



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.23.18

APRIL 17, 2023

EFFECTIVE DATE

(04-17-2023)

PURPOSE

- (1) This transmits revised IRM 4.23.18, Employment Tax - Coordinating Worker Classification Determinations Between SS-8 Program and Exam.

MATERIAL CHANGES

- (1) IRM 4.23.18.1(5), Added the SS-8 Program as a stakeholder.
- (2) IRM 4.23.18.1.2(3), Updated website and IRM reference.
- (3) IRM 4.23.18.1.7, Added information about Taxpayer Advocate Services (TAS) resources and added updated Taxpayer Bill of Rights (TBOR) content. Updated website reference. New paragraph (4) was added to emphasize and provide resources regarding disclosure and privacy.
- (4) IRM 4.23.18.2.2(1), Revised to be consistent with first paragraph of IRM 4.23.18.2.1.
- (5) IRM 4.23.18.2.4(6), Added information regarding the employment tax treatment on statutory employees and non-employees.
- (6) IRM 4.23.18.3(3), Revised instruction for Form 1040-X to be sent to the campus designated in the Instructions for Form 1040-X.
- (7) IRM 4.23.18.5.2(4), Added SS-8 Program Coordinator will prepare and share a memorandum outlining the disagreement between SS-8 Technician and manager or lead regarding their recommendation with SS-8 Tax Policy Analyst.
- (8) Editorial, typographical, and technical changes have been made throughout this section. Organization titles and symbols were updated.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.23.18, dated January 03, 2020.

AUDIENCE

Examiners coordinating worker classification issues between the SS-8 Program and Examination.

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Small Business/ Self-Employed Division

4.23.18

Coordinating Worker Classification Determinations Between SS-8 Program and Exam

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4.23.18.1
(04-17-2023)
**Program Scope and
Objectives**

- (1) **Purpose:** The procedures in this IRM are intended to coordinate worker classification issues between the SS-8 Program and Examination.
- (2) **Audience:** This IRM contains information on procedures for examiners coordinating worker classification issues between the SS-8 Program and Examination.
- (3) **Policy Owner:** Director, Specialty Exam Policy of the Small Business/ Self-Employed Division.
- (4) **Program Owner:** Program Manager - Employment Tax Policy. The mission of Employment Tax Policy is to establish effective policies and procedures, to support compliance with employment tax laws.
- (5) **Primary Stakeholders:**
 - Employment Tax – Workload Selection and Delivery (SE:S:DCE:HQ:ECS:S:ETEGCS:EWSD)
 - Specialty Examination - Employment Tax (SE:S:DCE:E:SE:ET)
 - Specialty Exam Policy, Employment Tax Policy (SE:S:DCE:E:HQ:SEP:EMTP)
 - SS-8 Program (SE:S:DCE:E:CE:B)
 - Other areas that are affected by these policies and procedures include Independent Office of Appeals (Appeals), Counsel, SB/SE Examination, LB&I, and TE/GE.

4.23.18.1.1
(01-03-2020)
Background

- (1) The SS-8 Program issues determination letters to workers and firms regarding the proper classification of workers performing services for the firm (that is, employee or independent contractor). See IRM 4.23.3.3.3, **SS-8 Program**. The issue of worker classification is often addressed as part of an employment tax examination of a business. Employment tax examinations may be based on referrals or information from the SS-8 Program after it issues a determination letter. The following procedures are intended to coordinate worker classification issues between the SS-8 Program and Examination.
- (2) For additional information, see IRM 7.50.1, **Form SS-8 Worker Classification Determinations - Form SS-8 Processing Handbook**, which provides procedures for SS-8 Technicians who are responsible for handling determinations of employee-independent contractor status when Form SS-8, **Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding**, is filed with the Internal Revenue Service (IRS).

