

SS-8 Determination—Determination for Public Inspection

Occupation 02OFF.44 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 corporation in the business to service, maintain and repair cellular sites. The firm engaged the worker to perform data entry services. There was no written agreement between the two parties.

The worker received training from the firm. The firm gave the worker her assignments and determined how those assignments should be performed. The worker had a direct supervisor. The worker was required to fill out a time sheet. The worker was a student and did not have a regular schedule. The worker performed his services at the firm's location. The worker attended safety meetings. The worker was required to perform the services personally.

The firm provided the worker with an office, office equipment and supplies she needed to perform her services. The worker was paid on an hourly basis. The customers paid the firm directly. The worker could not suffer a significant loss in the performance of her services.

The worker received paid holidays. Either party could terminate the relationship without incurring a liability. The worker did not perform similar services for others at the same time they performed services for the firm. The worker stated she was represented as an assistant. The worker terminated her services without incurring a liability.

The firm provided a copy of a letter dated November 26, 2013 which stated, "We thank you for your employment services." This letter was accepting the worker's resignation.

Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner. This is true even if the training was only given once at the beginning of the work relationship. See Rev. Rul. 70-630, 1970-2 C.B. 229.

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. See Rev. Rul. 55-695, 1955-2 C.B. 410.

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. See Rev. Rul. 56-660, 1956-2 C.B. 693.

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. Also, if the firm has the right to control the equipment, it is unlikely the worker had an investment in facilities. See Rev. Rul. 71-524, 1971-2 C.B. 346. Special scrutiny is required with respect to certain types of facilities, such as home offices.

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.

Analysis

The worker was an employee according to common law. The information provided by both parties showed the worker received training from the firm and the firm determined how the assignments the firm assigned to the worker should be performed. The worker had a direct supervisor which showed control over the worker's service. The fact the worker was required to perform her services personally showed the firm was interested in the method used as well as being interested in the end result as an employer. The firm had the financial investment as they provided the worker with an office, office supplies and equipment for the worker to perform her services. It was the firm that could suffer a significant loss since the firm was responsible to collect the amount they charged their customers. The worker performed data entry for the firm 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