

SS-8 Determination—Determination for Public Inspection

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| Occupation 05ATT Photo Booth Operator | Determination: <input checked="" type="checkbox"/> Employee <input type="checkbox"/> Contractor |
| UILC | Third Party Communication: <input checked="" type="checkbox"/> None <input type="checkbox"/> 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

According to the information and documentation submitted, the firm's business is a photography at special events. The worker performed managing a photo booth. The worker set up and attended the photo booth at weddings and other events. The firm reported the worker's earnings on Form 1099-MISC at year end.

The firm provided training and instruction to the worker on how to set up and operate the photo booth. The firm scheduled the event assignments as it booked the events and the worker performed the services at the customer's event locations. The firm provided the photo booth and determined the level of payments for the services. The firm's customers paid the firm and the firm controlled the amount of earnings paid to the worker. The worker terminated his work relationship with the firm.

Analysis

According to the information and documentation submitted by the firm and the worker concerning the work relationship, the firm provided the worker with training on using the photo booth. The firm provided the worker with his event assignments. The worker personally performed his services at the customer's event locations according to the event schedule.

The firm provided the photo booth equipment for the worker to perform his services. The firm established the level of payment for the services and the firm's customers paid the firm. 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.

Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner. This is true even if the training was only given once at the beginning of the work relationship.

The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. 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 to establish that an employee/employer relationship existed.