Form **SS-8**(Rev. June 2003)
Department of the Treasury

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

OMB No. 1545-0004

Nan								
Name of firm (or person) for whom the worker performed services			Worker's name					
Firm	n's address (include street address, apt.	or suite no., city, state, and ZIP code)	Worker's address (include street address, apt. or suite no., city, state, and ZIP code)					
Trac	de name		Telephone number (include area code) Worker's social security number					
Tele	ephone number (include area code)	Firm's employer identification number	Worker's employer identification number	(if any)				
( If th	) ne worker is paid by a firm other tha	l ::  an the one listed on this form for thes	e services, enter the name, address, ar	nd employer identification number				
	he payer.							
		Important Information Neede	•					
	parties involved with this request. If you answered "No" or did not no	Do we have your permission to d nark a box, we will not process you	request and will not issue a determin					
		irk them "Unknown" or "Does not	apply." If you need more space, attac	ch another sheet.				
Α	This form is being completed by:	☐ Firm ☐ Worker; for servic	es performed(beginning date)	to (ending date)				
В		empensation benefits, you were audi	the IRS, you believe you received a Forted or are being audited by the IRS).					
С		formed or are performing the same						
	How did the worker obtain the job			Other (specify)				
Ε	Attach copies of all supporting documentation (contracts, invoices, memos, Forms W-2, Forms 1099, IRS closing agreements, IRS rulings, etc.). 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 \$							
_	W-2) were furnished to the worke	r, enter the amount of income earne	ed for the year(s) at issue \$	DORTING FORMS (FORM 1099-MISC OF				
F	W-2) were furnished to the worke		ed for the year(s) at issue \$	oorting forms (Form 1099-MISC or				
F	W-2) were furnished to the worke Describe the firm's business	r, enter the amount of income earne	ed for the year(s) at issue \$					
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G	W-2) were furnished to the worke Describe the firm's business.  Describe the work done by the worked the worke	or the firm before getting this position he prior service?	t contractor.	. Yes No N/A				
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Pa	rt I Behavioral Control		
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 (i.e., schedule, hours, etc.).		
7	At what location(s) does the worker perform services (e.g., firm's premises, own shop or office, home, customer's location, etc.)?		
8	Describe any meetings the worker is required to attend and any penalties for not attending (e.g., sales meetings, monthly meeting meetings, etc.).	s, sta	aff
9	Is the worker required to provide the services personally?		No
10	If substitutes or helpers are needed, who hires them?		
11			
	If "Yes," by whom?		
12 13	Who pays the substitutes or helpers?  Is the worker reimbursed if the worker pays the substitutes or helpers?		
13	If "Yes," by whom?		NO
Pai	rt II Financial Control		
1	List the supplies, equipment, materials, and property provided by each party:		
	The firm		
	The worker		
_	Other party		
2	Does the worker lease equipment?		
	if res, what are the terms of the lease? (Attach a copy of 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		
	☐ 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?		
	If "Yes," how often?  Specify any restrictions.		
_	When does the system of the Control		
7	Whom does the customer pay?		
	ii worker, does the worker pay the total amount to the firm: res no no, explain.		
8	Does the firm carry worker's compensation insurance on the worker?		No
9	What economic loss or financial risk, if any, can the worker incur beyond the normal loss of salary (e.g., loss or damage of equipped material, etc.)?	nent,	

Par	t III	Relationship of the Worker and Firm					
1	List the	e benefits available to the worker (e.g., paid vacations, sick pay, pensions, bonuses).					
2	If "No,"	e relationship be terminated by either party without incurring liability or penalty?	. [		Yes		No
3	Does tl	he worker perform similar services for others?	. [		Yes		No No
4	Describ period.	be any agreements prohibiting competition between the worker and the firm while the worker is performing ser . Attach any available documentation.	rvices	s or	durin	g any	later
5 6	Is the w	worker a member of a union?	. [ vide c	opi	<b>Yes</b> es, if a	pplic	<b>No</b> able.
7	If the w	worker assembles or processes a product at home, who provides the materials and instructions or pattern?					
8	What d	does the worker do with the finished product (e.g., return it to the firm, provide it to another party, or sell it)?					
9	How de	oes the firm represent the worker to its customers (e.g., employee, partner, representative, or contractor)? _					
10		worker no longer performs services for the firm, how did the relationship end?					
Par	t IV	For Service Providers or Salespersons—Complete this part if the worker provided a customers or is a salesperson.	ser	vic	e dir	ectly	y to
1	What a	are the worker's responsibilities in soliciting new customers?					
2	Describ	rovides the worker with leads to prospective customers? be any reporting requirements pertaining to the leads.					
4		erms and conditions of sale, if any, are required by the firm?					
5		ders submitted to and subject to approval by the firm?					No
6		etermines the worker's territory?					
7	If "Yes	e worker pay for the privilege of serving customers on the route or in the territory?					
8		," how much did the worker pay?					
9	service	e product and/or services distributed by the worker (e.g., meat, vegetables, fruit, bakery products, beverages, ces). If more than one type of product and/or service is distributed, specify the principal one.	r lau	ndr	y or dr	y clea	aning
10		he worker sell life insurance full time?	_	_			No
11		he worker sell other types of insurance for the firm?					No
		," enter the percentage of the worker's total working time spent in selling other types of insurance					_%
12		vorker solicits orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar shments, enter the percentage of the worker's time spent in the solicitation.					_%
13	Is the r	merchandise purchased by the customers for resale or use in their business operations?	. [				
Par	t V	Signature (see page 4)					
		es of perjury, I declare that I have examined this request, including accompanying documents, and to the best of my know true, correct, and complete.	vledg	e ar	nd belie	f, the	facts
Signat	ure ► _	Title ► Date ■	-				

