INDIANA
WORKFORCE
DEVELOPMENT
AND ITS WorkOne CENTERS

TO: Indiana's Workforce Investment System

FROM: Teresa L. Voors
Commissioner, Indiana Department of Workforce Development

THROUGH: Scott Sanders
Chief Financial Officer

DATE: January 2, 2009

SUBJECT: DWD Policy 2008-21
Special Categories of Employees for Unemployment Insurance Tax Liability Purposes

Purpose
To further explain when an individual engaged in certain activities will be considered an employee for purposes of unemployment insurance tax liability

Rescission
None

Contents
In an effort to ensure that an individual engaged in work for an employing unit is reported as an employee, this Indiana Department of Workforce Development (IDWD) policy provides an explanation of when property managers, truckers, individuals engaged in services that are not in the course of a trade or business, and institutionalized persons are considered employees for purposes of unemployment insurance (UI) tax contribution liability. In general, employment is defined by Indiana Code § 22-4-8-1 and IC § 22-4-8-2.

Property Managers
Where a real estate agency:

1. manages property for various property owners under an agency contract; and
2. the agency hires and discharges individuals who maintain such property; and
3. where the individuals are paid from income derived from the respective properties or other income of the owner

the individuals will be considered to be providing services, subject to UI taxes, for the respective property owners.

Truckers
Where an employing unit:

1. contracts with a trucker for the transportation or delivery of its merchandise, and
2. pays such trucker in some way that is not an hourly, salary, or commission basis, and
3. such trucker
    a. furnishes the necessary equipment, and
    b. is in control of the trucker's own time and effort

such individual is not considered to be providing services subject to UI taxes.

Except as provided in IC § 22-4-8-3.5, which relates to the owner-operators providing services to motor carriers, if the employing unit employs such an individual and exercises sufficient control over the time, effort, and/or equipment to render the individual an employee of the employing unit, and compensates the individual both for time and fair rental value of the equipment, the reasonable rental value of the equipment may be determined and deducted for contribution purposes in cases where no agreement has been made for the allocation of any portion of such payments as rental equipment.

Individuals providing services not in the course of an employing unit's trade or business
Service which does not promote or advance the employing unit's trade or business is excepted from employment unless the cash remuneration paid for such service is performed by an individual in a calendar quarter is $50 or more and the individual is employed in the performance of such service during some portion of a day for at least 24 days in a calendar quarter or in the preceding calendar quarter.

Institutionalized persons
If an inmate of a governmental or nonprofit custodial or penal institution performs services for a nongovernmental, for-profit employer, the service performed by the inmate would be considered as services performed for such employer and would not be excluded.

Review Date
December 31, 2009

Ownership
Director of Unemployment Insurance Tax Administration
Indiana Department of Workforce Development
10 North Senate Avenue
Indianapolis, Indiana 46204
Telephone: 317.233.3150

Effective Date
January 1, 2009

Action
Indiana's workforce investment system will follow the guidance contained in this policy. Directors and managers will ensure that staff who work with this policy's subject matter are aware of the details contained in this policy and follow its guidelines.