4.23.18.1.2
(04-17-2023)
Authority

- (1) Employment tax provisions are found at Internal Revenue Code Subtitle C:
 - Chapter 21, Federal Insurance Contributions Act (FICA),
 - Chapter 22, Railroad Retirement Tax Act (RRTA),
 - Chapter 23, Federal Unemployment Tax Act (FUTA),
 - Chapter 24, Federal Income Tax Withholding (FITW), and
 - Chapter 25, General Provisions relating to employment taxes and collection of income taxes at source.
- (2) The Employment Tax Program is governed by Policy Statements and other internal guidance that apply to all IRS personnel regardless of operating division. The Policy Statements found in IRM 1.2.1, Servicewide Policies and

Authorities, Policies of the Internal Revenue Service apply to all employment tax issues and examinations. Examiners should review these Policy Statements to properly perform their examination duties.

- (3) A website, Search Servicewide Delegation Orders, located at <http://irm.web.irs.gov/imd/del/search.aspx> provides a searchable list of Servicewide Delegation Orders issued by the Commissioner of the Internal Revenue, or on his or her behalf by either of the deputy commissioners. Delegation Orders pertaining to each IRS business process can be found in IRM 1.2.2, Servicewide Policies and Authorities, Servicewide Delegations of Authority.
- (4) IRM 4.23 provides Servicewide instructions for all operating divisions with employees involved with the correct filing, reporting, and payment of employment taxes. IRM 4.23 serves as the foundation for consistent administration of employment taxes by various IRS operating divisions. By providing one source of authority for all operating divisions, the IRS greatly reduces philosophical and procedural inconsistencies.

4.23.18.1.3
(01-03-2020)
Responsibilities

- (1) Director, Specialty Exam Policy, is responsible for the procedures and updates addressed in this IRM.
- (2) Director, Specialty Examination, is the executive responsible for examination operational compliance.
- (3) Chief, Employment Tax Examination, is responsible for ensuring general information about basic employment tax examiner responsibilities.
- (4) Director, Exam - Field and Campus Policy, reports to the Director, Headquarters Examination, and is responsible for the delivery of policy and guidance that impacts the field and campus processes including the SS-8 program.

4.23.18.1.4
(01-03-2020)
Program Objectives and Review

- (1) Program Goals: The processes and procedures provided in this IRM are consistent with the objectives or goals for Employment Tax - Examination that are addressed in IRM 1.1.16.3.3.3, Employment Tax Examination and for Employment Tax Policy, found in IRM 1.1.16.3.5.2.2, Employment Tax Policy.
- (2) Program Effectiveness: Program goals are measured with Employment Tax Embedded Quality Performance Reports that monitor whether quality attributes are applied uniformly and consistently.
- (3) Annual Review: Employment Tax Policy - Program Manager, is responsible for reviewing the information in this IRM annually to ensure accuracy and promote consistent tax administration.

4.23.18.1.4.1
(01-03-2020)
Program Reports

- (1) Program Reports: Information regarding the reporting of program objectives are included on, but not limited to, the following reports:
 - Headquarters Examination Monthly Briefing,
 - Program Manager Monthly Briefing,
 - Examination Operational Review, and
 - Business Performance Reviews.

4.23.18.1.5
(01-03-2020)

Terms and Definitions

- (1) The following chart contains terms and their definitions used in this IRM:

Term	Definition
Delegation Orders	The official documents used by the IRS to delegate authority; published as Delegation Orders.
SS-8 Program	Issues determination letters to workers and firms regarding the proper classification of workers performing services for the firm (that is, employee or independent contractor).
Section 530	Section 530 of the Revenue Act of 1978 provides employers with relief from federal employment tax liabilities resulting from the reclassification of individuals as employees if three requirements are met.

