

SS-8 Determination—Determination for Public Inspection

Occupation

03PMW Barn Hand

Determination:

☒ Employee☐ Contractor

UILC

Third Party Communication:

☒ None☐ Yes

I have read Notice 441 and am requesting:

- ☐ Additional redactions based on categories listed in section entitled "Deletions We May Have Made to Your Original Determination Letter"
- ☐ Delay based on an on-going transaction
- ☐ 90 day delay

For IRS Use Only:**Facts of Case**

The worker went for an interview with the firm to obtain the job. The firm engaged the worker as an employee from 6/2019 to 8/2019 for grooming and Equine care on the firm's premises. The firm suggested that the worker is an independent contractor due to the fact that the worker signed a Form W-9.

The worker stated that instructions from the firm were provided as to the details and means by which the worker was to perform the services. The worker received verbal and written instructions on the board regarding the daily services to be performed from the manager of the firm. Services were performed by the worker on the firm's premises 6 days a week, from 7am to 2pm, had break time and then worked again 4pm-6pm. The firm did not specify days and hours the worker performed services. The worker was paid weekly at a set amount for services performed, according to the worker's Form SS-8. The firm stated the worker gets paid per day. Both parties agreed the firm determined the methods by which the assignments were performed. Both parties agreed the firm was responsible for problem resolution. Both parties agreed the worker was not required to submit reports & was not required to attend meetings. The relationship between the parties was continuous, as opposed to a one-time transaction. The nature of this relationship contemplated that the worker would perform the services personally. The worker worked exclusively and on a continuing basis for the firm. Services provided were an integral and a necessary part of the services the firm provided to its customers. The firm would hire and pay any substitutes or helpers.

The firm supplied the worker with work space and equipment, at no expense to the worker. The worker did not have a significant financial investment in the firm's materials. The worker did not incur significant business expenses did not assume the usual business risks of an independent enterprise. The worker was paid a weekly wage. The firm did not allow the worker a drawing account, or advances against anticipated earnings. The firm's customers paid the firm. The firm did not carry worker's compensation insurance on the worker. The firm determined the fees to be charged to the clients.

The worker was not eligible for sick pay, vacation pay, health insurance, or bonuses. Either party may terminate the worker's services at any time without incurring a penalty or liability. The worker was not a member of a union. The worker did not advertise services or maintain an office, shop, or other place of business. The worker was required to perform the services under the name of the firm and for the firm's clients. According to the worker, the firm would calculate the tip instead of the clients tipping the worker directly. According to the worker, the relationship between the parties ended when the worker resigned, although, the firm does not remember how the relationship ended.

Analysis

The worker performed personal services on a continuous basis. Work was performed on the firm's (firm's clients) premises, on a regular schedule set by the firm. The firm provided all instructions, significant materials and a workspace to the worker. The firm was to be contacted if problems were to arise. The firm had the authority to hire & pay substitute workers. The worker was paid weekly. The worker was not entitled to paid time off or health benefits. The worker did not belong to a union. The worker could not incur a business risk or loss. The worker did not hold the services out to the general public. The worker did not advertise, maintain an office, shop, or other place of business. The above facts do not reflect a business presence for the worker, but rather, strongly reflect the firm's control over the worker's services and the worker's integration into the payer's business. Usually, independent contractors advertise their services and incur expenses for doing so.

A Form W-9 was signed. A Form W-9 is an information form requesting taxpayer identification and certification. Therefore, this does not indicate the worker to be an independent employee. 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.