

SS-8 Determination—Determination for Public Inspection

Occupation

02OFF Office Worker

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 non-profit social service agency for the homeless community. The worker was engaged to perform services as a program associate, to provide administrative support on projects on a temporary basis. The parties entered into an agreement regarding the temporary work, that states the worker would be considered an independent contractor with regard to the services he performed for the firm.

The worker received training on the tasks to be completed. The firm provided the worker with work assignments. Work methods were in accordance with grant standards. The worker was required to perform his services personally due to the confidential nature of the work. The worker was required to report problems and complaints to the firm for resolution purposes.

The firm provided the worker with the office supplies, and the computer with secure login for data security purposes. The worker did not provide any items. The worker did not incur work related expenses. There was no information provided to support that the worker incurred economic loss or financial risks related to the services he performed for the firm. The firm paid the worker on an hourly rate basis for his services. The worker was not covered under workers' compensation insurance. Employment benefits were not made available to the worker. The worker did not perform similar services for others while engaged by the firm.

Analysis

The facts provided for this case do not evidence the worker's behavioral control of the work relationship. The worker's services were performed in a confidential manner, following the firm's training, guidelines, and routine. The worker's services were performed personally at the firm's location, under the firm's business name. The worker used the firm's facilities, equipment, tools, and supplies to perform his 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 his 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, 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 he performed his 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