

Employee vs. Independent Contractor

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Our Class

- It is critical that business owners correctly determine whether the individuals providing services are employees or independent contractors
- Before they can determine how to treat payments made for services, they must first know the business relationship that exists between the parties performing the services
- In determining whether the person providing service is an employee or an independent contractor, all information that provides evidence of the degree of control and independence must be considered

Paperwork

<p>Employee</p> <ul style="list-style-type: none"> • W-4 • W-2/W-3 • Form 941 X 4 times a year or Annual Form 944 • Form 940 X 1 times a year • SUTA X 4 times a year • Iowa or State W-4 • New Employee Notification with state for child support recovery • Withholding of Social Security, Medicare, Federal Income Tax and State Income Tax • Matching of Social Security and Medicare • Matching the Form 941 with Forms W-2/W-3 to avoid a CAWR Report • State of Iowa W-2 Summary Report • Form 1095-C if applicable for health insurance • Workman's Compensation • Meeting the Department of Labor rules and regulations • OSHA rules – Federal and State level • Note: All states have different requirements 	<p>Independent Contractor</p> <ul style="list-style-type: none"> • W-9 or similar statement • Form 1099-MISC if \$600 or more in a calendar year • Form 1096 Transmittal for all Form 1099's • Meeting the Department of Labor rules and regulations • OSHA rules – Federal and State level • Form 945 – if Backup Withholding applies • Some states may require workman's compensation
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Employment Per the IRC
<ul style="list-style-type: none">• § 3121(d)(2) Employee under Common Law Text – also Revenue Ruling 87-41• § 3401(c) Officer, employee, elected governmental official• § 1.1402(c)-2(b) Holder of public office is not self-employed

Agencies Involved
<ul style="list-style-type: none">• Internal Revenue Service• Social Security Administration• Immigration• State Revenue Departments• State Unemployment Departments• Department of Labor Wages and Hour• Child Support recovery units• Department of Labor Occupational Safety and Health Administration• State Occupational Safety and Health Administration• Insurance Policies - Various Providers

Common Law Rules
<ul style="list-style-type: none">• Behavioral• Financial and• The Type of Relationship• Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding

<h3>Common Law Employee</h3>
<ul style="list-style-type: none">• Under common-law rules, anyone who performs services for you is your employee if <u>you can control what will be done and how it will be done</u>• This is so even when you give the employee freedom of action• What matters is that you have the <u>right to control</u> the details of how the services are performed

<h3>Example</h3>
<ul style="list-style-type: none">• James is a tax preparer employed on a full-time basis by Bob's Tax and Audit Service• He works 6 days a week, and is assigned certain days and times• He interviews clients, prepares tax returns, assists with questions and mentors others in the firm as needed• Because of his experience, he requires only minimal assistance in performing his job• James is paid a commission as well as an hourly wage and is eligible for bonuses• Bob, the owner, pays the cost of health insurance and group-term life insurance for James and other employees• James is an employee of Bob's Tax and Audit Service

<h3>Independent Contractor</h3>
<ul style="list-style-type: none">• People such as:<ul style="list-style-type: none">– Doctors– Dentists– Veterinarians– Lawyers– Accountants– Contractors– Subcontractors– Public stenographers– Auctioneers• Who are in an independent trade, business, or profession in which they offer their services to the general public are generally independent contractors• However, whether these people are independent contractors or employees depends on the facts in each case

Let's Look at Another Example

- Thomas has a Lawn and Garden Service and does landscaping, mowing, pruning of trees and other similar services
- Thomas provides the supplies needed at each job site to perform the work
- When a customer calls, Thomas provides an estimate of the cost of his services to perform the work and provides an invoice for payment
- Thomas's services are available to the public and his add is posted in newspapers and in telephone directories and on the internet

Scenario One

- Thomas has 4 full time employees and on Monday one of those employees calls in sick
- Thomas's neighbor is unemployed so Thomas asks the neighbor to "help him out" for the day
- Let's take a look at the 20 factors that define the 3 overall factors

Thomas Provides the Following:

