

SS-8 Determination—Determination for Public Inspection

Occupation 09DVC.75 Driver	Determination: <input type="checkbox"/> Employee <input checked="" type="checkbox"/> Contractor
UILC	Third Party Communication: <input checked="" type="checkbox"/> None <input type="checkbox"/> Yes

Facts of Case

According to the information and documentation submitted concerning the work relationship, the workers received their job assignments from the firm and personally performed their services driving the customers to their appointments. The firm paid the worker on an percentage basis for the driving services provided. The workers had no investment in the business, or medical transportation vehicle, and did not have the opportunity to realize a profit or incur a loss in the performance of their services. That the worker's entered into a "daily lease" in order to drive the firm's vehicles does not count as an investment that would create the opportunity for profit or loss since the firm maintained control over the vehicles. The parties could terminate the work relationship without incurring any liabilities. The worker's services, transporting the customers, were integral to the services provided by the firm.

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 person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities.

Lack of significant investment by a person in facilities or equipment used in performing services for another indicates dependence on the employer and, accordingly, the existence of an employer-employee relationship. 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. Special scrutiny is required with respect to certain types of facilities, such as home offices.

Therefore, the firm exercised direction and control over the services performed by the workers to establish that an employee/employer relationship existed.

Analysis

According to the information and documentation submitted concerning the work relationship, the workers received their job assignments from the firm and personally performed their services driving the customers to their appointments. The firm paid the worker on a percentage basis for the driving services provided. The workers had no investment in the business, or medical transportation vehicle, and did not have the opportunity to realize a profit or incur a loss in the performance of their services. That the worker's entered into a "daily lease" in order to drive the firm's vehicles does not count as an investment that would create the opportunity for profit or loss since the firm maintained control over the vehicles. The parties could terminate the work relationship without incurring any liabilities. The worker's services, transporting the customers, were integral to the services provided by the firm.

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 person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities.

Lack of significant investment by a person in facilities or equipment used in performing services for another indicates dependence on the employer and, accordingly, the existence of an employer-employee relationship. 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. Special scrutiny is required with respect to certain types of facilities, such as home offices.

Therefore, the firm exercised direction and control over the services performed by the workers to establish that an employee/employer relationship existed.