

SS-8 Determination—Determination for Public Inspection

Occupation

09DVC.123 Truck Driver

Determination:

☐ Employee☒ Contractor

UILC

Third Party Communication:

☒ None☐ Yes**Facts of Case**

Information provided indicated the firm is a transportation/trucking company. The firm indicated the worker contracted with the firm to provide the truck to haul freight for the firm. The firm has provided a copy of the IC contract. The firm stated the worker did attend an orientation to review DOT regulations and to learn to use the [REDACTED] system. The worker received work assignments through this system sent to the truck. He determined how he performed those services. The firm stated all contractors are assigned a company fleet manager to coordinate work. The worker is required to maintain DOT hours of service logs, monthly vehicle inspection reports. The contractor is an irregular over the road truck driver. Once he accepts a load he plans his route so he can deliver it at the scheduled time. He works from his own tractor. No meetings required after the original orientation. The worker is responsible for hiring any drivers for his truck. PER DOT regulations the firm would have to verify the driver met federal regulations. The contractor would pay that driver. The firm stated they provided the freight for the IC. The firm bills the customer and pays the IC his share. The worker provided the tractor, fuel and maintenance and other operating costs. The firm stated the worker leased the tractor from an unrelated third party. The worker incurred lease payments for the tractor, fuel, maintenance and other operating expenses. The company provided the license plate so the contractor may run under the company's DOT authority. He was paid on a mileage basis. Cash advances were allowed. The customer paid the firm. Both parties agreed on the rate paid, per contract established. Either party could terminate the work relationship without incurring a liability or penalty. He was represented as an independent contractor with the company. The firm stated the worker cancelled the contract.

The worker filed the SS-8 request for determination to assist him to fix his taxes. The worker described the work he performed as an independent contract driver. However, he feels he was more of an employee. The worker agreed he did attend an orientation from the firm. Work assignments came from the firm's dispatch. The worker stated he reported that the load was delivered in good condition. He indicated he drove 60-70 hours a week. He delivered in 48 states. The worker stated he did not hire anyone, the company hired and paid any subs. The worker stated the firm provided a company truck, trailer and loads, load locks. He provided a flash light writing paper, pens, map book. The worker then stated he leased the truck from another firm. The worker indicated he incurred scale tickets, fuel bill, everything from leasing the truck through PTL. He indicated he was paid \$1.25 per mile. He was given \$100.00 per week cash advances. The customer paid the firm. Either party could terminate the work relationship without incurring a penalty or liability. He indicated he quit.

The firm has provided a copy of the copy of the independent contract agreement, which meets IRS regulations for a valid lease agreement. In this instance the worker agreed to provide his [REDACTED] tractor, to perform services for the firm. both parties have agreed the worker leased this tractor from an unrelated third party.

Analysis

Factors that illustrate whether there is a right to control how a worker performs a task include training and instructions. In this case, you did not retain the right to change the worker's methods and to direct the worker. As in every work relationship there is some degree of direction and control. Once the worker accepted the freight load, he was free to determine how and what routes he wished to take in order to deliver the load.

Factors that illustrate whether there is a right to direct and control the financial aspects of the worker's activities include significant investment, unreimbursed expenses, the methods of payment, and the opportunity for profit or loss. In this case, the worker invested capital or assumed business risks, and therefore, did have the opportunity to realize a profit or incur a loss as a result of the services provided.

Factors that illustrate how the parties perceive their relationship include the intent of the parties as expressed in written contracts; the provision of, or lack of employee benefits; the right of the parties to terminate the relationship; the permanency of the relationship; and whether the services performed are part of the service recipient's regular business activities. In this case, the worker was engaged in an independent enterprise.

CONCLUSION

Based on the above analysis, we conclude that the worker was an independent contractor. As in all work relationships there is some direction and control. However, in this instance there was a valid lease agreement between firm and worker. The worker as truck owner/operator had financial operating expenses, in the fact he had lease payment for his tractor. He was responsible for the fuel, maintenance expenses, scale tickets etc. The worker therefore, does have legitimate business operating expenses.