

SS-8 Determination—Determination for Public Inspection

Occupation

05MPR.1 Clergy/Missionary

Determination:

☒ Employee

☐ Contractor

UILC

Third Party Communication:

☒ None

☐ Yes

Facts of Case

The firm is a church where the individual provided pastoral services. The monies he received for the services he provided were reported on Form 1099-MISC. The firm did reply with Form SS-8.

The worker and the firm stated the worker was appointed to the position. The worker provided his services as the pastor performing duties as the parish priest. His responsibilities included leading worship on Wednesdays and Sundays and making pastoral visits. The individual provided his services in prior years as part of his vicarage while preparing for his ordination. He provided his services in the church's office Monday through Thursday from approximately 8:30 AM to 2:00 PM. If problems or complaints arose while he was providing his services, the president of the congregation was contacted for problem resolution. The worker provided his services on the Church's premises and on the homes of parishioners'. The worker attended a semi-annual conference of the district and completed annual reports presented to the church council.

The worker provided his services on the church and church office. The worker received a salary. The worker and the firm stated the worker was reimbursed for some mileage expenses. The firm carried workers' compensation for the worker. The worker received paid holidays, vacations days, insurance and pension benefits which were deducted from his salary.

Both parties retained the right to terminate the relationship without incurring penalty or liability. It was recognized by both parties that the firm had preferred call on the individual's time and efforts. He was required to perform the services under the name of the firm and for the firm's parishioners and was represented as the firm's employee.

Analysis

The worker performed personal services on a continuous basis. Work was performed on the firm's premises and on the firm's parishioners homes, on a regular schedule set by the firm. The firm provided all significant materials and a workspace to the worker. The worker could not incur a business profit or business loss. The worker was paid a salary. His services were continuous as opposed to a one-time transaction and were integrated into the firm's business and business activities and were a necessary part of the services the firm provided to its parishioners. Based on the common-law principles, the firm had the right to direct and control the worker. The worker shall be found to be an employee for Federal tax purposes.

For more detailed information regarding the earnings in question you may refer to Publication 517, Social Security and Other Information for Members of the Clergy and Religious Workers, which can be found on the IRS website at www.irs.gov.