

SS-8 Determination—Determination for Public Inspection

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| Occupation 05PHC.11 Animal/Pest Handler | 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 is in the business of pet grooming. The worker provided her services to the firm in 2007 through 2013 as a pet groomer with services which included brushing, trimming, cutting dogs' hair and nails, and received the Forms 1099-MISC for these services.

The worker stated that the firm trained the worker to do all the services the job required such as; the use of the hair clippers and attachments, how haircuts are performed, and what they should look like. The firm stated that they provided the worker with groomer training. The worker explained that all the haircuts are scheduled and assigned by the firm and the firm determined the methods by which the assignments were performed. The firm advised that the worker was scheduled by the firm's groomers and the worker determined the methods by which her assignments were performed. If problems or complaints arose, the worker was required to contact the firm who was responsible for problem resolution. The worker had a set schedule beginning her day at 8:00AM and finished her day anywhere between 3:00PM to 5:00PM when the last dog was picked up. The provided her services personally on the firm's premises. The worker expressed that if additional help was required, the firm hired and compensated the helpers.

The worker maintains that the firm provided all the necessary supplies and equipment the worker needed to provide her services which included; hair clippers, dryers, shampoos, kennels, and tubs. She provided the blades for the hair clippers, scissors, and brushes. The firm contends that the worker provided all the necessary supplies and equipment that she needed. The worker did not lease any equipment nor were any business expenses incurred while providing her services. She received a commission for her services. The firm's customers paid the firm for the services the worker provided. The worker did not assume any financial risk in the relationship. The firm established the level of payment for the services the worker provided.

The worker stated that the firm gave her bonuses for the services she provided. The worker did not provide similar services to others during the same time period. The firm indicated that the worker did provide similar services to others during the same time period. The worker maintains that there was a verbal agreement between her and the firm that she could not work for another company while with this firm. Both parties agree that the worker provided her services under the firm's business name. Both parties retained the right to terminate the relationship without incurring liability. In fact the relationship ended when the worker quit.

Analysis

The application of the three categories of common law evidence to the available facts of the relationship indicates that the firm retained the right to direct and control the worker in the performance of her services. Accordingly, the worker was an employee of the firm for purposes of Federal employment taxes.

Worker status is not something to be selected by either the firm or the worker. Worker status is determined by the examination of the actual working relationship as applied to Internal Revenue Service code.

Hence, to clarify the Federal Government's position on worker status, we will be determining this case based on their common law practices in which the actual relationship between the parties is the controlling factor.

The firm trained the worker regarding the performance of her services. Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner. This is true even if the training was only given once at the beginning of the work relationship. The firm retained the right, if necessary to protect their business interest, to determine or change the methods used by the worker to perform her assignments. The facts show that the worker was subject to certain restraints and conditions that were indicative of the firm's control over the worker. 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. If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required. The worker had a continuous relationship with the firm as opposed to a single transaction. A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed in frequently recurring although irregular intervals. The worker rendered her services personally. If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results. The worker's services were under the firm's supervision.

The firm provided the worker with the necessary equipment and materials. The fact that the worker had an investment in blades for the hair clippers, scissors, and brushes is not uncommon in this type of occupation and is not sufficient to show an independent contractor relationship. Her pay was based on a commission. The worker could not have incurred a loss in the performance of her services for the firm, and did not have any financial investment in a business related to the services performed.

The worker worked under the firm's name, and her work was integral to the firm's business operation. The above facts do not reflect a business presence for the worker, but rather, strongly reflect the firm's business. The fact that the worker was not closely monitored would not carry sufficient weight to reflect a business presence for the worker. In fact, many individuals are hired due to their expertise or conscientious work habits and close supervision is often not necessary. If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer-employee relationship. Either the firm or the worker could terminate the agreement.

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.