

**SS-8 Determination—Determination for Public Inspection**

Occupation 05PCP Hair Stylist	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**

The firm is a hair salon business. The worker was engaged to perform services as hair stylist (cosmetologist), to cut and color hair for various clients. The firm treated the worker status as independent contractor, and issued to the worker a Form 1099MISC at year-end to report the monies received for her services as non-employee compensation.

The worker received training sessions and classes at the firm's premises. Clients called the firm to set up appointments. The firm distributed the appointments to stylists at the firm's salon. Work methods were determined by both the firm's owner and the worker. Work related issues that the worker could not resolve with a client were reported to the firm for resolution purposes. The worker was required to perform her services personally, at the firm's location, during the firm's business hours. The firm required the worker to provide a weekly report of coloring supplies used. This was used to track each client's color preferences, and to track the volume of products used in providing services. The firm held monthly meetings to explain any changes at the facility, and to exchange ideas; attendance was optional.

The firm provided a central location to provide styling services to clients. The firm provided limited hair supplies, styling chairs, and hair color. The worker provided her own styling tools. The parties agree that the worker did not lease equipment, space, or the facility at which to perform her services. The workers expenses included liability insurance coverage, continuing education, annual Board licensing fees, tool replacement costs, hair products and supplies, business cards, and Internet service costs. The firm paid the worker on a commission basis as payment for her services. Clients paid the worker, who in turn remitted a percentage of the payment to the firm, while retaining her commission. The firm did not carry workers' compensation insurance on the worker. Employment benefits (personal days) were made available to the worker.

The worker submitted an employment application to the firm. The worker did not perform similar services for others while engaged by the firm. The worker advertised her services via use of business cards, and social media outlets. The work relationship was continuous, and could have been terminated by either party at any time without incurring liabilities.

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**Analysis**

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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, and routine in the performance of her services. The worker's services were performed personally, at the firm's location, following its business hours. The worker used the firm's facilities, equipment, tools and supplies, 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](http://www.irs.gov)