

SS-8 Determination—Determination for Public Inspection

Occupation

03PMW.144 RepairMaintenanceWkr

Determination:

☒ Employee

☐ Contractor

UILC

Third Party Communication:

☒ None

☐ Yes

Facts of Case

According to the information and documentation submitted, the firm is a church. The worker was engaged to perform janitorial and maintenance services. The worker's services included cleaning of the church every day, lawn mowing, setting up chairs, tables, and calling in companies when there is repair work needed to be done. The worker provided his services between January 2013 and July 2016. The firm reported the worker's earnings on Form 1099-MISC at year end.

The firm provided the worker with his general work assignments with any additional requests being made through the office personnel or by the campus pastor. The worker personally performed his services on the church premises during its normal hours of operation. The firm provided the worker with the necessary lawn mowing equipment and cleaning supplies. The worker was paid an hourly wage for his services. Both parties could terminate the services without incurring any liabilities.

Analysis

According to the information and documentation submitted concerning the work relationship, the worker personally performed his services at the firm's premises. The firm provided the worker with the necessary equipment and supplies. The firm paid the worker an hourly wage for his services. The worker had no investment in facilities providing similar services and did not have the opportunity for profit or loss. Both parties could terminate the services without incurring any liabilities.

Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. In such instances, the firm assumes the hazard that the services of the worker will be proportionate to the regular payments. This action warrants the assumption that, to protect its investment, the firm has the right to direct and control the performance of the workers. Also, workers are assumed to be employees if they are guaranteed a minimum salary or are given a drawing account of a specified amount that need not be repaid when it exceeds earnings.

The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship.

Therefore, the firm exercised direction and control over the services performed by the worker to establish that an employee/employer relationship existed. Additionally, the firm has indicated that the worker has been reclassified as a part-time employee of the firm.