

## SS-8 Determination—Determination for Public Inspection

Occupation

03TRA Cleaning Person

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

Information provided indicated the firm is a commercial cleaning company. The worker performed cleaning services for the firm for tax years 2017 and 2018. The firm reported the income paid on Form 1099-MISC at year end. The firm stated the verbally was told it was a contract labor position and she would receive a 1099. The worker provided a copy of job advertisement placed by the firm, that stated they were looking for two employees, two of their business locations. The firm indicated general cleaning instructions were provided. The services for the firm's client was to completed after Thursday and before Monday on a weekly basis. The firm provided a key to the facility. The client provided the cleaning products. The firm indicated she was paid weekly after each service provided. The customer paid the firm. either party could terminate the work relationship without incurring a penalty or liability. She was represented as a contractor of the firm. The worker left or other opportunities.

The worker agreed she was provided training how to clean specific buildings. She stated the cleaning had to be performed on the weekend. She agreed she worked anywhere from an hour to an hour and a half at one office building and two to four hours at another location. she indicated she was paid on a piece work basis. She agreed the customer paid the firm. She indicated the firm provided all supplies and equipment.

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## Analysis

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We have applied the above law to the information submitted. As is the case in almost all worker classification cases, some facts point to an employment relationship while other facts indicate independent contractor status. The determination of the worker's status, then, rests on the weight given to the factors, keeping in mind that no one factor rules. The degree of importance of each factor varies depending on the occupation and the circumstances.

Evidence of control generally falls into three categories: behavioral control, financial control, and relationship of the parties, which are collectively referred to as the categories of evidence. In weighing the evidence, careful consideration has been given to the factors outlined below.

Factors that illustrate whether there is a right to control how a worker performs a task include training and instructions. In this case, you retained the right to change the worker's methods and to direct the worker to the extent necessary to protect your financial investment.

Factors that illustrate whether there is a right to direct and control the financial aspects of the worker's activities include significant investment, unreimbursed expenses, the methods of payment, and the opportunity for profit or loss. In this case, the worker did not invest capital or assume business risks, and therefore, did not have the opportunity to realize a profit or incur a loss as a result of the services provided.

Factors that illustrate how the parties perceive their relationship include the intent of the parties as expressed in written contracts; the provision of, or lack of employee benefits; the right of the parties to terminate the relationship; the permanency of the relationship; and whether the services performed are part of the service recipient's regular business activities. In this case, the worker was not engaged in an independent enterprise, but rather the services performed by the worker were a necessary and integral part of your business. Both parties retained the right to terminate the work relationship at any time without incurring a liability.

## CONCLUSION

Based on the above analysis, we conclude that the firm had the right to exercise direction and control over the worker to the degree necessary to establish that the worker was a common law employee, and not an independent contractor operating a trade or business. The work was performed under the firm's business name for the firm's clients. The firm advertises their services, stating they only hire the best to join their team, the company is bonded and insured. The worker answered an advertisement the firm had placed, asking for two employees for two of their business locations. Although the work could be performed at the worker's discretion, there was still a time line as to when it had to be completed, set by the firm. The worker at no time was in business for herself performing the services.