

SS-8 Determination—Determination for Public Inspection

Occupation 06AAS Aides/Assistants	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 a physician's office. The worker was engaged to perform services as a medical assistant, whose duties included performing therapies as directed by the doctor, assisting the doctor with exams, monitoring supplies, filing, faxing, patient in-take, and patient out-take services. The firm treated the worker status as independent contractor.

The firm provided the worker with on-site training on how to use the medical machines. Work assignments were provided to the worker as needed. The doctor's staff determined the work methods by which to perform the services. The worker was required to contact the firm's office manager regarding problems/complaints that needed resolution. The firm required the worker to perform her services personally at the firm's office location, during the firm's office hours.

The firm provided the worker with the facilities, medical equipment, and office supplies needed to perform her services. The worker provided the required uniforms and shoes. The worker incurred expenses for the items she provided. The firm paid the worker on an hourly wage basis for her services. The worker did not incur economic loss or financial risks related to the services she performed for the firm.

The firm covered the worker under workers' compensation insurance. Employment benefits (paid holidays) were made available to the worker. The worker did not perform similar services for others, nor did she advertise her services to the public while engaged by the firm. The work relationship was continuous, and could have been terminated by either party at anytime 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 instructions, training, work methods, schedule, and routine in the performance of her services. The worker's services were performed personally, at the firm's location, following the firm's business hours. The worker used the firm's facilities, equipment, tools, and supplies and 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 investments, 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 she 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