- Instruction and training
- Supervising and paying
- Thomas integrated the work into the work flow
- Set hours of work
- Payment by hour, week or month
- Furnishing tools and materials for neighbor to perform the job
- The neighbor is only working for him
- Thomas has the right to terminate or discharge
- And in this case, Thomas provided transportation to the worksite as the neighbor had no car and
- The work was performed at the site of the job

The Neighbor Provided the Following:
<ul style="list-style-type: none">• Their services

The Neighbor Had NO:
<ul style="list-style-type: none">• Training for the service performed• No continuing relationship – possibly• Did not set the hours of work• Was not expected to supervise or provide written reports• Went to work in Thomas’s vehicle• Did not furnish any tools or materials• Had no investment in the business where a profit or loss may result involving risk• Was only working for Thomas and no one else, thus not making any service available for the public

Is The Neighbor an Employee?

Scenario Two:

- Thomas has a Lawn and Garden Service and does landscaping, mowing, pruning of trees and other similar services
- Thomas provides the supplies needed at each job site to perform the work
- When a customer calls, Thomas provides an estimate of the cost of his services to perform the work and provides an invoice for payment
- Thomas's services are available to the public and his add is posted in newspapers and in telephone directories and on the internet

Is Thomas and Independent Contractor?

General Rule

- The general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done
- The earnings of a person who is working as an independent contractor are subject to Self-Employment Tax

<h3>Thomas</h3>
<ul style="list-style-type: none">• Controls what will be done and how it will be done at the job site

<h3>Independent Contractor</h3>
<ul style="list-style-type: none">• If the client is an independent contractor, they are self-employed• They are not an independent contractor if they perform services that can be <u>controlled</u> by an employer (what will be done and how it will be done)• This applies even if they are given freedom of action• What matters is that the employer has the legal right to control the details of how the services are performed• If an employer-employee relationship exists (regardless of what the relationship is called), individuals are not an independent contractors and the earnings are generally not subject to Self-Employment Tax• However, the earnings as an employee are generally subject to FICA (Social Security tax and Medicare) and income tax withholding

<h3>Independent Contractor</h3>
<ul style="list-style-type: none">• Makes their own schedule• Buys their own products• Has a published phone number for the business• Furnishes their own supplies• Furnishes their own equipment• Makes a profit or loss as a result of their own business decisions• Offers services to the public• Operates an established business• Bills for services• Sometimes does not have to personally perform the work• Has roots in the local business community

Factors Rev. Rul. 87-41
<ul style="list-style-type: none">• Instructions• Training• Integration• Services rendered personally• Hiring, supervising and paying• Continuing relationship• Set hours of work

Factors Rev. Rul. 87-41
<ul style="list-style-type: none">• Full time required• Doing work on employer's premises• Order or sequence set• Oral or written reports required• Payment – how paid• Payment of business or travel expenses or benefits• Furnishing tools and materia;s• Investment• Profit or Loss – Risk

Factors Rev. Rul. 87-41
<ul style="list-style-type: none">• Working for More than one firm at a time• Services are available to the general public• The right to discharge• The right to terminate relationship

Statutory Employees

- If workers are independent contractors under the common law rules, such workers may nevertheless be treated as employees by statute (statutory employees)
 - A driver who distributes beverages (other than milk) or meat, vegetable, fruit, or bakery products; or who picks up and delivers laundry or dry cleaning, if the driver is an agent or is paid on commission
 - A full-time life insurance sales agent whose principal business activity is selling life insurance or annuity contracts, or both, primarily for one life insurance company
 - An individual who works at home on materials or goods that you supply and that must be returned to you or to a person you name, if you also furnish specifications for the work to be done
 - A full-time traveling or city salesperson who works on your behalf and turns in orders to you from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments
 - The goods sold must be merchandise for resale or supplies for use in the buyer's business operation
 - The work performed for you must be the salesperson's principal business activity.

