

SS-8 Determination—Determination for Public Inspection

Occupation 05ITE.54 Instructor/Teacher	Determination: <input checked="" type="checkbox"/> Employee <input type="checkbox"/> Contractor
UILC	Third Party Communication: <input checked="" type="checkbox"/> None <input type="checkbox"/> Yes

Facts of Case

The firm in this case is requesting clarification on the worker status of yoga instructors for federal employment tax purposes. The firm has treated the worker status as employee, however as the instructors offer their services elsewhere, and teach only a few days per week at the firm's location, the firm questions whether the instructors should be treated as independent contractors rather than employees. As we received information from one of the instructors, this analysis will consider all facts provided to determine the correct worker status.

The firm in this case offers yoga instruction at its studio. The worker in this case was engaged to perform services as a yoga instructor. Teacher training is conducted by the firm's parent corporation. Class times are set by the firm. There is a verbal agreement between the firm and instructors on which classes the instructors will teach on any particular week, based on an instructor's availability. Instructors determine the work methods within basic guidelines. The firm's owners are contacted regarding problems/complaints that need resolution. The firm requires the instructors to perform their services personally, at the firm's location. Helpers are engaged by the firm and the instructors. The firm pays the helpers for their services.

The firm provides the space, yoga mats, blocks, belts, and stereo needed to perform the services. Instructors normally provide gel, lotion, music, and any reference materials. Instructors normally do not incur work related expenses, however the worker in this case incurred travel costs. The instructors do not incur economic loss or financial risk related to the services performed for the firm.

The firm carries workers' compensation insurance on the instructors. Employment benefits are not made available to the instructors. The instructors normally perform similar services for others, and advertise their services via social media and websites. The work relationship between the firm and the instructors is continuous, and can be terminated by either party at any time without incurring liabilities. Work relationships end via verbal agreement, due to lack of work, or a change in the instructors' schedules.

Analysis

The facts provided for this case do not evidence the worker's behavioral control of the work relationship. The worker followed the firm's instructions, work methods, schedule, and routine in the performance of her services. The worker's services were performed personally, at the firm's location. The worker used the firm's facilities, and equipment, and she represented the firm's business operations in the performance of her services. As a result, the firm retained the right to direct and control the worker to the extent necessary to protect its investment, and the reputation of its business operations.

The facts provided for this case do not evidence the worker's financial control of the work relationship. The worker's remuneration was established by the firm. The worker had no opportunity for profit or loss as a result of the services performed for the firm. "Profit or loss" implies the use of capital by a person in an independent business of his or her own. The worker did not have a significant investment in the facilities, equipment, tools, or supplies used to perform her services for the firm. 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.

The worker performed services as requested by the firm, for an indefinite period of time, and both parties retained the right to terminate the work relationship at any time without incurring liabilities. The facts provided for this case do not evidence that the worker was engaged in an independent enterprise, but rather show that she performed her services as a necessary and integral part of the firm's business operations. Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business.

Based on common law principles, the worker shall be found to be an employee for Federal employment tax purposes. For correction assistance, you may refer to Publication 4341, which can be obtained at www.irs.gov