

**SS-8 Determination—Determination for Public Inspection**

Occupation 02COO.11 Coordinator	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**

The firm is in business to provide healthcare IT professionals to its client for the purpose of assisting with electronic medical record implementation. The worker was engaged to perform services as an [REDACTED] Application Coordinator, to build the scheduling and registration piece of the [REDACTED] electronic medical record system for a new pediatric center. The worker assisted the firm's client with testing and training their staff. The firm treated the worker status as independent contractor and issued to the worker a Form 1099-MISC at year-end to report the monies received for her services as non-employee compensation.

The worker was required to have prior working knowledge before working for the firm. The firm secured a contract with its client, and recruited the workers needed to perform the requested services. Additional helpers/resources were engaged by the firm with the client's approval. The firm paid the helpers for their services and billed the client for payment.

The worker attended a two-hour orientation. The worker performed her services personally, on site at the client location. The firm had its own team of consultants and management on site at the client's location for support purposes. The client determined the scope of individual project assignments, and the firm and its client determined the work methods by which to perform the services. The firm and its client were contacted regarding problems and complaints needing resolution. The firm held weekly mandatory conference call for consultants that the worker was required to attend. The worker was required to provide the firm with a weekly status report detailing specific duties performed, tasks pending, any issues encountered, and a strategy to address those issues.

The firm provided the worker with workspace and a desk at the client location, along with a company laptop the office supplies needed to perform the services. The worker incurred expenses for travel to and from the client's site. The firm reimbursed for expenses related to weekly flights, car rental, hotel, and daily per diem. The firm paid the worker for her services based on an hourly rate basis. Clients made payment to the firm for services rendered. The worker did not incur economic loss or financial risk with regard to the services she performed for the firm.

There was no information provided to evidence that workers' compensation insurance was carried on the worker, or that employment benefits were made available to her. The worker did not perform similar services for others. Her only form of advertising was placing her resume on online job sites for recruiters to review. There was no information provided to evidence that the worker operated a business of her own performing similar services for others. The worker was represented as a consultant working under the firm's name. The work relationship was project based, and continuous. The firm, in its on-boarding information, indicated that after three months, it would consider treating the worker as a salaried employee if she was willing to continue her services with the firm.

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**Analysis**

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The facts provided for this case do not evidence the worker's behavioral control of the work relationship. The worker performed her services under the firm's management, and followed the firm's (and client's) instructions, work methods, schedule, and routine in the performance of her services. The worker's services were performed personally, at the firm's client location. The firm's consultants and management were at the client site. The worker used firm's workspace, equipment, and supplies, and represented the firm's business operations in the performance of her services. As a result, the firm retained the right to direct and control the worker to the extent necessary to protect its investment, and the reputation of its business operations.

The facts provided for this case do not evidence the worker's financial control of the work relationship. The worker's remuneration was established by the firm. The worker had no opportunity for profit or loss as a result of the services performed for the firm. "Profit or loss" implies the use of capital by a person in an independent business of his or her own. The worker did not have a significant investment in the facilities, equipment, tools, or supplies used to perform her services for the firm. 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. Also, if the firm has the right to control the equipment, it is unlikely the worker had an investment in facilities.

The worker performed services as requested by the firm, for an indefinite period of time, and both parties retained the right to terminate the work relationship at any time without incurring liabilities. The facts provided for this case do not evidence that the worker was engaged in an independent enterprise, but rather show that she performed her services as a necessary and integral part of the firm's business operations. 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.

Based on common law principles, the worker shall be found to be an employee for Federal employment tax purposes. For correction assistance, you may refer to Publication 4341, which can be obtained at [www.irs.gov](http://www.irs.gov)