Clark Fletcher

Clark Fletcher, FSLG Specialist - (425) 489-4042

Work Hours – 8:30 to 5:00

- **Hawaii**
- **Oregon**
- **Washington**
- **Northern Mariana Islands**
- **Guam**

SGR1
SGR2
IRS

Objectives

Clark Fletcher

- Determine employment status of volunteers
- Identify other types of employment arrangements
- Determine employment tax liability of third-parties

Internal Revenue Code 3121(d)

1) Corporate officer
2) Common-law employee
3) Statutory employees
4) Section 218 employees

"Control" Standard

The right to direct and control the means and details of the work performed by the service-provider

Definition of "Volunteer"

To enter into or make an offer of or for any service of one's free will, without solicitation or compulsion

Volunteer Firefighters, EMTs, or Other Emergency Service-Providers

Common-Law Employees in a continuing employment relationship

Emergency Services Exclusion

Internal Revenue
Code § 3121(b)(7)(F)(ii)

"… by any individual as an employee serving on a *temporary basis* in case of fire, storm, snow, earthquake, flood, or other similar emergency."

Volunteers

1) Common-Law Employees for services
2) Statutory Employees for working condition fringe benefits

Volunteers as Statutory Employees for working condition fringe benefits

IRC § 132(d) – Working Condition (accountable plan reimbursements)

Volunteer Compensation

Volunteer compensation or benefits generally subject to employment taxes if not excludable working condition fringe benefit.

Volunteer mileage = charitable rate

Employee mileage = business rate

Employment Relationships

- Two-party:
  - Direct exchange of pay for services
- Three-party:
  - Interceding party makes payment or provides services

SGR4

IRS

Types of Employers

Internal Revenue Regs. § 31.3121(d)-2 Common Law Employer	Maintains the right to direct and control workers, not just in what is to be done, but how it is to be done - uses its own EIN
Internal Revenue Code § 3401(d)(1) Deemed Employer	Exercises control over the payment of wages – may use employer's EIN or own EIN, depending if there is contractual arrangement

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Third Party Relationships

- "Deemed" employer – legal control over payment and reporting of wages
- Employer's Agent – contractual control over the payment and reporting of wages
- Leasing employer – contractual control over the payment of wages and services

Employer's Agent

IRC § 3504 Agent Revenue Procedure 2013-39 Treasury Decision 9662	
Payroll Service Provider (PSP) Payroll Reporting Agent (PRA)	Performs same acts as law requires of employers, - uses its own EIN, but includes client's EIN on Forms W-2

Leasing Employers

Professional Employer Organization (PEO)	Provides, by contract with client, certain acts that if not for the contract would have been provided by the employer - uses its own EIN
Temporary Staffing Service (TSS)	Provides employees to clients as temporary workers for the short term - uses its own EIN

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Third-Party Employers

- May incur the tax liability of the common-law employer
- May assume the common-law employer's tax liabilities
- May have separate tax reporting liabilities

IRS

For Additional Information

Clark Fletcher

Federal State and Local Government Specialist

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Thank you for joining us today