**Statutory Employees
Three Conditions**

- Withhold Social Security and Medicare taxes from the wages of statutory employees if all three of the following conditions apply:
 - The service contract states or implies that substantially all the services are to be performed personally by them
 - They do not have a substantial investment in the equipment and property used to perform the services (other than an investment in transportation facilities)
 - The services are performed on a continuing basis for the same payer

Statutory Nonemployees

- There are three categories of statutory nonemployees:
 - Direct sellers
 - The marketing and selling of products directly to consumers away from a fixed retail location
 - Licensed real estate agents and
 - Direct sellers and licensed real estate agents are treated as self-employed for all Federal tax purposes, including income and employment taxes, if:
 - Substantially all payments for their services as direct sellers or real estate agents are directly related to sales or other output, rather than to the number of hours worked, and
 - Their services are performed under a written contract providing that they will not be treated as employees for Federal tax purposes
 - Certain companion sitters
 - Companion sitters who are not employees of a companion sitting placement service are generally treated as self-employed for all federal tax purposes

The Common-Law Test Social Security Handbook
<ul style="list-style-type: none">• 802.1 What is the common-law test?<ul style="list-style-type: none">– The person an individual works for has the right to tell them what to do, how, when, and where to do the job– There are several factors, or elements, which indicate such control over the details of your work– These are discussed in §§804-823 and 802.2• What if the relationship to the employer meets the common law test?<ul style="list-style-type: none">– The individual is considered an employee if the relationship with the employer meets the common-law test– Even if the employer does not give orders on what to do, how, when, and where to do the job, he or she only needs the <u>right</u> to do so for an individual to be considered an employee

Behavioral
<ul style="list-style-type: none">• Does the company control or have the right to control what the worker does and how the worker does his or her job?• Does the worker receive instructions?<ul style="list-style-type: none">– What is the degree of instruction?• Does the worker receive training?• Is there an evaluation system in place that measures how the work is performed or does the system just evaluate the end result?

Types of Instructions Given
<ul style="list-style-type: none">• When and where to do the work• What tools or equipment to use• What workers to hire or to assist with the work• Where to purchase supplies and services• What work must be performed by a specified individual• What order or sequence to follow when performing the work

Degree of Instruction
<ul style="list-style-type: none">• The more detailed the instructions, the more control the business exercises over the worker• The more detailed instruction indicate that the worker is an employee• Less detailed instructions reflects less control, indicating that the worker is more likely an independent contractor• What if there is little instruction given or no instructions provided?<ul style="list-style-type: none">– Dig a hole 6' deep and 6' wide– No instruction is given on how they dig the hole, it could be done by machinery, or by hand with a shovel– The amount of instruction needed varies among different jobs• Even if no instructions are given on how to dig the hole, sufficient behavioral control may exist if the employer has the right to control how the work results are achieved

Degree of Instruction
<ul style="list-style-type: none">• Some businesses may lack the knowledge to instruct some highly specialized professionals• The task may require little or no instruction• The KEY is whether the business has retained the right to control the details of a worker's performance or instead has given up that right

Training
<ul style="list-style-type: none">• Does the business provides the worker with training on how to do the job?<ul style="list-style-type: none">– This indicates that the business wants the job done in a particular way– This is strong evidence that the worker is an employee– Periodic or on-going training about procedures and methods is even stronger evidence of an employer-employee relationship• Independent contractors ordinarily use their own methods

Financial
<ul style="list-style-type: none">• Financial control refers to facts that show whether or not the business has the right to control the <u>economic</u> aspects of the worker's job• The financial control factors fall into the categories of:<ul style="list-style-type: none">– Significant investment– Unreimbursed expenses– Opportunity for profit or loss– Services available to the market– Method of payment– Significant investment

No Magic Number
<ul style="list-style-type: none">• An independent contractor often has a significant investment in equipment• However, in many occupations, such as construction, workers spend thousands of dollars on the tools and equipment they use and are still considered to be employees• There are no precise dollar limits that must be met in order to have a significant investment• Furthermore, a significant investment is not necessary for independent contractor status as some types of work simply do not require large expenditures

