

Worker Classification: It's Not Just About Gig Workers

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Blurring the Boundaries



Workplace

A place where people work, such as an office or factory.

Employer-provided facilities, equipment, etc.



Home

The place where one lives permanently, especially as a member of a family or household.



Work from Home

Shifting to full-to-part-time work-from-home.

Mix of employer-provided and individually-owned resources.

Worker Classification Criteria

Form SS-8
Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding

OMB No. 1545-0004
For IRS Use Only - Case Number

Department of the Treasury
Internal Revenue Service

Information about Form SS-8 and its separate instructions is at www.irs.gov/ssa

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): _____

Firm's name: _____ Firm's email address: _____ Worker's 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 firm: _____

Disclosure of Information

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

Part 1-4. All items of Form SS-8 must be completed. All questions in Part 1-4. Part 1-4 may be completed if the worker provides a service directly to customers or is 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. Write 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.

Part 1 General Information

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

2. Explain your reason(s) for filing this form (for example, you received a bill from the IRS, you believe you are incorrectly treated as 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 ☐ Ref ☐ Employment Agency ☐ Other (specify): _____

5. Attach copies of all supporting documentation (for example, contracts, invoices, receipts, Form W-2 or Form 1099-MISC issued or received, IRS clearing agreements or IRS rulings) in addition, please attach as if any contract or job description concerning the worker's duties. If no contract or job description is attached, explain why: _____

6. Describe the firm's business: _____

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 101087 Form SS-8 (Rev. 1/2014)

EMPLOYMENT STATUS - A COMPARATIVE APPROACH

Use the common law test, a worker is an employee if the purchaser of that worker's service has the right to direct or control the worker, with as to the time, place, and manner of the work. If an employment relationship exists, it does not matter that the employee is called something different, such as agent, contract labor, subcontractor, or independent contractor.

1. INSTRUCTIONS:
An Employer receives instructions about when, where and how the work is to be performed.
An Independent Contractor does the job for his or her own use with his or her own tools and is not subject to the direction or control of the Employer.

2. TRAINING:
Employees are often trained by a third independent contractor or are required to attend training or take training courses.
An Independent Contractor does his or her own training and does not attend training from the purchaser of the work.

3. INTEGRATION:
Services of an employee are usually integrated into the firm's overall operation. The firm's success depends on those services.
An Independent Contractor's services are usually separate from the firm's business and are not integrated or merged into it.

4. SERVICES RENDERED PERSONALLY:
An Employer's services must be rendered personally. Employees are required to perform the services personally.
An Independent Contractor is not required to perform the services personally. He or she may hire others to perform the services.

5. HIRING, SUPERVISING & PAYING HELPERS:
An Employer may act as a foreman for the employee. If so, the Employer is not the employer. The worker is the employer.
An Independent Contractor does not hire, supervise, or pay helpers.

6. CONTINUING RELATIONSHIP:
An Employer often contracts to work for the Employer on a continuing basis. The Employer is not the employer. The worker is the employer.
An Independent Contractor is not required to work for the Employer on a continuing basis. The Employer is not the employer. The worker is the employer.

7. SET HOURS OF WORK:
An Employer may set work hours. The Employer is not the employer. The worker is the employer.
An Independent Contractor does not set work hours. The Employer is not the employer. The worker is the employer.

8. FULL TIME REQUIRED:
An Employer often requires full time service from the employee. The Employer is not the employer. The worker is the employer.
An Independent Contractor does not require full time service from the Employer. The Employer is not the employer. The worker is the employer.

9. LOCATION WHERE SERVICES PERFORMED:
Employees are required to perform the services at the Employer's location. The Employer is not the employer. The worker is the employer.
An Independent Contractor does not perform the services at the Employer's location. The Employer is not the employer. The worker is the employer.

10. ORDER OR SEQUENCE SET:
An Employer performs services in order or sequence set by the Employer. The Employer is not the employer. The worker is the employer.
An Independent Contractor does not perform services in order or sequence set by the Employer. The Employer is not the employer. The worker is the employer.

11. ORAL OR WRITTEN REPORTS:
An Employer may be required to submit regular oral or written reports about the work to the Employer.
An Independent Contractor is usually not required to submit regular oral or written reports about the work to the Employer.

