

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

Occupation 03MIS.41 MiscLaborServices	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 the business of providing house cleaning services and engaged the individual as a housekeeper. The individual provided her services for the firm for the year 2014 and the monies she received for the services she provided were reported on Form 1099-MISC.

The worker provided services for the previous cleaning company. She required some additional training by the lead cleaner of the firm. The worker received a list of assignments and locations from the firm daily. The worker provided her services from approximately 8:00 AM to 4:00 P.M. cleaning four to five houses per day. She provided these services on the firm's customers' locations and she provided these services personally. If problems or complaints arose as a result of the worker's services, the firm was responsible for problem resolution. If substitutes or helpers were needed it was the firm's responsibility to hire and compensate the helpers.

The firm stated that the worker was an independent contractor and agreed to be treated as such. Although the firm believed the worker to be an independent contractor, a worker's status is not something to be agreed upon; it is the actual facts of the work relationship that is the determining factor for Federal employment tax purposes.

The firm provided all the supplies and materials necessary for the worker to provide her services. The firm provided the worker with the customers, car, cleaning supplies, vacuum and mop. The worker stated that the firm determined the level of payment and the firm's customers paid the firm directly. The worker received an hourly wage for the services she provided. The firm stated that any business related expenses which were incurred by the worker were reimbursed by the firm.

The worker stated that she was eligible to receive bonuses. The worker drove to the firm's customers' premises using a company vehicle with the firm's business name displayed and she was represented as the firm's employee. Either party retained the right to terminate the relationship without incurring penalty or liability; in fact, the relationship ended when the worker resigned.

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**Analysis**

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The worker received initial instruction and had the skills necessary to provide her services. 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 or instruction was only given once at the beginning of the work relationship. The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control. If the nature of the occupation makes fixed hours impractical, a requirement that workers be on the job at certain times is an element of control. The firm retained the right, if necessary to protect their business interest, to determine or change the methods in which the worker provided her services.

The firm instructed the worker regarding the performance of her services. A worker who is required to comply with another person's instructions about when, where, and how she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions. Some employees may work without receiving instructions because they are highly proficient and conscientious workers or because the duties are so simple or familiar to them. Furthermore, the instructions, that show how to reach the desired results, may have been oral and given only once at the beginning of the relationship. The firm retained the right, if necessary to protect their business interest, to determine or change the methods used by the worker to perform her assignments.

The worker rendered her services personally. 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. The worker provided her services under the firm's supervision.

The worker provided services for the firm in the firm's name and did not perform her services in the name of her own business. She did not have a financial investment in the firm's business and could not have incurred a business profit or business loss. The worker provided her services under the firm's name, for the firm's customers, and her work was integrated into the firm's business. The above facts do not reflect a business presence for the worker, but rather, strongly reflect the firm's business.

Based on the common-law principles, the firm had the right to direct and control the worker. The worker shall be found to be an employee for Federal tax purposes.