Financial
<ul style="list-style-type: none">• Unreimbursed expenses<ul style="list-style-type: none">– Independent contractors are more likely to have unreimbursed expenses than are employee– However, employees may also incur unreimbursed expenses in connection with the services that they perform for their business• Independent contractors often have fixed ongoing costs that are incurred regardless of whether work is currently being performed

Opportunity for Profit or Loss
<ul style="list-style-type: none">• The opportunity to make a profit or loss is another important factor• If a worker has a significant investment in the tools and equipment used and if the worker has unreimbursed expenses, the worker has a greater opportunity to lose money• Having the possibility of incurring a loss indicates that the worker is an independent contractor

Services Available to the Market
<ul style="list-style-type: none">• An independent contractor is generally free to seek out business opportunities• Independent contractors often:<ul style="list-style-type: none">– Advertise– Maintain a visible business location– Are available to work in the relevant market

Method of Payment
<ul style="list-style-type: none">• An employee is generally guaranteed a regular wage amount for an hourly, weekly, or other period of time• This usually indicates that a worker is an employee, even when the wage or salary is supplemented by a commission• An independent contractor is usually paid by a flat fee for the job• However, it is common in some professions, such as law, to pay independent contractors hourly

Type of Relationship
<ul style="list-style-type: none">• Discharge/termination-either business or worker can end the relationship before the job is completed• Employee benefits (beyond monetary compensation)• Intent of parties/written contracts that indicate both parties believe they are in an employer-employee relationship<ul style="list-style-type: none">– IRS or Job Service may ignore this document if the individual is deemed to be an employee– An independent contractor “contract” may be deem invalid• Worker’s services are a part of business’s regular business activity

Type of Relationship
<ul style="list-style-type: none">• Type of relationship refers to facts that show how the worker and business perceive their relationship to each other• The factors, for the type of relationship between two parties, generally fall into the categories of:<ul style="list-style-type: none">– Written contracts– Employee benefits– Permanency of the relationship– Services provided as key activity of the business

Type of Relationship Employee Benefits
<ul style="list-style-type: none">• Employee benefits include things like:<ul style="list-style-type: none">– Insurance– Pension plans– Paid vacation– Sick days– Disability insurance• Businesses generally do not grant these benefits to independent contractors• However, the lack of these types of benefits does not necessarily mean the worker is an independent contractor

Type of Relationship
Permanency of the Relationship

- If you hire a worker with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence that the intent was to create an employer-employee relationship

Type of Relationship
Services Provided as Key Activity of the Business

- If a worker provides services that are a key aspect of the business
- It is more likely that the business will have the right to direct and control his or her activities
- For example, if a law firm hires an attorney, it is likely that it will present the attorney's work as its own and would have the right to control or direct that work
- This would indicate an employer-employee relationship

Paperwork

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Differences Between Employee Vs Independent Contractor

Employee	Independent Contractor
<ul style="list-style-type: none"> • Form W-4 • IA Form W-4 • Withhold Income Tax • Withhold State Income Tax • Withhold Social Security and Medicare • Match Social Security and Medicare • File 4 Quarterly Form 941 Or 1 Annual Form 944 • File Form 940 • File State Withholding / Reconciliation Reports • File local unemployment office forms • File Form W-2 • File Form W-3 • File Form 1095-C if applicable • File New Employee identification form • Must have workman's compensation in most states 	<ul style="list-style-type: none"> • Form W-9 • File Form 1099/1096 Misc if paying \$600.00 or more annually • Some states may require New Independent Contractor Identification Form (connected to child support) • Some states may require workman's compensation

Form SS-8

Form SS-8
Form SS-8 (Rev. May 2014)

Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding

OMB No. 1545-0046
For IRS Use Only: Case Number

Department of the Treasury Internal Revenue Service

Information about form filed and the recipient's instructions at www.irs.gov/formss8

Name of firm (or person) for whom the worker performed services		Worker's name	
Firm's mailing address (include street address, apt. or suite no., city, state, and ZIP code)		Worker's mailing address (include street address, apt. or suite no., city, state, and ZIP code)	
Trade name	Firm's email address	Worker's daytime telephone number	Worker's email address
Firm's fax number	Firm's website	Worker's alternate telephone number	Worker's fax number
Firm's telephone number (include area code)	Firm's employer identification number	Worker's social security number	Worker's employer identification number (if any)

Note. If the worker is paid for these services by a firm other than the one listed on this form, enter the name, address, and employer identification number of the payer.