4.23.18.1.6
(01-03-2020)
Acronyms

- (1) The following table lists commonly used acronyms and their definitions:

Acronym	Definition
AIMS	Audit Information Management System
CSP	Classification Settlement Program
EIN	Employer Identification Number
FICA	Federal Insurance Contributions Act
IDRS	Integrated Data Retrieval System
KEOGH	A Keogh plan is a tax-deferred pension plan available to self-employed individuals or unincorporated businesses for retirement purposes
PSP	Planning and Special Programs
SRS	Specialist Referral System
TAS	Taxpayer Advocate Service
TBOR	Taxpayer Bill of Rights

4.23.18.1.7
(04-17-2023)

Related Resources

- (1) Helpful information sources include:
 - The SB/SE Knowledge Management home page for Employment Taxes <https://portal.ds.irsnet.gov/sites/VL014/Pages/default.aspx>.
 - The Specialist Referral System (SRS) home page: <https://srs.web.irs.gov/>.
 - A list of SB/SE Employment Tax Policy Analysts, including their contact information and program assignments, is found at *Employment Tax Policy Contacts*.
 - The web site "Exam Guidance Procedures" at <https://portal.ds.irsnet.gov/sites/VL014/lists/exam%20guidance%20procedures/landingview.aspx>.
 - IRM 4.23: IRM sections owned by SB/SE Specialty Exam Policy. Provides Servicewide instructions for employees of all operating divisions involved with the correct filing, reporting, and payment of employment taxes. IRM 4.23 serves as the foundation for consistent administration of employment taxes by various IRS operating divisions.
- (2) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3). For additional information about the TBOR, see www.irs.gov/taxpayer-bill-of-rights.
- (3) The Taxpayer Advocate Service (TAS) is an independent organization within the Internal Revenue Service (IRS), led by the National Taxpayer Advocate. Its job is to protect taxpayers' rights by striving to ensure that every taxpayer is treated fairly and knows and understands their rights under the TBOR. TAS offers free help to taxpayers, including when taxpayers face financial difficulties due to an IRS problem, when they are unable to resolve tax problems they have not been able to resolve on their own, or when they need assistance to address an IRS system, process, or procedure that is not functioning as it should. TAS has at least one taxpayer advocate office located in every state, the District of Columbia, and Puerto Rico.
- (4) Examiners should consider the disclosure and privacy provisions when preparing correspondences and agreed and unagreed case reports. For further information, see the Privacy, Government Liaison and Disclosure (PGLD) maintained knowledge base at <https://portal.ds.irsnet.gov/sites/vl003/pages/default.aspx>

4.23.18.2
(10-05-2012)

Form SS-8 Received by the SS-8 Program When One of the Parties (Worker or Firm) is Currently Under Examination

- (1) Form SS-8 can be filed by either a worker or a firm to request a determination on whether a worker (or a specific class of workers) is an employee or independent contractor. In order to ensure consistency and coordinate the determination with different areas of the IRS, the SS-8 Unit must research the Integrated Data Retrieval System (IDRS) to determine whether the worker or the firm is currently under examination before issuing a determination letter. The appropriate action will depend on which party is under examination, the type of examination, and the status of the examination.

4.23.18.2.1
(02-06-2017)

**Firm Under Employment
Tax Examination (Forms
940, 941, 943, 944, or
945) in Status 10**

- (1) If a firm is under employment tax examination in Status Code “10”, the case can be either in the Examination group manager’s inventory waiting to be assigned or in an examiner’s inventory waiting to be started.
- (2) The SS-8 Technician will contact the Examination group manager to determine the status of the case (whether waiting to be assigned or assigned but not started).
- (3) If the case is unassigned, the SS-8 Technician will request permission from the Examination group manager to work the SS-8 and issue a determination.
 - a. If the case is to be assigned, the Examination group manager may request that the SS-8 Technician not issue a determination letter until the examination is completed.
 - b. If the Examination group manager grants permission to the SS-8 Technician to issue a determination letter, the SS-8 Technician will forward a copy of the determination letter and related case file documents to the Examination group manager upon completion.
- (4) If the case is assigned to an examiner, the group manager will provide the name of the examiner to the SS-8 Technician to contact for the status of the examination. The examiner may either grant permission to the SS-8 Technician to issue a determination or request that a determination not be made until the examination is completed. If permission is granted to make the determination, the SS-8 Technician will forward a copy of the determination and related case file documents to the examiner upon completion.