# **General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

# **Purpose**

Firms and workers file Form SS-8 to request a determination of the status of a worker for purposes of Federal employment taxes and income tax withholding.

A Form SS-8 determination may be requested only in order to resolve Federal tax matters. If Form SS-8 is submitted for a tax year for which the statute of limitations on the tax return has expired, a determination letter will not be issued. The statute of limitations expires 3 years from the due date of the tax return or the date filed, whichever is later.

The IRS does not issue a determination letter for proposed transactions or on hypothetical situations. We may, however, issue an information letter when it is considered appropriate.

### **Definition**

Firm. For the purposes of this form, the term "firm" means any individual, business enterprise, organization, state, or other entity for which a worker has performed services. The firm may or may not have paid the worker directly for these services. If the firm was not responsible for payment for services, be sure to enter the name, address, and employer identification number of the payer on the first page of Form SS-8 below the identifying information for the firm and the worker.

### The SS-8 Determination Process

The IRS will acknowledge the receipt of your Form SS-8. Because there are usually two (or more) parties who could be affected by a determination of employment status, the IRS attempts to get information from all parties involved by sending those parties blank Forms SS-8 for completion. The case will be assigned to a technician who will review the facts, apply the law, and render a decision. The technician may ask for additional information from the requestor, from other involved parties, or from third parties that could help clarify the work relationship before rendering a decision. The IRS will generally issue a formal determination to the firm or payer (if that is a different entity), and will send a copy to the worker. A determination letter applies only to a worker (or a class of workers) requesting it, and the decision is binding on the IRS. In certain cases, a formal determination will not be issued. Instead, an information letter may be issued. Although an information letter is advisory only and is not binding on the IRS, it may be used to assist the worker to fulfill his or her Federal tax obligations.

Neither the SS-8 determination process nor the review of any records in connection with the determination constitutes an examination (audit) of any Federal tax return. If the periods under consideration have previously been examined, the SS-8 determination process will not constitute a reexamination under IRS reopening procedures. Because this is not an examination of any Federal tax return, the appeal rights available in connection with an examination do not apply to an SS-8 determination. However, if you disagree with a determination and you have additional information concerning the work relationship that you believe was not previously considered, you may request that the determining office reconsider the determination.

# Completing Form SS-8

Answer all questions as completely as possible. Attach additional sheets if you need more space. Provide information for all years the worker provided services for the firm. Determinations are based on the entire relationship between the firm and the worker.

Additional copies of this form may be obtained by calling 1-800-829-4933 or from the IRS website at www.irs.gov.

#### Fee

There is no fee for requesting an SS-8 determination letter.

## Signature

Form SS-8 must be signed and dated by the taxpayer. A stamped signature will not be accepted.

The person who signs for a corporation must be an officer of the corporation who has personal knowledge of the facts. If the corporation is a member of an affiliated group filing a consolidated return, it must be signed by an officer of the common parent of the group.

The person signing for a trust, partnership, or limited liability company must be, respectively, a trustee, general partner, or member-manager who has personal knowledge of the facts.

## Where To File

Send the completed Form SS-8 to the address listed below for the firm's location. However, for cases involving Federal agencies, send Form SS-8 to the Internal Revenue Service, Attn: CC:CORP:T:C, Ben Franklin Station, P.O. Box 7604, Washington, DC 20044.

