

SS-8 Determination—Determination for Public Inspection

Occupation 06AAS.30 Aide/Assistant	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

██████████, (hereafter referred to as the individual), is a blind professional musician who engaged the worker as a personal assistant, to assist him with personal errands, such as banking, shopping, organizing and reading his e-mail to him, and other errands as deemed necessary. The individual placed an ad on ██████████ for an assistant, and the worker responded to the ad. The individual treated the worker status as independent contractor, and issued to the worker a Form 1099-MISC at year-end to report the monies she received for her services as non-employee compensation.

The individual provided instructions to the worker on how to perform the tasks assigned to her. The services were performed with minimal supervision from the individual. Both parties determined the work methods by which to perform the services, and problems and complaints were resolved by the individual. The worker performed her services personally, at the individual's residence and at locations designated by the individual.

The individual provided the computer and supplies needed to perform the services. The firm paid the worker on an hourly wage basis for her services. The worker incurred metro card expenses in the performance of her services for the individual; the individual reimbursed the worker for those expenses. The worker did not incur economic loss or financial risk in the performance of her services for the individual.

Worker's compensation insurance was not carried on the worker. Employment benefits were not made available to the worker. There was no information provided to evidence that the worker performed similar services for others, or that she advertised her services to others. The work relationship was continuous as opposed to a one-time transaction.

Analysis

The facts provided for this case do not evidence the worker's behavioral control of the work relationship. The worker followed the individual's instructions, work methods, schedule, and routine in the performance of her services. The worker's services were performed personally, under the individual's supervision, at locations designated by the individual. The individual retained the right to direct and control the worker to the extent necessary to protect his investments.

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 individual, 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 individual's daily routine.