Disclosure of Information

The information provided on Form SS-8 may be disclosed to the firm, worker, or payer named above to assist the IRS in the determination process. For example, if you are a worker, you may disclose the information you provide on Form SS-8 to the firm or payer named above. The information can only be disclosed to assist with the determination process. If you provide incomplete information, you may not be able to process your request. See "Privacy Act and Paperwork Reduction Act Notice" in the separate instructions for more information. If you do not want the information disclosed to other parties, do not file Form SS-8.

Part 1-IV. All items of Form SS-8 must complete all questions in Parts I-IV. Part V must be completed if the worker provides a service directly to customer or a subcontractor. If you cannot answer a question, enter "Unknown" or "Does not apply." If you need more space for a question, attach another sheet with the part and question number clearly identified. Enter your firm's name (or worker's name) and employer identification number (or social security number) at the top of each additional sheet attached to this form.

Form SS-8

Part I General Information

1 This form is being completed by: Firm Worker; for services performed _____ to _____ (beginning date) (ending date)

2 Explain your reason(s) for filing this form (for example, you received a bill from the IRS, you believe you erroneously received a Form 1099 or Form W-2, you are unable to get workers' compensation benefits, or you were audited or are being audited by the IRS): _____

3 Total number of workers who performed or are performing the same or similar services: _____

4 How did the worker obtain the job? Application Bid Employment Agency Other (specify) _____

5 Attach copies of all supporting documentation (for example, contracts, invoices, receipts, Forms W-9 or Forms 1099-MISC issued or received, IRS closing agreements or IRS rulings). In addition, please inform us of any current or past litigation concerning the worker's status. If no income reporting forms (Form 1099-MISC or W-2) were furnished to the worker, enter the amount of income earned for the year(s) at issue: \$ _____
If both Form W-2 and Form 1099-MISC were issued or received, explain why.

6 Describe the firm's business: _____

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 161061 Form SS-8 (Rev. 5-2014)

Form SS-8

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Part I General Information (continued)

7 If the worker received pay from more than one entity because of an event such as the sale, merger, acquisition, or reorganization of the firm for whom the services are performed, provide the following: Name of the firm's previous owner:
 Previous owner's taxpayer identification number: _____ Change was a: Sale Merger Acquisition Reorganization
 Other (specify) _____
 Description of above change: _____
 Date of change (MM/DD/YYYY): _____

8 Describe the work done by the worker and provide the worker's job title: _____

9 Explain why you believe the worker is an employee or an independent contractor: _____

10 Did the worker perform services for the firm in any capacity before providing the services that are the subject of this determination request?
 Yes No N/A
 If "Yes," what were the dates of the prior service? _____
 If "Yes," explain the differences, if any, between the current and prior service: _____

11 If the work is done under a written agreement between the firm and the worker, attach a copy (preferably signed by both parties). Describe the terms and conditions of the work arrangement: _____

Form SS-8

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Part II Behavioral Control (Provide names and titles of specific individuals, if applicable.)

1 What specific training and/or instruction is the worker given by the firm? _____

2 How does the worker receive work assignments? _____

3 Who determines the methods by which the assignments are performed? _____

4 Who is the worker required to contact if problems or complaints arise and who is responsible for their resolution? _____

5 What types of reports are required from the worker? Attach examples: _____

6 Describe the worker's daily routine such as his or her schedule or hours: _____

7 At what location(s) does the worker perform services (for example, firm's premises, own shop or office, home, customer's location)? Indicate the appropriate percentage of time the worker spends in each location, if more than one: _____

8 Describe any meetings the worker is required to attend and any penalties for not attending (for example, sales meetings, monthly meetings, staff meetings): _____

9 Is the worker required to provide the services personally? _____ Yes No

10 If substitutes or helpers are needed, who hires them? _____ Yes No

11 If the worker hires the substitutes or helpers, is approval required? _____ Yes No
 If "Yes," by whom? _____

12 Who pays the substitutes or helpers? _____ Yes No

13 Is the worker reimbursed if the worker pays the substitutes or helpers? _____ Yes No
 If "Yes," by whom? _____

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Form SS-8

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Part III Financial Control (Provide names and titles of specific individuals, if applicable.)

