

SS-8 Determination—Determination for Public Inspection

Occupation 03MIS.59 MiscLaborService	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

In this case, an individual had a hobby farm, establishing botanical gardens on her estate. The worker was engaged to perform services as a laborer. The individual treated the worker status as independent contractor, and issued to the worker a Form 1099-MISC at year-end to report the monies received for his services as non-employee compensation.

The worker was instructed on how to plant individual trees and flowers. The individual provided work assignments, determined work methods by which to perform the services, and resolved work related issues. The worker performed his services personally, on estate.

All equipment, tools, and supplies were provided for the worker's use. The worker was paid on an hourly wage basis for his services. The worker did not incur work related expenses, nor did he incur economic loss or financial risks related to the services he performed.

Workers' compensation insurance was not carried on the worker. Employment benefits were not made available to the worker. The worker did not perform similar services for others, nor did he advertise his services to others. The work relationship was continuous in nature, and could have been terminated by either party at any time without incurring liabilities.

Analysis

The facts provided for this case do not evidence the worker's behavioral control of the work relationship. The worker followed the individual's instructions, work methods, and routine in the performance of his services. The worker's services were performed personally. The worker used the individual's equipment, tools, and supplies in the performance of his services. As a result, the individual retained the right to direct and control the worker to the extent necessary to protect her investments.

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 individual. The worker had no opportunity for profit or loss as a result of the services performed for the individual. "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 individual.

The worker performed services as requested by the individual, for an indefinite period of time, 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 operations of the individual's farm.

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