

SS-8 Determination—Determination for Public Inspection

Occupation 05PCP Caregiver	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

Information provided indicated the firm is an individual who required in home care and assistance. The worker provided caregiver services for tax year 2017. The income was reported on Form 1099-MISC. The firm indicated no instructions, training or directions were given on how to perform the care. The worker stayed with the individual at night in case he required assistance. The worker was paid by the hour. The worker was instructed she was no longer needed.

The worker indicated she performed services as a personal care assistant, helped with cooking, laundry and personal care. The worker indicated direction was given from the individual as to what needed to be done each night and when to do it. Note were kept to communicate with other care givers of any issues or concerns they needed to be aware of. The worker performed services seven pm to seven am Saturday and Sunday nights. The firm provided all supplies required. The worker was paid by the hour. She agreed she was let go by the firm.

ANALYSIS

In general, domestic services include services of a household nature in or about a private home performed by cooks, waiters, butlers, housekeepers, maids, valets, babysitters or nannies, janitors, laundresses, caretakers, handymen, gardeners, grooms, chauffeurs of family-use vehicles, and companions for convalescents, the elderly, or the disabled. A private home is a fixed place of abode of an individual or family.

Nurses' aides and other unlicensed individuals normally perform services that are expected of maids and servants. Such services include bathing the individual, combing his/her hair, reading to the individual, arranging bedding and clothing, and preparing meals. These services are also considered domestic services.

Analysis

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 information provided and common law we find the worker's services constitute domestic services as a domestic employee. More information can be found in Publication 926, Household Employer's Tax Guide.