

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:TEGE:ET1 - PLR-110441-00

Date:

January 24, 2001

Key

worker =

firm =

Dear Sir or Madam :

This is in reply to a request for a ruling to determine the federal employment tax status of the above-named worker with respect to services he provided to the firm for the period from February 3, 1997 to February 3, 1999. The federal employment taxes are those imposed by the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and the Collection of Income Tax at Source on Wages.

According to the information submitted, the firm is a federal government entity providing social services in domestic rural and urban areas. The worker was engaged to perform services as an office worker and grant writer. According to the firm, the worker was considered to be an employee.

The firm states that since 1997, it has issued two different types of payments on the worker's behalf. The first being regular allowance payments given with respect to the services performed. The firm issued the worker a Form W-2 with respect to these payments in 1997, 1998, and 1999.

In April and June of 1999, the firm issued two education awards on the worker's behalf to repay student loans. Such awards are issued when an individual has completed an authorized period of national or community service. A Form 1099-MISC was issued to the worker for the amount of these payments. The firm states that these payments are not wages, but are deemed taxable income as a qualified scholarship under Internal Revenue Code 117 or as qualified educational assistance under Code section 127. The firm submitted correspondence between the Internal Revenue Service and the White House addressing the issue. The worker also submitted the same letter in his request for a ruling.

Because the worker's request for a ruling only concerned his employment tax status, this ruling only addresses that status. In that regard, the worker asserted that he was an employee and the firm, in fact, treated the worker as an employee and issued a W-2. We conclude that the worker was an employee of the firm for purposes of the FICA and income tax withholding with respect to the services he performed. No opinion is expressed as to whether the education awards are excludable from income.

Sincerely,
Michael A. Swim
Chief, Employment Tax Branch 1
Office of Division Counsel/Associate
Chief Counsel
(Tax Exempt & Government Entities)