

## **Petition to Revoke Allstate Insurance Company’s (Employer) Federal Employment Tax Designation of its Insurance Salespersons as Independent Contractors (IC) Pursuant to IRS Private Letter Ruling 8925018**

Employer previously sought to classify its insurance salespersons as ICs and requested a private letter ruling on the issue. Relying primarily on Rev. Rul. 69-288, the IRS issued a favorable ruling (8925018), finding that (Employer) would not exercise, or have the right to exercise, the amount of control necessary to establish an employer-employee relationship under the common law rules; that IC will not be subject to the requisite control to be considered employees; that operation of the agents’/ICs’ offices will be left to their professional judgment; that ICs will not be subject to Insurer’s/Employer’s supervision or review; nor will they be required to attend meetings or meet quotas.

Since obtaining the favorable letter ruling, Employer has deliberately and openly modified the terms of its relationship with the ICs such that the conditions contemplated by the letter ruling are no longer applicable. The following facts dictate that an employer/employee relationship be recognized and that the ICs no longer be misclassified as independent contractors:

- Employer’s contract with the IC is unilateral. Employer alone can change the terms and conditions at will and, in fact, often does so. IC has no input, nor is input solicited or allowed. Systematic control policies are integrated into these changes.
- This contract no longer provides “the basic framework of the [Employer – IC] relationship” as spelled out in the ruling. Instead, it has become an Employer-controlled document, resulting in irreversible control of all aspects of Employer’s relationship with IC by eliminating IC’s “professional judgment” and the right “to run their agencies in virtually any manner they chose with no direction from Insurer [Employer].”
- Employer, in fact, has production quotas in place and has terminated ICs for not meeting such production quotas, which demonstrates control. (Zipser v. Ewing, 197 F. 2d 728 (2nd Cir. 1952) ).
- Employer mandates certain training which exhibits control. (MFA Mutual Insurance Company v. United States, 314 F.2d 590 (W.D. Mo. 1970) ).
- Employer sets minimum number of work hours and imposes holiday closure schedules, showing control. ( Rev. Rul. 69-287, 1969-1 C.B. 257 ).
- Employer specifically supervises and directs IC as to the time, place and manner of selling insurance. This demonstrates control. (Kershner v. Commissioner, 14 T.C. 168 (1950) ).
- Employer requires IC to submit oral or written reports showing his or her sales activities which exhibits control. ( Rev. Rul. 58-176, 1958-1 C. B 349 ).
- Employer from time to time requires IC to attend scheduled meetings showing control. (Ellison v. Commissioner, 55 T.C. 142 (1970) ).
- Employer’s policy to discharge IC at will demonstrates control. ( Rev. Rul. 58-177, 1958-1 C.B. 351 ).

It is my hope that your office will take the appropriate measures to expeditiously remedy this matter. Thank you in advance for your attention and consideration of this request.

Respectfully yours,

Name: \_\_\_\_\_ or  Name withheld for fear of reprisal.

Street (optional) \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP \_\_\_\_\_