12. PAYMENT BY THE HOUR, WEEK OR MONTH:
An Employer is typically paid by the Employer in regular amounts at stated intervals, such as by the hour or week.
An Independent Contractor is typically paid by the Employer in irregular amounts at stated intervals, such as by the hour or week.

13. PAYMENT OF BUSINESS & TRAVEL EXPENSE:
An Employer's business and travel expenses are often paid directly or reimbursed to the Employer.
An Independent Contractor normally pays all of his or her own business and travel expenses (other than mileage).

14. FURNISHING TOOLS & EQUIPMENT:
Employees are furnished all necessary tools, materials, and equipment by the Employer.
An Independent Contractor normally provides all of the tools and equipment necessary to perform the job.

15. SIGNIFICANT INVESTMENT:
An Employer generally has little or no investment in the business. The Employer is not the employer. The worker is the employer.
An Independent Contractor usually makes a significant investment in his or her business. The Employer is not the employer. The worker is the employer.

16. REALIZE PROFIT OR LOSS:
An Employer is usually not subject to profit or loss in the business. The Employer is not the employer. The worker is the employer.
An Independent Contractor usually realizes a profit or loss in the business. The Employer is not the employer. The worker is the employer.

17. WORKING FOR MORE THAN ONE FIRM AT A TIME:
An Employer usually works for one Employer at a time and may be prohibited from working for another Employer.
An Independent Contractor often works for more than one Employer at the same time and is not prohibited from working for another Employer.

18. MAKING SERVICE AVAILABLE TO THE PUBLIC:
An Employer does not make his or her services available to the public except through the Employer's company.
An Independent Contractor may advertise, carry business cards, hang out a sign, or make his or her services available to the public.

19. RIGHT TO DISCHARGE WITHOUT LIABILITY:
An Employer can be discharged at any time without liability to the Employer.
An Independent Contractor cannot be discharged at any time without liability to the Employer.

20. RIGHT TO QUIT WITHOUT LIABILITY:
An Employer may quit at any time without liability to the Employer's part.
An Independent Contractor is usually responsible for job completion and, on quitting, becomes liable for breach of contract.



Employees

Form W-2
Wage and Tax Statement

2021

Department of the Treasury - Internal Revenue Service
For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 101540

22222 VOID ☐ Employer's social security number: _____ For Official Use Only - OMB No. 1545-0008

b Employer identification number (EIN): _____

c Employer's name, address, and ZIP code: _____

d Control number: _____

e Employer's first name and initial: _____ Last name: _____ Suffix: _____

f Employer's address and ZIP code: _____

1 Wages, tips, other compensation: _____

2 Federal income tax withheld: _____

3 Social security wages: _____

4 Social security tax withheld: _____

5 Medicare wages and tips: _____

6 Medicare tax withheld: _____

7 Social security tips: _____

8 Allocated tips: _____

9 Dependent care benefits: _____

10 Nonqualified plans: _____

11 Nonqualified plans: _____

12a See instructions for box 12: _____

12b _____

12c _____

12d _____

13 Disability payments: _____

14 Other: _____

15 State Employer's state ID number: _____

16 State wages, tips, etc.: _____

17 State income tax: _____

18 Local wages, tips, etc.: _____

19 Local income tax: _____

20 Locality name: _____

Do Not Cut, Fold, or Staple Forms on This Page

Form 1040
U.S. Individual Income Tax Return

2020

OMB No. 1545-0047 IRS Use Only - Do not write or staple in this space

Filing Status: ☐ Single ☐ Married filing jointly ☐ Married filing separately (MFS) ☐ Head of household (HOH) ☐ Qualifying widow(er) (QW)

If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent: _____

Your first name and middle initial: _____ Last name: _____ Your social security number: _____

If joint return, spouse's first name and middle initial: _____ Last name: _____ Spouse's social security number: _____

Home address (number and street), if you have a P.O. box, see instructions. Apt. no. _____

City, town, or post office. If you have a foreign address, also complete spaces below. State: _____ ZIP code: _____

Foreign country name: _____ Foreign province/state/country: _____ Foreign postal code: _____

At any time during 2020, did you receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual currency? ☐ Yes ☐ No

