

Timber Income Tax

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Tax Implications Of Employment Status

Chapter 12

Tax Implications Of Employment Status

- Employee relationships
- Determining factors –
 - Revenue Ruling 87-41
 - Court rulings
 - Information returns

Employee Relationship

- An individual is an employee if he (she) has status of an employee under the usual common law rules applicable in determining an employer-employee relationship
- This relationship exists if an employer can control and direct, not only the result to be accomplished by the work, but also details and means by which that result is accomplished
- See p 12.1

Contractors

- Independent contractors are generally not subject to a right of control and direction
- IRS Regulations provide that if an employer-employee relationship exists, it is immaterial what it is called
- This distinction is important because employees are subject to FICA, FUTA, and the collection of income tax at wage source
- See p 12.1

Determining Factors

Employer-Employee Relationship – (RR 87-41 – Nos. 1-4)

- Instructions – one who must comply with another's instruction is an employee
- Training – if training is required to do the work, an employment relationship is likely
- Integration – the more a worker is integrated into business, the more likely an employee
- Personal services – tends to indicate employment relationship
- See p 12.1

Determining Factors

(RR 87-41 – Nos. 5-8)

- Hiring – if worker is responsible for his assistants, it is indicative of a contractor
- Continuing relationships – or recurring nature of work suggest employment
- Hours of work – if established by business; this tends to indicate employment
- Full time required – contractors have more freedom when and for whom they work
- Begins on p 12.1

Determining Factors –

(RR 87-41– Nos. -- 9-12)

- Doing work on premises – if required, suggests control by the employer
- Sequence – the more control over the worker, the more employment is suggested
- Reporting – the more reporting required by supervisors indicates employment
- Payment – contractors are more often paid by the job rather than inputs of time

Determining Factors –

(RR 87-41 – Nos. 13-16)

- Travel expenses – employer generally regulates the employee's business activities
- Tools – contractors generally furnish their own tools and materials
- Investments – contractors most often invest in facilities used to perform services
- Profit and loss – a worker who can realize a P&L is generally an independent contractor

Determining Factors –

(RR 87-41 – Nos. 17-20)

- One firm – an independent contractor will often work for more than one business
- Service available to public – indicates the status of an independent contractor
- Discharge – an independent contractor cannot normally be fired if meeting specifications
- Termination -- if a worker can quit without liability it indicates employment

Ruling

- IRS Letter Ruling 8503084 (10/25/84) -- Seedling planters working for a consulting forester were employees due to his directions pursuant to state forestry department specifications
- See also the applicable ruling in the Digest of Selected Court Decisions and IRS Rulings in the Study Materials Section
- See p 12.3

Information Returns

- All persons in business who make payments aggregating \$600 or more to another person in a calendar year must file an information return – Form 1099-MISC
- Return must be filed with the IRS by February 28 of the following year, with a copy to the payee by January 31
- See p 12.3