

# SS-8 Determination—Determination for Public Inspection

Occupation 02AAD.39 Designer/Artist	Determination: <input checked="" type="checkbox"/> Employee <input type="checkbox"/> Contractor
UILC	Third Party Communication: <input checked="" type="checkbox"/> None <input type="checkbox"/> Yes

## Facts of Case

According to the information and documentation submitted, the firm's business is manufacturing custom coffee sleeves; providing advertising for sale on the unused side of the sleeve. The worker performed services a graphic designer and managed other duties in the office. From January 2012 to July 18, 2013, the worker's duties included creating graphic designs, helping out on the phones, and secondary oversight of the printing room. The worker reported to the firm's principle office, Monday through Friday, from 9:00 a. m. to 5:00 p. m. The worker was classified as an employee and her earnings were reported on Form W-2 at year end.

From July 19, 2013, until March 2014, the worker only performed graphic design services from her home, or other locations, using her own computer, software, cell phone, and internet services. The worker received her work assignments from the firm's online co-working platform [REDACTED] and would return the finished designs to the firm via [REDACTED]. The firm reclassified the worker as an independent contractor during this period of services and reported her earnings on Form 1099-MISC at year end.

The worker contacted the firm's owner regarding any problems or complaints that arose for their resolution. In addition to submitting finished graphic designs to [REDACTED], the worker was also responsible for reporting the hours she worked. The worker was paid an hourly wage for her services. The worker personally performed her graphic design services for the firm and had no investment in a business providing similar services. The worker terminated her services without incurring any liabilities.

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## Analysis

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According to the information and documentation submitted concerning the work relationship, the firm provided the worker with her assignments via their online co-working platform and the worker submitted her completed assignments through the same platform. The worker contacted the firm for any problems or complaints that arose.

The worker was required to submit a report of the hours worked and the firm paid the worker an hourly wage for her services. The worker personally performed her services. The worker had no investment in facilities and did not have the opportunity for profit or loss. The worker was free to terminate her services without incurring any liabilities. The worker's graphic design services were integral to the services provided by the firm.

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.

If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required.

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.

If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer-employee relationship.

Therefore, the firm exercised direction and control over the services performed by the worker, during all periods of services, to establish that an employee/employer relationship existed.