Form **14430-A** (July 2013)

Department of the Treasury - Internal Revenue Service

SS-8 Determination—Determination for Public Inspection

Occupation 03PMW.88 RepairMaintenanceWorker	Determination: ☒ Employee ☐ Contractor
UILC	Third Party Communication: ☒ None ☐ Yes

Facts of Case

The firm is a limited liability corporation in the business of landscaping and snow plowing services which engaged the worker as a landscaper/snow remover from January 2014 to November 2014. There was no written agreement between the parties. The worker had previously performed the same services for the firm as an employee during tax year 2013.

The worker received a list of written instructions regarding the services to be performed every morning from the firm. He worked Monday to Friday, on a schedule set by the firm's owner from 8:00 AM to 5:00 PM. The worker stated he was rarely allowed days off. The firm determined the methods by which the assignments were performed. The firm stated the worker normally took directions from assigned accounts and the firm's customers. The worker was required to contact the firm for problem resolution and customer complaints. The worker was required to submit daily reports of work performed and the hours to complete specific jobs. He performed the services on both the firm's premises and on the premises of the firm's customers. The worker was required to attend daily meetings every morning before providing services for the firm. The relationship between the parties was continuous, as opposed to a one-time transaction. According to the firm the worker was required to perform the services personally. The worker's services were an integral and necessary part of the services the firm provided to its customers. The firm hired and paid any substitutes or helpers.

The firm furnished the worker with a trailer, lawn mowers, weed eaters, all other landscaping and snow removal equipment, at no expense to him. The worker did not furnish any of the tools or equipment used in performing the services, except for the use of his vehicle according to the firm. The worker stated he was provided a work truck by the firm. The worker did not lease equipment. The firm determined the fees to be charged to its customers. The worker incurred significant business expenses for fuel and was reimbursed by the firm. The firm stated the worker was paid hourly, a received compensation for his services every two weeks. The firm's customers paid the firm. The firm stated worker's compensation insurance was provided for the worker during 2013 subsequently, the worker was required to provide his own liability insurance during 2014. The worker did not have a substantial investment in equipment or facilities used in the work, and did not assume the usual business risks of an independent enterprise.

Both parties agree either party had the option to terminate the worker's services at any time without incurring a penalty or liability. All work produced became the property of the firm. The worker did not advertise his services in the newspapers or the classified telephone directory, or maintain an office, shop, or other place of business. He was required to perform the services under the name of the firm and for the firm's clients. The relationship between the parties ended when the worker resigned.

Analysis

The worker performed personal services on a continuous basis for the firm's customers. Work was performed on the firm's customer's premises, on a regular schedule set by the firm. The firm provided all significant materials necessary to perform the services to the worker. The worker could not incur a business risk or loss. The worker was paid an hourly wage. The worker did not hold the services out to the general public. The above facts do not reflect a business presence for the worker, but rather, strongly reflect the payer's control over the worker's services and the worker's integration into the payer's business. The fact that the worker was not closely monitored would not carry sufficient weight to reflect a business presence for the worker. In fact, many individuals are hired due to their expertise or conscientious work habits and close supervision is often not necessary. Usually, independent contractors advertise their services and incur expenses for doing so. In this case, the worker not only did not advertise his services, but he completed an application for a job. This is a strong indicator that the worker is not an independent contractor. Based on the common-law principles, the firm had the right to direct and control the worker. The worker shall be found to be an employee for Federal tax purposes.