1 List the supplies, equipment, materials, and property provided by each party:
 The firm: _____
 The worker: _____
 Other party: _____

2 Does the worker lease equipment, space, or a facility? _____ Yes No
 If "Yes," what are the terms of the lease? (Attach a copy or explanatory statement.) _____

3 What expenses are incurred by the worker in the performance of services for the firm? _____

4 Specify which, if any, expenses are reimbursed by:
 The firm: _____
 Other party: _____

5 Type of pay the worker receives: Salary Commission Hourly Wage Piece Work
 Lump Sum Other (specify) _____
 If type of pay is commission, and the firm guarantees a minimum amount of pay, specify amount: \$ _____

6 Is the worker allowed a drawing account for advances? _____ Yes No
 If "Yes," how often? _____
 Specify any restrictions: _____

7 Whom does the customer pay? _____ Firm Worker
 If worker, does the worker pay the total amount to the firm? Yes No If "No," explain: _____

8 Does the firm carry workers' compensation insurance on the worker? _____ Yes No

9 What economic loss or financial risk, if any, can the worker incur beyond the normal loss of salary (for example, loss or damage of equipment, material)? _____

10 Does the worker establish the level of payment for the services provided or the products sold? _____ Yes No
 If "No," who does? _____

Form SS-8

Part IV Relationship of the Worker and Firm

- 1 Please check the benefits available to the worker: Paid vacations Sick pay Paid holidays
 Personal days Pensions Insurance benefits Bonuses
 Other (specify) _____ Yes No
- 2 Can the relationship be terminated by either party without incurring liability or penalty? Yes No
 If "No," explain your answer: _____
- 3 Did the worker perform similar services for others during the time period entered in Part I, line 17? Yes No
 If "Yes," is the worker required to get approval from the firm? Yes No
- 4 Describe any agreements prohibiting competition between the worker and the firm while the worker is performing services or during any later period. Attach any available documentation: _____
- 5 Is the worker a member of a union? Yes No
- 6 What type of advertising, if any, does the worker do (for example, a business listing in a directory or business cards)? Provide copies, if applicable: _____
- 7 If the worker assembles or processes a product at home, who provides the materials and instructions or pattern? _____
- 8 What does the worker do with the finished product (for example, return it to the firm, provide it to another party, or sell it)? _____
- 9 How does the firm represent the worker to its customers (for example, employee, partner, representative, or contractor), and under whose business name does the worker perform these services? _____
- 10 If the worker no longer performs services for the firm, how did the relationship end (for example, worker quit or was fired, job completed, contract ended, firm or worker went out of business)? _____

Form SS-8 (Rev. 5-2014)

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Part V For Service Providers or Salespersons, Complete this part if the worker provided a service directly to customers or is a salesperson.

- 1 What are the worker's responsibilities in soliciting new customers? _____
- 2 Who provides the worker with leads to prospective customers? _____
- 3 Describe any reporting requirements pertaining to the leads: _____
- 4 What terms and conditions of sale, if any, are required by the firm? Yes No
- 5 Are orders submitted to and subject to approval by the firm? Yes No
- 6 Who determines the worker's territory? Yes No
- 7 Did the worker pay for the privilege of serving customers on the route or in the territory? Yes No
 If "Yes," how much did the worker pay? \$ _____
- 8 Whom does the worker sell the product (for example, in a home, retail establishment)? _____
- 9 List the product and/or services distributed by the worker (for example, meat, vegetables, fruit, bakery products, beverages, or laundry or dry cleaning services). If more than one type of product and/or service is distributed, specify the principal one. _____
- 10 Does the worker sell life insurance full time? Yes No
- 11 Does the worker sell other types of insurance for the firm? Yes No
 If "Yes," enter the percentage of the worker's total working time spent in selling other types of insurance: % _____
- 12 If the worker solicits orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments, enter the percentage of the worker's time spent in the solicitation: % _____
- 13 Is the merchandise purchased by the customers for resale or use in their business operations? Yes No
 Describe the merchandise and state whether it is equipment installed on the customers' premises: _____