4.23.18.2.2
(04-17-2023)

**Firm Under Employment
Tax Examination (Forms
940, 941, 943, 944, or
945) in Status 12
through 18**

- (1) If a firm is under employment tax examination in Status Code **12** through **18**, the case is currently being worked by an examiner. The SS-8 Technician will not work the SS-8 request in these cases until the employment tax examination is completed.
- (2) The SS-8 Technician will contact the Examination group manager and notify the group manager that a Form SS-8 was filed regarding a worker performing services for the firm (taxpayer) under examination.
- (3) The SS-8 Technician will notify the taxpayer who submitted Form SS-8 (in most cases this will be the worker) that the Form SS-8 has been received. Until resolution at the field level, the SS-8 request will be placed into suspense.
- (4) A copy of the Form SS-8 and any related information will be forwarded to the Examination group manager to be associated with the examination case file.
- (5) The field examiner must address the worker classification issue identified on the Form SS-8 as part of the examination. The examiner will follow normal procedures for examining worker classification issues, including first addressing section 530. See IRM 4.23.5.3.1, Section 530 Relief. The examiner should consider contacting the worker, and other workers in the same class, to confirm the facts presented on Form SS-8 and obtain any additional information. Contact made with individual workers constitutes a third-party contact. See IRM 4.23.5.5.1, **Supplemental Procedures When Contacting Workers**. In no case should the examiner disclose to the worker(s) that the firm is under examination.

Note: If the field examiner is not an employment tax examiner and is unable to address the worker classification issue, an employment tax referral will be made on the Specialist Referral System, at <https://srs.web.irs.gov/>.

- (6) The examiner must provide the SS-8 Technician with a quarterly update on the status of the examination to allow the SS-8 Technician to keep the person that filed the Form SS-8 informed about the status of the SS-8 request.
- (7) If the examiner determines that section 530 relief applies to the firm, the examiner will not make the worker classification determination applicable to the firm since examination procedures prohibit the examiner from continuing with the worker classification examination when section 530 relief applies. See IRM 4.23.5.3.3, Establishing Section 530 Relief, paragraph (5). However, the SS-8 Technician is still responsible for making a determination as to whether the worker is an employee or independent contractor at the Form 1040 level and issuing the determination letter. To assist the SS-8 Technician, the field examiner will provide any information gathered during the examination of the firm that could assist the SS-8 Technician in making the worker classification determination.
- (8) If the examiner determines that the firm is not entitled to relief under section 530 for that class of worker, the examiner will complete the worker classification determination. See IRM 4.23.5.4, Independent Contractor or Employee. Upon completion of the worker classification portion of the examination, the examiner will provide the SS-8 Technician with the results of the worker classification examination, including:
 - A copy of the examination workpapers outlining the facts of the case,
 - The determination of whether the class of worker are employees or independent contractors,
 - The resolution of the issue (that is, whether the taxpayer agreed to the adjustment), and
 - A copy of the CSP agreement, if applicable.
- (9) If the outcome of the worker classification examination adjustment is agreed (either a worker classification adjustment was made or the workers were determined to be independent contractors), the SS-8 Technician will issue a determination letter to the worker based on the field examiner's findings.
- (10) If the outcome of the worker classification examination adjustment is unagreed, no determination letter will be issued until the case is resolved in Appeals or in any subsequent litigation.

4.23.18.2.3
(10-05-2012)

**Firm Under Income Tax
or Other Examination
(Form 1040 Schedule C,
Form 1120, Form 1120S,
Form 1065, or Other
Returns)**

- (1) If the case is in status code "10" or "12" through "18", the SS-8 Technician will contact the Examination group manager to determine if the examination is being expanded to the employment tax returns or whether a worker classification issue would affect the examination.
- (2) If the examination is not being expanded to the employment tax returns and the worker classification issue would not affect the examination, the SS-8 Technician will work the SS-8 case using normal procedures and issue a determination letter. The SS-8 Technician will notify the examiner that the normal determination procedures will proceed.

