

SS-8 Determination—Determination for Public Inspection

Occupation

04MAN Managers/Supervisors

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 initiated the request for a determination of her work status as a customer service department manager in tax years 2017 and 2018, for which she submitted an application, was hired, and subsequently received Form 1099-MISC. The firm's business is described as online nutritional programs.

The firm's response identified the owner, but was not signed. The firm's business is a nutrition information website. The worker provided services as an implementation specialist to update and upscale the firm's customer area to include a ticketing system, standard operating procedures (SOP), and best in practice policies.

The worker responded that she was provided with a laptop and access to several computer systems and was given training and instructions on how to respond to customer service tickets and how to use several systems in use by the company. The job assignments of managing customer service was the same every day unless something else came up and her manager would let her know and any completion date. It was the worker's manager and the firm's owner that determined the methods by which the worker's services were performed. Any problems or complaints encountered by the worker were directed to the manager or the firm's owner for resolution. Her daily routine consisted of checking emails and customer service tickets, assign tickets, respond to some tickets, processing refunds, editing automated ticket responses, updating the standard of process, and training new employees. Her services were rendered from her home – everyone worked remotely. The worker was required to perform the services personally; any additional personnel were hired and paid by the firm's owner/CEO.

According to the firm, the worker was oriented on the firm's computer software systems so that she could navigate and secure the information necessary to implement new procedures. There were no work assignments; the worker was contracted to do what was discussed and met periodically to discuss milestones and progress. The worker determined the methods by which she performed her services were performed. There was no requirement to contact anyone as to any problems or complaints; the worker had represented herself as an implementation specialist. No reports required since they met periodically to discuss progress. The worker's services were rendered from her home or wherever she had Internet connection. There was no penalty for not attending a meeting; they could reschedule. No response was given as to whether the worker was/was not required to perform the services personally; there were no helpers/substitutes.

The worker indicated the firm provided a computer, access to systems and the firm-email account. The worker furnished a phone; and, she incurred expenses for Internet, phone, and gas for travel and was not reimbursed. She did not lease equipment, space, or a facility. The firm paid the worker an hourly wage. The customers paid the firm. The worker was not covered under the firm's workers' compensation insurance policy. The worker stated was not at risk for a financial loss in this work relationship and that she did not establish the level of payment for the services provided or products sold.

The firm responded that the worker was loaned an extra computer; and, the worker furnished whatever else she needed. Per the agreement the worker would be reimbursed for travel outside of a specific area. The worker did not lease equipment, space, or a facility. The worker was paid a fixed fee and then the compensation was changed to hourly rate due to lack of progress. There was no response as to who the customers paid. The worker was not covered under the firm's workers' compensation insurance policy. The firm indicated she was at risk for a financial loss in this work relationship as pertaining to expenses she incurred or harm or damage incurred. The worker did establish level of payment for services provided and when she did not meet the milestones, the firm requested hourly with invoices as to services performed.

The worker indicated benefits extended to her were paid vacations and paid holidays. Either party could terminate the work relationship without incurring a liability or penalty. The worker was not performing same or similar services for others during the same time frame. The worker stated she was terminated 3 months prior to her contract for services when she was due to have a baby and was informed that it was due to financial reasons and that other people's hours would be cut.

Analysis