

MULTI-LINE SALESMEN - UNINCORPORATED BUSINESS TAX

In determining whether an employer/employee relationship exists, the single most important indicia is the extent of dominion and control exercised over the individual by his principal.

Where an individual works for more than one principal, it must be determined whether sufficient direction and control is exercised by any one of his principals so as to constitute an employer/employee relationship with that principal.

The following factors are to be considered in determining the degree of control exercised by a primary principal and, consequently, whether the employer/employee relationship exists:

- (a) The employer withholds Federal and State income taxes and Social Security taxes.
- (b) The taxpayer is covered by workmen's compensation and disability insurance.
- (c) The taxpayer is included in his principal's pension plan.
- (d) When not traveling, the taxpayer is required to work in his primary principal's place of business.
- (e) The taxpayer is under the supervision of either the sales manager or owner at all times.
- (f) The taxpayer is told when to travel, who to see and what items to promote.
- (g) The taxpayer is required to take vacations during approved periods.
- (h) The taxpayer's primary principal limits the potential customers he can visit for his minor principal.

If the preponderance of evidence establishes that a multi-line salesman works for a principal who exercises the extent of dominion and control over his activities which creates an employer/employee relationship, the taxpayer will be considered to be an employee exempt from the unincorporated business tax in regard to his compensation from such employer.

The above policy was adopted by the State Tax Commission on October 13, 1978.

Also, see matter of Louis Riezman, S.T.C. February 14, 1978 - TSB-H-78-(98)-I..