

SS-8 Determination—Determination for Public Inspection

Occupation

03PMW.123 RepairMaintenanceWkr

Determination:

☒ Employee

☐ Contractor

UILC

Third Party Communication:

☒ None

☐ Yes

Facts of Case

According to the information and documentation submitted, the firm's business is automotive repair. The worker performed auto repair services as an automotive technician. The worker provided his services at the firm's shop from 2005 through 2015. The firm reported the worker's earnings on Form 1099-MISC at year end.

The firm provided the worker with his job assignments. The firm furnished the shop, shop equipment, and automotive parts and supplies necessary for the worker to perform the services. The worker provided his own hand tools. The firm determined the level of payments for the autos services rendered and its customers paid the firm. The worker was paid on a commission basis for his services and received a minimum weekly amount.

The worker had no investment in a business providing similar services. The worker's services were terminated without the worker incurring any liabilities.

Analysis

According to the information and documentation submitted concerning the work relationship, the firm provided the worker with his job assignments. The worker personally performed his services at the firm's premises on a continuous basis; for ten years.

The firm provided the shop facilities, equipment, and automotive supplies for the worker to perform his services. The firm controlled the payment to the worker 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. The worker's auto mechanic services were integral to the services provided by the firm.

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.

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.

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, during the entire work relationship, to establish that an employee/employer relationship existed.