4.23.18.2.4
(04-17-2023)
**Worker Under
Examination (Form 1040)**

- (3) If the examination is being expanded to the employment tax returns or the worker classification issue would affect the examination, the SS-8 Technician and examiner will follow the procedures in IRM 4.23.18.2.2 above for cases where the firm is under an employment tax examination.

- (1) If the worker's Form 1040 is under examination, the SS-8 Technician will contact the Examination group manager and notify the group manager that a Form SS-8 was filed by the worker (taxpayer).
- (2) The group manager will discuss the worker's Form 1040 with the SS-8 Technician.

Note: A determination of the worker's status as an employee or as an independent contractor may impact the treatment of income and deductions on the Form 1040.

- (3) The examiner will keep the Form 1040 examination open until the SS-8 Technician completes the worker status determination.
- (4) The SS-8 Technician will follow normal procedures for gathering information necessary to make the determination and for issuing a determination letter, however a determination affecting a return open in the field will be worked on an expedited basis. The SS-8 Technician's determination may be based on common law factors (usually indicative of the degree of behavioral/financial control over the worker and the relationship of the parties).
- (5) At the end of the determination, a copy of the determination letter will be provided to the examiner.
- (6) Upon receipt of the determination letter, the examiner will continue the examination and make the appropriate adjustments based on the determination of whether the worker is an employee or independent contractor:
- If the worker is determined to be an independent contractor, then the worker may deduct properly substantiated business expenses on Schedule C against the income. The worker is generally subject to self-employment tax on the net income on Schedule C. The worker may deduct the deductible part of the self-employment tax from gross income in determining adjusted gross income.
 - If the worker is determined to be a statutory nonemployee, then the worker is treated as self-employed for all Federal tax purposes, including income and employment taxes. For more information on statutory nonemployee refer to IRM 4.23.5.7.5, Statutory Non-Employees.
 - If the worker is determined to a statutory employee, then the worker is considered an employee for FICA and FUTA, but not for federal income tax withholding. For more information on statutory employee refer to IRM 4.23.5.7.4, Statutory Employees.
 - If the worker is determined to be an employee, then the income is properly reported on Form 1040, line 1g. The worker uses Form 8919, Uncollected Social Security and Medicare Tax on Wages, to figure and report their share of the uncollected social security and Medicare taxes. The worker is not entitled to deduct expenses on Schedule C. Prior to tax changes starting in 2018, any substantiated business expenses are

employee business expenses deductible on Schedule A subject to the 2% AGI limitation. The worker is not entitled to a deduction for contributions to a KEOGH.

- In addition, if the worker is determined to be an employee, the examiner will make a referral to employment tax for consideration of an employment tax examination of the employer through the electronic Specialist Referral System, at <https://srs.web.irs.gov/>.

- (7) Any discussion of a potential tax effect (computational adjustments, reclassifications of Schedule C expenses to employee business expenses, etc.) should be done at the conclusion of proceedings.

4.23.18.3
(04-17-2023)

**Protective Claims by
Employees Filing for
Determination of Worker
Status**

- (1) Upon receipt of a Form SS-8, the SS-8 Program issues an acknowledgement letter to the requester. If there is concern that the SS-8 case will not be completed before the statute for amending the return expires, this letter informs the worker to the Instructions for Form SS-8 for information on how to protect their statute of limitation using Form 1040-X, Amended U.S. Individual Income Tax Return.
- (2) Upon receipt of a Form 1040-X filed to prevent the statute of limitations from expiring, the campus that handles protective claims perfects the document and routes it to Campus Exam Classification. Campus Exam Classification selects protective claims for Planning and Special Programs (PSP) and opens it on AIMS. PSP then forwards it to Technical Services to hold in suspense status until such time a perfected amended return is filed by the taxpayer to address the results of the determination case. If an amended return is not received within an allotted time-frame after receipt of the protective claim, Technical Services will contact the SS-8 Unit that was assigned the determination request to ascertain the results of the case, and subsequently to contact the taxpayer to request a final claim.
- (3) If a protective claim is received by a field examiner who is auditing the firm involved in the SS-8 case, the examiner will date stamp the return and send the Form 1040-X to the campus designated by state mapping in Instructions for Form 1040-X. See <https://publish.no.irs.gov/cat12.cgi?request=CAT2&itemtyp=I&itemb=1040&items=x>.

