

SS-8 Determination—Determination for Public Inspection

Occupation

01FRW Farm/Ranch Workers

Determination:

☒ Employee

☐ Contractor

UILC

Third Party Communication:

☒ None

☐ Yes

I have read Notice 441 and am requesting:

☐ Additional redactions based on categories listed in section entitled "Deletions We May Have Made to Your Original Determination Letter"

☐ Delay based on an on-going transaction

☐ 90 day delay

For IRS Use Only:

Facts of Case

The firm is a limited liability company that operates a poultry farm. The firm engaged the worker as a laborer to perform services of grading and collecting eggs, running equipment, clean up, and maintenance for the facility. There was no written agreement between the two parties.

The worker stated he received training from the firm. The worker received his assignments from the firm. The worker relied upon the firm to resolve his problems and complaints. The worker was required to submit reports on inventory on fowl, production eggs, feed, mechanical failures, etc. The worker had a schedule mostly from 8 a.m. to 5 p.m. and had breaks. The worker stated the firm posted the hours he was required to work. The worker provided his services at the firm's location. The worker was required to perform his services personally.

The firm provided the large equipment and machinery for the worker to perform his services. The worker provided his own personal hand tools. The worker was reimbursed for cleaning supplies. The worker did not lease any space from the firm. The worker was paid weekly. The firm established the level of payment for the services provided.

The worker could receive bonuses for the services he performed. Either party could terminate the work relationship without incurring a liability. The worker stated he did not perform similar services for others. The firm stated the worker terminated his services and the worker stated the firm fired the worker from his services.

Analysis

As is the case in almost all worker classification cases, some facts point to an employment relationship while other facts indicate independent contractor status. The determination of the worker's status, then, rests on the weight given to the factors, keeping in mind that no one factor rules. The degree of importance of each factor varies depending on the occupation and the circumstances.

Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business. In the instant case, the worker performed labor services tending to the poultry and maintaining the facility which demonstrated the worker's services were integrated into the firm's business of operating a poultry farm.

If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results. In the instant case, the fact the worker received training from the firm and was required to perform his services personally demonstrated the firm was interested in the methods used as well as the end result as an employer.

Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. In such instances, the firm assumes the hazard that the services of the worker will be proportionate to the regular payments. This action warrants the assumption that, to protect its investment, the firm has the right to direct and control the performance of the workers. In the instant case, it was the firm that established the level of payment for the services provided which showed financial control over the worker as an employer.

Lack of significant investment by a person in facilities or equipment used in performing services for another indicates dependence on the employer and, accordingly, the existence of an employer-employee relationship. The term "significant investment" does not include tools, instruments, and clothing commonly provided by employees in their trade; nor does it include education, experience, or training. The firm provided the worker with the location, large equipment and machinery the worker needed to provide the services required by the firm. In the instant case, the worker could not suffer a significant loss as operating their own business.

The worker was an employee according to common law. Direction and control was demonstrated by the fact the firm trained the worker how to perform his services and then required the worker to perform his services personally. This showed the firm was interested in the methods used as well as the end result as an employer. Control was demonstrated by the firm setting the worker's schedule as an employee. The firm had the financial investment as the firm provided the location, large equipment and machinery for the worker to perform his services. Financial control by the firm was demonstrated by the fact the firm determined the level of payment for the services provided. The worker performed labor services for the firm in operating their business which showed the worker's services were integrated into the firm's daily operations.

Based on the above analysis, we conclude that the firm had the right to exercise direction and control over the worker to the degree necessary to establish that the worker was a common law employee, and not an independent contractor operating a trade or business.

Please go to www.irs.gov for further information.

Firm: Publication 4341

Worker: Notice 989