

SS-8 Determination—Determination for Public Inspection

Occupation

05PHC Pet Handlers/Caregivers

Determination:

☒ Employee

☐ Contractor

UILC

Third Party Communication:

☒ None

☐ 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 dog grooming salon, boarding, and daycare service business. The worker was engaged to perform services as a groomer. The firm treated the worker status as independent contractor, and issued to her a Form 1099-MISC at year-end to report the monies received for her services as non-employee compensation.

The worker did not receive specific training or instructions from the firm on how to perform her services. The firm provided work assignments. The firm's owner/manager and the worker both determined the work methods used to perform the services. Work related issues that the worker could not resolve were reported to the firm for resolution purposes. The firm required the worker to perform her services personally at its location. The firm required the worker to provide invoices for payment purposes.

The firm provided the space, shampoos, tubs, dryers, and tables needed to perform the services. The worker provided her own grooming tools (clippers, blades, shears, brushes). Both parties indicated that the worker did not lease/rent the facilities, equipment, tools, or supplies used to perform her services for the firm. The worker incurred expenses related to the maintenance of the tools that she provided. The firm paid the worker on a commission basis for her services. Clients paid the firm for services rendered. The worker's economic loss/financial risks were related to loss or damage to the equipment used to perform her services for the firm.

The worker was covered under workers' compensation insurance. Employment benefits (personal days) were made available to the worker. The worker did not perform similar services for others, nor did she advertise as being available to perform similar services for others while engaged by the firm. The work relationship was continuous as opposed to a one-time transaction, and could have been terminated by either party at any time without incurring liabilities.

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 work methods, schedule, and routine in the performance of her services. The worker's services were performed personally, at the firm's location, using the firm's facilities, equipment, tools, and supplies. The worker represented the firm's business operations in the performance of her services. These facts show that 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