Sign Here

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and to the best of my knowledge and belief, the facts presented are true, correct, and complete. Title _____ Date _____
Type or print name below signature: _____

Form SS-8 (Rev. 5-2014)

Misclassification Consequences

- Liable for workers' payroll taxes, rate of 100%
- <http://www.dol.gov/whd/workers/misclassification/#stateDetails>
- Unpaid overtime
- Unpaid taxes
- Un-provided benefits
- A discrimination claim, or claims under other laws that protect employees but not contractors (i.e., the FMLA)
- Possible workman compensation issues

Filing Requirements W-2 2017 (2016 Tax Year)

- New due date for filing with SSA
- The due date for filing 2016 Forms W-2, W-2AS, W-2CM, W-2GU, W-2VI, W-3 and W-3SS with the SSA is now January 31, 2017 whether you file using paper forms or electronically
- Extensions of time to file Form W-2 with the SSA are no longer automatic
- For filings due on or after January 1, 2017, you may request one 30-day extension to file Form W-2 by submitting a complete application on Form 8809, Application for Extension of Time to File Information Returns, including a detailed explanation of why you need additional time and signed under penalties of perjury
- The IRS will only grant the extension in extraordinary circumstances or catastrophe

Filing Requirements Forms 1099 Misc 2017 (2016 Tax Year)

- New filing date
 - The PATH Act requires Form 1099-MISC to be filed on or before January 31, 2017, when you are reporting nonemployee compensation payments in box 7
 - Note they are due to IRS the same day as they are due to the entity
- Other 1099 forms, file by February 28, 2017, if you file on paper, or by March 31, 2017, if you file electronically
 - The due dates for furnishing payee statements remain the same
- Exceptions to reporting
 - New exceptions to reporting were added by P.L. 114-14 (compensation for disability or survivor's benefits for public safety officers) and P.L. 114-113 (compensation for wrongful incarceration)

W-2 Penalties

- Penalties have increased
- Higher penalties apply for:
 - Failure to file correct Forms W-2 by the due date,
 - Intentional disregard of filing requirements,
 - Failure to furnish Forms W-2, and
 - Intentional disregard of payee statement requirements
- The higher penalty amounts apply to returns required to be filed after December 31, 2015 and are indexed for inflation
- New penalty safe harbor
 - Forms W-2 with incorrect dollar amounts may fall under a new safe harbor for certain de minimis errors

Backup Withholding Issues
<ul style="list-style-type: none">• Payments Subject to Backup Withholding<ul style="list-style-type: none">– Rents, non-employee compensation for services, royalties, reportable gross proceeds paid to attorneys, and other fixed or determinable gains, profits, or income payments that are reportable on Form 1099-MISC, Miscellaneous Income– Backup withholding does not apply to wages or pension payments• Requirement for Payer To Secure a TIN<ul style="list-style-type: none">– For all payees, you must make an initial solicitation for a TIN when the payee opens an account or when the transaction occurs– Use Form W-9, Request for Taxpayer Identification Number, to request the taxpayer identification number

Backup Withholding Issues
<ul style="list-style-type: none">• The payer must withhold at a flat 28% rate in the following situations:• No TIN is provided• The IRS notifies the payer that the TIN provided is incorrect• The IRS notifies the payer to start withholding on interest or dividends because the taxpayer has underreported interest or dividends on the income tax return• The IRS will do this only after it has mailed the taxpayer four notices over at least a 120-day period• Failure to certify that an individual is not subject to backup withholding for underreporting of interest and dividends• Form 945, Annual Return of Withheld Federal Income Tax is used to report Backup Withholding<ul style="list-style-type: none">– Deposit rules may apply

