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New Form for Employees Misclassified as Independent Contractors

In 2007 were you an employee whose employer paid you as an independent contractor? Employees usually receive a Form W-2 while independent contractors usually receive a Form 1099-MISC.

Generally, a worker who received a Form 1099 for services provided as an independent contractor must report the income on Schedule C and pay self-employment tax on the net profit using Schedule SE. However, if the worker was actually an employee, rather than an independent contractor, the worker is not required to pay the full self-employment tax, and expenses can only be deducted as an itemized deduction.

Beginning in 2007, Form 8919, Uncollected Social Security and Medicare Tax on Wages, may be used if you were an employee and your employer did not withhold your share these taxes and you meet certain criteria. These taxes will then be credited to your social security records.

To be eligible to use Form 8919 you must meet one of several criteria indicating that you were an employee while performing these services. The criteria include:

- You filed Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, and received a determination letter from the IRS stating that you are an employee of the firm.
- You have been designated as a "section 530 employee" by your employer or by the IRS prior to January 1, 1997.
- You have received other correspondence from the IRS that states you are an employee.
- You were previously treated as an employee by the firm and you are performing services in a similar capacity and under similar direction and control.
- Your co-workers are performing similar services under similar direction and control and are treated as employees.
- Your co-workers are performing similar services under similar direction and control and filed Form SS-8 for the firm and received a determination that they were employees.
- You have filed Form SS-8 with the IRS and have not yet received a reply.

For more information see Form 8919, Uncollected Social Security and Medicare Tax on Wages available on the IRS Web site at IRS.gov or by calling 800-TAX FORM (800-829-3676).

Remember that for the genuine IRS Web site be sure to use .gov. Don't be confused by internet sites that end in .com, .net, .org or other designations instead of .gov. The address of the official IRS governmental Web site is www.irs.gov.

Links:

- [Form 1099-MISC](#), Miscellaneous Income

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