Standard Deduction: ☐ You as a dependent ☐ Your spouse as a dependent ☐ Spouse itemizes on a separate return or you were a dual status alien

Age/Disability: ☐ You: ☐ Were born before January 2, 1956 ☐ Are blind ☐ Spouse: ☐ Was born before January 2, 1956 ☐ Is blind

Dependents (see instructions):

(1) First name: _____ Last name: _____ (2) Social security number: _____ (3) Relationship to you: _____ (4) If you qualify for (see instructions): ☐ Child tax credit ☐ Credit for other dependents

Attach Sch. B if required: _____

Standard Deduction for: ☐ Single or married filing separately: \$12,000 ☐ Head of household: \$18,000 ☐ Married filing jointly: \$24,000

1 Wages, salaries, tips, etc. Attach Form(s) W-2: _____

2 Tax-exempt interest: _____

3a Qualified dividends: _____

3b Ordinary dividends: _____

4a IRA distributions: _____

4b Taxable amount: _____

5a Pensions and annuities: _____

5b Taxable amount: _____

6a Social security benefits: _____

6b Taxable amount: _____

7 Capital gain or (loss). Attach Schedule D if required. If not required, check here: _____

8 Other income from Schedule 1, line 8: _____

9 Add lines 1, 2b, 3b, 4b, 5b, 6b, 7, and 8. This is your total income: _____

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Form 1040-ES Department of the Treasury Internal Revenue Service	<h1 style="margin: 0;">2021 Estimated Tax</h1>	Payment Voucher 1 OMB No. 1545-0074																								
File only if you are making a payment of estimated tax by check or money order. Mail this voucher with your check or money order payable to "United States Treasury." Write your social security number and "2021 Form 1040-ES" on your check or money order. Do not send cash. Enclose, but do not staple or attach, your payment with this voucher.		Calendar year—Due April 15, 2021 Amount of estimated tax you are paying by check or money order. <table style="width: 100%; border: none;"> <tr> <td style="border: none; width: 80%;"></td> <td style="border: none; width: 10%; text-align: center;">Dollars</td> <td style="border: none; width: 10%; text-align: center;">Cents</td> </tr> <tr> <td style="border: 1px solid black; height: 30px;"></td> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black;"></td> </tr> </table>		Dollars	Cents																					
	Dollars	Cents																								
Pay online at www.irs.gov/efpay Simple. Fast. Secure.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%; text-align: center; vertical-align: middle;">Print or type</td> <td style="width: 45%; padding: 5px;">Your first name and middle initial</td> <td style="width: 30%; padding: 5px;">Your last name</td> <td style="width: 20%; padding: 5px;">Your social security number</td> </tr> <tr> <td></td> <td colspan="3" style="padding: 5px;">If joint payment, complete for spouse</td> </tr> <tr> <td></td> <td style="padding: 5px;">Spouse's first name and middle initial</td> <td style="padding: 5px;">Spouse's last name</td> <td style="padding: 5px;">Spouse's social security number</td> </tr> <tr> <td></td> <td colspan="3" style="padding: 5px;">Address (number, street, and apt. no.)</td> </tr> <tr> <td></td> <td style="padding: 5px;">City, town, or post office. If you have a foreign address, also complete spaces below.</td> <td style="padding: 5px;">State</td> <td style="padding: 5px;">ZIP code</td> </tr> <tr> <td></td> <td style="padding: 5px;">Foreign country name</td> <td style="padding: 5px;">Foreign province/country</td> <td style="padding: 5px;">Foreign postal code</td> </tr> </table>		Print or type	Your first name and middle initial	Your last name	Your social security number		If joint payment, complete for spouse				Spouse's first name and middle initial	Spouse's last name	Spouse's social security number		Address (number, street, and apt. no.)				City, town, or post office. If you have a foreign address, also complete spaces below.	State	ZIP code		Foreign country name	Foreign province/country	Foreign postal code
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	Foreign country name	Foreign province/country	Foreign postal code																							

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Title search: Worker Classification: It's Not Just About Gig Workers

Also available as part of the eCourse

[2021 Taxation eConference](#)

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"Employment Tax Update: Worker Classification, It's Not Just About Gig Workers"