Changes to the Iowa Farm and Urban Tax Schools
<ul style="list-style-type: none">• It has been a season of change – this is good• Our Fall and Winter Tax Schools are changing – this is good• September 9, 2016 – Farm Tax Seminar• All Farm issues All day• For the winter tax schools, farm issues may come up but we will center on other issues important to your practice, including ethics for early bird attendees at some sessions

Please Welcome

Phil Harris

- Professor, Agricultural and Applied Economics – University of Wisconsin- Madison
 - J.D., University of Chicago, 1977
 - M.A., Economics, University of Chicago, 1975
 - B.S., Economics, Iowa State University, 1973
- His research program focuses on business and tax planning for agricultural producers
- The program includes information on the choice of entity for organizing a farm business and for transferring a farm business to the next generation
- Income, estate and gift tax consequences as well as non-tax issues

Phil Harris

Phil Harris



CALT Speaker

- September 9, 2016 Farm Tax Seminar
- The session will also be available via webinar
- Instructor – Farm and Urban Tax School
- November 21 – 22 – Waterloo
- December 12 – 13 - Ames

Fall Tax Schools

- Though they are named the Farm and Urban Tax Schools the schools cover more than farm issues
- Common return issues for all kinds of returns are covered
- All kinds of business entities
- Problematic issues
- Sometimes we even get into to issues that you many encounter only once or twice a year or tax season
- The Tax Schools are a blend of diverse topics of interest to all tax professionals
- This year: New instructors with diverse backgrounds
- Your adventure awaits at Iowa State's Center for Agricultural Law and Taxation

Farm Tax Schools 2016

- November 2, 2016 to December 13, 2016
- 8 Locations in Iowa and Online Webinar
- Save the Date for the 2016 Annual Farm and Urban Income Tax Schools
- The program is intended for tax professionals and is designed to provide up-to-date training on current tax law and regulations
 - November 2-3: Maquoketa
 - November 7-8: Red Oak
 - November 9-10: Sheldon
 - November 14-15: Mason City
 - November 17-18: Ottumwa
 - November 21-22: Waterloo
 - December 5-6: Denison
 - December 12-13: Ames and Live Webinar

Summer Webinars

- S Corporation Reasonable Compensation
- ABLE Accounts
- Travel, Meals and Entertainment
- Preparing for a Gambling Audit
- Your Client Dies, What's Next?
- Innocent Spouse
- Above the Line Deductions
- Roth IRA's
- Net Operating Losses
- The Portability Election
- IRS Return Preparer Penalties Overview
- Miscellaneous Income
- New Developments

Summer Webinars

- Cancellation of Debt
- Tax Research with Limited Resources
- Injured Spouse
- IRS Representation
- Let's Talk Dependents
- Inventory Issues
- Preparing for an IRS Audit
- Getting your Client Right with IRS
- Appeals – How to Write Your Appeals Request
- Start Up Costs
- Hobby Losses

Beginning Tax Preparers Class

- CALT is working on offering a basic class for NEW tax preparers this fall in October
- The week long webinar will cover the basics an individual needs to know such as:
 - Requirement to file
 - Dependents
 - Filing Status
 - Itemized deductions
 - Earned Income Tax
 - Education Credits
- Other issues a first or second year preparer needs to know as well as a refresher for others who need to brush up on issues
- The class will be a week long or more and will be offered at a special rate

The Scoop

- Throughout the filing season two Scoops will be held on Scoop Dates
 - 8:00 – 8:30 am Central time
 - 12:00 – 12:30 Central time
- This assists with accommodating our west coast practitioners
- The same information will be shared at both sessions
- You have the option of registering for whatever session suits your schedule
- <https://www.calt.iastate.edu/calendar-node-field-seminar-date/month>

Future Scoop Dates

- May 25, 2016
- June 22, 2016
- July 6, 2016
- July 20, 2016
- August 24, 2016
- September 7, 2016
- October 5, 2016
- October 19, 2016
- November 16, 2016
- December 14, 2016
- <http://www.calt.iastate.edu/calendar-node-field-seminar-date/month>

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