

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

Occupation 02OFF.43 OfficeWorker	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 a trucking business. The firm engaged the worker to perform marketing and related services for the firm's business operation. The firm provided the worker with the necessary training in order to perform the services. The firm assigned the worker services to perform and the worker created additional services through marketing the firm's business. The firm and worker determined the methods used to perform the services. The firm required the worker to contact the firm regarding problems or complaints for resolution and the worker was required resolve them. The firm did not require the worker to provide any reports per the firm. The worker indicated providing call logs, mailing lists, and invoices. The firm allowed the worker to perform the services on a flexible schedule. The worker performed the services at the firm's premises and per the firm from home. Per the firm the worker was not required to perform the services personally and per the worker services were performed personally. The firm indicated not applicable to hiring and paying substitutes or helpers and the worker stated the firm hired and paid substitutes or helpers.

The firm provided office equipment, materials, and supplies needed by the worker to perform the services. The worker did not lease anything or incur any business expenses. The firm paid the worker a salary on a weekly basis and the customers paid the firm. The firm did not carry workers' compensation insurance. Per the firm the worker determined the level of payment for the services and per the worker the firm determined this issue. Both the firm and worker stated the worker could not suffer any economic loss and had no financial risk.

There were no contracts between the firm and the worker. The worker did not perform similar services for others while performing services for the firm. The worker did no advertising as a business to the public. The firm referred to the worker as a representative of the firm's business to the customers. Both the firm and worker retained the right to terminate the working relationship at any time without incurring any liability.

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**Analysis**

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When a firm determines or retains the right to determine directly or through designation what, how, when, and where workers perform services an employer/employee relationship exists. For federal employment tax purposes, it is not necessary for firms to exert direct or continuous control nor that services be performed full-time on a fixed scheduled basis, it is sufficient that the firm retains the right to change the workers services, as they deem necessary for business purposes. In this case the firm engaged the worker through an application process to perform marketing and related services for the firm's business operation. The firm provided the worker with the necessary training in order to perform the services. The firm assigned the worker services to perform and the worker created additional work through marketing the firm's business. The firm and worker determined the methods used by the worker to perform the services. The methods used by workers to perform services are not only controlled through verbal instructions but also by equipment, materials, and supplies provided. The worker provided the firm with job related reports. The firm allowed the worker to work on a flexible schedule basis at the firm's business location or from home. The worker performed the services personally. No substitutes or helpers were hired or paid by the firm or the worker per the firm. These facts evidence behavioral control by the firm over the services performed by the worker.

The firm provided equipment, materials, and supplies needed by the worker to perform the services. The worker did not lease equipment or space. The worker did not incur any business expenses. The firm paid the worker a salary on a weekly basis and the customers paid the firm. The firm determined the level of payment for the delivery services and the amount paid to the worker. The worker had no financial investment in a business and did not have control over profit and loss with regard to the services performed for the firm's business operation. The worker could not suffer any economic loss and had no financial risk. These facts evidence financial control by the firm over the services performed by the worker.

There were no contracts between the firm and the worker. The worker did not perform similar services for others while performing services for the firm's business. The worker did no advertising to the public as being engaged in a business. The worker personally performed services for the firm's business on a regular and continuous flexible schedule basis over several months under the firm's business name from your place of business and from home. The firm referred to the worker as a representative of the firm's business to the customers.

Both the firm and the worker retained the right to terminate the working relationship at any time without incurring any liability. The right to discharge a worker at any time without incurring a liability for termination is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired without a liability so long as the independent contractor produces a result that meets the contract specifications. Likewise, 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.