#### Firm's location:

#### Send to:

Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming, American Samoa, Guam, Puerto Rico, U.S. Virgin Islands

Internal Revenue Service SS-8 Determinations P.O. Box 630 Stop 631 Holtsville, NY 11742-0630

Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, all other locations not listed

Internal Revenue Service SS-8 Determinations 40 Lakemont Road Newport, VT 05855-1555

#### Instructions for Workers

If you are requesting a determination for more than one firm, complete a separate Form SS-8 for each firm.



Form SS-8 is not a claim for refund of social security and Medicare taxes or Federal income tax withholding.

If the IRS determines that you are an employee, you are responsible for filing an amended return for any corrections related to this decision. A determination that a worker is an employee does not necessarily reduce any current or prior tax liability. For more information, call 1-800-829-1040.

Time for filing a claim for refund. Generally, you must file your claim for a credit or refund within 3 years from the date your original return was filed or within 2 years from the date the tax was paid, whichever is later.

Filing Form SS-8 does not prevent the expiration of the time in which a claim for a refund must be filed. If you are concerned about a refund, and the statute of limitations for filing a claim for refund for the year(s) at issue has not yet expired, you should file Form 1040X, Amended U.S. Individual Income Tax Return, to protect your statute of limitations. File a separate Form 1040X for each year.

On the Form 1040X you file, do not complete lines 1 through 24 on the form. Write "Protective Claim" at the top of the form, sign and date it. In addition, you should enter the following statement in Part II, Explanation of Changes to Income, Deductions, and Credits: "Filed Form SS-8 with the Internal Revenue Service Office in (Holtsville, NY; Newport, VT; or Washington, DC; as appropriate). By filing this protective claim, I reserve the right to file a claim for any refund that may be due after a determination of my employment tax status has been completed."

Filing Form SS-8 does not alter the requirement to timely file an income tax return. Do not delay filing your tax return in anticipation of an answer to your SS-8 request. In addition, if applicable, do not delay in responding to a request for payment while waiting for a determination of your worker status.

# Instructions for Firms

If a worker has requested a determination of his or her status while working for you, you will receive a request from the IRS to complete a Form SS-8. In cases of this type, the IRS usually gives each party an opportunity to present a statement of the facts because any decision will affect the employment tax status of the parties. Failure to respond to this request will not prevent the IRS from issuing a determination letter based on the information he or she has made available so that the worker may fulfill his or her Federal tax obligations. However, the information that you provide is extremely valuable in determining the status of the worker

If you are requesting a determination for a particular class of worker, complete the form for one individual who is representative of the class of workers whose status is in question. If you want a written determination for more than one class of workers, complete a separate Form SS-8 for one worker from each class whose status is typical of that class. A written determination for any worker will apply to other workers of the same class if the facts are not materially different for these workers. Please provide a list of names and addresses of all workers potentially affected by this determination.

If you have a reasonable basis for not treating a worker as an employee, you may be relieved from having to pay employment taxes for that worker under section 530 of the 1978 Revenue Act. However, this relief provision cannot be considered in conjunction with a Form SS-8 determination because the determination does not constitute an examination of any tax return. For more information regarding section 530 of the 1978 Revenue Act and to determine if you qualify for relief under this section, you may visit the IRS website at www.irs.gov.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. This information will be used to determine the employment status of the worker(s) described on the form. Subtitle C, Employment Taxes, of the Internal Revenue Code imposes employment taxes on wages. Sections 3121(d), 3306(a), and 3401(c) and (d) and the related regulations define employee and employer for purposes of employment taxes imposed under Subtitle C. Section 6001 authorizes the IRS to request information needed to determine if a worker(s) or firm is subject to these taxes. Section 6109 requires you to provide your taxpayer identification number. Neither workers nor firms are required to request a status determination, but if you choose to do so, you must provide the information requested on this form. Failure to provide the requested information may prevent us from making a status determination. If any worker or the firm has requested a status determination and you are being asked to provide information for use in that determination, you are not required to provide the requested information. However, failure to provide such information will prevent the IRS from considering it in making the status determination. Providing false or fraudulent information may subject you to penalties. Routine uses of this information include providing it to the Department of Justice for use in civil and criminal litigation, to the Social Security Administration for the administration of social security programs, and to cities, states, and the District of Columbia for the administration of their tax laws. We may also disclose this information to Federal and state agencies to enforce Federal nontax criminal laws and to combat terrorism. We may provide this information to the affected worker(s) or the firm as part of the status determination process

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 22 hrs.; Learning about the law or the form, 47 min.; and Preparing and sending the form to the IRS, 1 hr., 11 min. If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Products Coordinating Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. Do not send the tax form to this address. Instead, see Where To File on page 4.