, and ways to let TAS know about systemic problems you've seen in your practice.

Low Income Taxpayer Clinics (LITCs)

LITCs are independent from the IRS. LITCs represent individuals whose income is below a certain level and need to resolve tax problems with the IRS, such as audits, appeals, and tax collection disputes. In addition, LITCs can provide information about taxpayer rights and responsibilities in different languages for individuals who speak English as a second language. Services are offered for free or a small fee for eligible taxpayers. To find an LITC near you, go to [TaxpayerAdvocate.IRS.gov/about-us/Low-Income-Taxpayer-Clinics-LITC](https://www.irs.gov/about-us/Low-Income-Taxpayer-Clinics-LITC) or see IRS Pub. 4134, [Low Income Taxpayer Clinic List](#).

Representation

You may either represent yourself or, with proper written authorization, have someone else represent you. Your representative must be someone who is allowed to practice before the IRS, such as an attorney, certified public accountant, or enrolled agent (a person enrolled to practice before the IRS). Use Form 2848, Power of Attorney and Declaration of Representative, to authorize someone else to represent you before the IRS. On your Form 2848 or 8821, line 3, enter "Employment Tax," "SS-8," and the related years in the appropriate columns. If completing Form 8821, line 3, see the instructions for the form to determine what you should enter in column (d).

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on Form SS-8 to carry out the Internal Revenue laws of the United States. This information will be used to determine the employment status of the worker(s) described on the form. Subtitle C, Employment Taxes, of the Internal Revenue Code imposes employment taxes on wages, including income tax withholding. Sections 3121(d), 3306(a), and 3401(c) and (d), and the related regulations, define employee and employer for purposes of employment taxes imposed under Subtitle C. Section 6001 authorizes the IRS to request information needed to determine if a worker(s) or firm is subject to these taxes. Section 6109 requires you to provide your

identification number. Neither workers nor firms are required to request a status determination, but if you choose to do so, you must provide the information requested on this form. **Failure to provide the requested information may prevent us from making a status determination.** If any worker or the firm has requested a status determination and you are being asked to provide information for use in that determination, you are not required to provide the requested information. However, failure to provide such information will prevent the IRS from considering it in making the status determination. Providing false or fraudulent information may subject you to penalties. Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the IRS to disclose or give the information shown on this form to others as described in the Code. Routine uses of this information include providing it to the Department of Justice for use in civil and criminal litigation, to the Social Security Administration for the administration of social security programs, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for the administration of their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. We may provide this information to the affected worker(s), the firm, or payer as part of the status determination process.

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.

The time needed to complete and file this Form SS-8 will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	18 hr., 53 min.
Learning about the law or the form	53 min.
Preparing and sending the form	1 hr., 14 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 send your comments through [IRS.gov/FormComments](https://www.irs.gov/FormComments). Or you can send your comments to Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Don't** send the form to this address. Instead, see [Where To File](#), earlier.
