

# SS-8 Determination—Determination for Public Inspection

Occupation

09DVC.81 Truck Driver

Determination:

Employee

Contractor

UILC

Third Party Communication:

None

Yes

## Facts of Case

According to the information and documentation submitted, the firm's business is a trucking company. The firm owns trucks that are leased to another company that delivers freight. The worker performed services as a truck driver who delivered the loads, that the company the truck is leased to supplied him with, he chose to deliver. The firm paid the worker per mile driven and reported the worker's earnings on Form 1099-MISC at year end.

The worker personally performed his services driving the firm's truck over the road. The worker had no investment in the truck nor did the worker have any leasing agreements for the truck. The worker was free to terminate his services without incurring any liabilities.

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**Analysis**

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According to the information and documentation submitted concerning the work relationship, the firm provided the worker with the truck for the worker to perform his driving services. The worker personally performed his services driving the firm's truck over the road.

The firm paid the worker for the miles that the worker drove. The worker had no investment in the truck nor did the worker have any leasing agreements for the truck. The worker did not have the opportunity for profit or loss from driving the truck. Both parties could terminate the worker's services without incurring any liabilities.

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. See Rev. Rul. 71-524, 1971-2 C.B. 346. Special scrutiny is required with respect to certain types of facilities, such as home offices.

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. See Rev. Rul. 70-309, 1970-1 C.B. 199.

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