4.23.18.4
(02-06-2017)

**Employment Tax Exams
Based on SS-8 Referral**

- (1) Employment tax cases may be selected for examination based on referrals or information from the SS-8 Unit where determinations were made that workers should be classified as employees. In cases where the examination is not based on a referral from the SS-8 Unit, the examiner may still find that a determination letter was issued to the firm for which a particular class of workers was determined to be employees. In either case, the examiner should determine if the firm is in compliance with the determination letter by treating the workers as employees and if so, the date the firm converted the workers from independent contractors to employees.

4.23.18.4.1
(02-06-2017)

**Procedures Where the
Firm (Taxpayer) is
Currently in Compliance
with the Determination
Letter**

- (1) If the examiner determines that the taxpayer has properly converted the workers from independent contractors to employees and is currently treating the workers as employees, the examiner may discontinue the examination of the worker classification issue even if the taxpayer treated the workers as independent contractors in the year under examination.

4.23.18.4.2
(01-03-2020)

**Procedures Where the
Firm (Taxpayer) is Not in
Compliance with the
Determination Letter**

- (2) The examiner will continue the examination of any other employment tax issues determined to be worthy of examination. If no other employment tax issues are present, the case may be closed “no change.”
 - (1) Even if a determination letter was issued to the taxpayer, the examiner must make an independent determination whether the taxpayer qualifies for section 530 relief and, if not, whether the workers are employees or independent contractors. The determination letter by itself cannot be used as the basis for denying section 530 relief or proposing additional tax based on a worker classification adjustment.
 - In cases where the examiner determines that section 530 does **not** apply, the examiner will proceed with the audit and a determination as to worker status will be made. See IRM 4.23.18.5.1 and IRM 4.23.18.5.2 to resolve the discrepancy between the examiner’s determination and the determination letter issued by the SS-8 Unit, if the examiner’s worker classification determination differs from that in the determination letter issued by the SS-8 Unit.
 - In cases where the examiner determines that section 530 **does** apply, the examiner will not make a determination whether the workers are employees or independent contractors.
 - (2) The examiner will request the information submitted by the taxpayer and worker that was used by the SS-8 Unit to make the determination from the SS-8 Unit.
 - (3) When using an SS-8 determination as the basis for an examination, the examiner must ascertain whether:
 - a. The conclusions stated in the letter ruling are properly reflected in the return,
 - b. The representations upon which the letter ruling was based reflect an accurate statement of the controlling facts,
 - c. The transaction was carried out substantially as proposed, and
 - d. There has been any change in the law that applies to the period during which the transaction or continuing series of transactions were consummated.
- See Rev. Proc. 2023-1.
- (4) If the examiner makes the same determination as in the determination letter, the examiner will follow normal procedures for proposing a worker classification adjustment. Classification Settlement Program (CSP) procedures must be followed if the requirements for a CSP are applicable. See IRM 4.23.6, Classification Settlement Program. Failure to comply with a determination letter does not exclude the taxpayer from qualifying for a CSP offer.
 - (5) The examiner may determine additional or different facts during the examination that lead the examiner to reach a conclusion that differs from the SS-8 determination. If the examiner disagrees with the SS-8 determination, the examiner will follow the procedures below for resolving the discrepancy and possible revocation of the determination letter.

4.23.18.5
(01-03-2020)

**Employment Tax
Examination
Determinations that
Differ from SS-8
Determination Letters**

- (1) Before completing the examination and closing the case, the examiner must follow the procedures outlined below.

