

# SS-8 Determination—Determination for Public Inspection

Occupation 03IEI Installers	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 a floor store. The worker performed services as was a floor installer who installed all types of flooring. The worker's duties included installing carpet, wood, and vinyl floors. The worker also prepped the flooring area and cleaned and stored the company's tools. The firm reported the worker's earnings on Form 1099-MISC at year end.

The worker personally performed his services from 2014 through 2017. The worker performed the services at the firm's customer's homes. Some days the job could be one day or sometimes the worker may be at the same location for several days. The firm provided the worker with his job assignments and may have a meeting before a new job to go over the install. The firm furnished the flooring materials and adhesive necessary for each job. The firm established the level of payment for the services and the firm's customers paid the firm. The worker was paid an hourly wage for his services and sometimes would receive paid holidays. The worker terminated his work relationship with the firm.

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**Analysis**

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According to the information and documentation submitted by the firm and the worker concerning the work relationship, the firm provided the worker with his job assignments. The worker personally performed his services at the firm's customer's job sites according to a job schedule provided by the firm. The worker performed his services on a continuous basis between 2014 and 2017.

The firm provided all necessary flooring materials and supplies for the worker to perform his services. The firm paid the worker an hourly wage for his services. The worker had no investment in facilities and did not have the opportunity for profit or loss. The worker was free to terminate his services without incurring any liabilities.

A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed in frequently recurring although irregular intervals.

The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. 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. Special scrutiny is required with respect to certain types of facilities, such as home offices.

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 to establish that an employee/employer relationship existed.