4.23.18.5.1
(01-03-2020)

**Examination Procedures
to Resolve
Disagreements**

- (1) In some cases, the examiner and the SS-8 Technician may not agree on the proper worker classification. In these situations, the examiner will prepare a memorandum to the SS-8 Unit that issued the determination letter explaining that the examiner conducted an audit of the firm (taxpayer) and made a different determination than the SS-8 determination letter. The memorandum should include the following information:

- a. Taxpayer name, address, and employer identification number (EIN),
- b. The reasons for the determination that the workers should be classified differently than the conclusion reached in the SS-8 determination case. The examiner will explain the differences in facts determined during the examination that were not considered in the SS-8 determination, and
- c. A request that the determination letter be revoked.

Note: If the differences described in “b” above are not explained, the SS-8 unit will reject the memorandum/information and return it to the examiner.

- (2) The examiner will attach a copy of the examination workpapers explaining the issue, facts, conclusion, and a copy of the original determination letter.
- (3) The SS-8 Unit will review the memorandum and additional information to determine whether it agrees with the examiner’s determination that the SS-8 determination letter should be revoked.
- (4) If the SS-8 Unit agrees with the examiner’s determination, the SS-8 Technician will notify the examiner of the concurrence and that the determination letter will be revoked. The examiner may then proceed with the case based on the examination results.
- (5) If the SS-8 Technician disagrees with the examiner’s determination, the SS-8 Technician will elevate the case to the SS-8 Program Coordinator for consideration. The SS-8 Program Coordinator will review the file, prepare a memorandum outlining the reasons for disagreement, and provide the examiner with the memorandum via email. If, after consideration of the memorandum, the examiner and his/her group manager still disagree with SS-8 Unit’s result, the examiner, the examiner’s group manager and the SS-8 Program Coordinator will hold a conference call and attempt to resolve the disagreement.
- (6) If the disagreement cannot be resolved, the examiner’s group manager will elevate the issue to the Employment Tax Policy Analyst responsible for worker classification issues.
- (7) The Employment Tax Policy Analyst will work with the SS-8 Program Coordinator to resolve the issue and will notify the examiner of the final determination. The examiner will then proceed with the case based on the resolution between the Policy Analyst and the SS-8 Program Coordinator.

Note: The SS-8 Program Coordinator is a position in the SS-8 Unit.

4.23.18.5.2
(04-17-2023)

**SS-8 Procedures to
Resolve Disagreements**

- (1) Upon receipt of a request from an examiner for a revocation of an SS-8 determination, the SS-8 Technician will review the recommendation to determine if the technician agrees with the examiner and will record in the SS-8 case file the basis for a recommendation to revoke or uphold the SS-8 determination.
- (2) The SS-8 Technician will discuss the recommendation with the team manager or lead.
- (3) If the SS-8 Technician's manager or lead agrees that the SS-8 determination should be revoked, the technician will notify the examiner of the concurrence with the recommendation and will provide the examiner with a copy of the revocation letter.
- (4) If the SS-8 Technician and manager or lead disagrees with the examiner's recommendation, the file will be elevated to the SS-8 Program Coordinator for review. The SS-8 Program Coordinator will consider the matter. If they agree that the SS-8 determination should be upheld, they will prepare a memorandum outlining the areas of disagreement and share it with the SS-8 Tax Policy Analyst for discussion. If the SS-8 Tax Policy Analyst agrees with the memorandum, the SS-8 Program Coordinator will submit the memorandum to the examiner's group manager for consideration.
- (5) If the examiner's group manager and examiner still disagree with the SS-8 determination result after consideration of the memorandum, the examiner, the examiner's group manager, and the SS-8 Program Coordinator will hold a conference call and attempt to resolve the disagreement.
- (6) If the disagreement cannot be resolved, the group manager and examiner will elevate the matter to the Employment Tax Policy Analyst responsible for worker classification issues for final resolution.

