

TaxNewsFlash

United States

No. 2025-010
January 8, 2025

Rev. Rul. 2025-3 and Rev. Proc. 2025-10: Guidance on definition of employee under section 530 of the Revenue Act of 1978

The IRS today issued Rev. Rul. 2025-3 and Rev. Proc. 2025-10, providing clarifications and modifications regarding the application of section 530 of the Revenue Act of 1978, which provides that a taxpayer (employer) will not be liable for federal employment taxes (including Federal Insurance Contributions Act (FICA) taxes, Railroad Retirement Tax Act (RRTA) taxes, Federal Unemployment Tax Act (FUTA) taxes, and income tax withholding), and any related interest or penalties, with respect to an individual or class of workers improperly classified as non-employees, provided certain statutory requirements are met.

- [Rev. Rul. 2025-3](#) addresses the application of section 530 of the Revenue Act of 1978, as well as the application of section 3509 of the Code, which allows an employer to remit unpaid taxes at reduced rates if an employer fails to deduct and withhold income tax or the employee share of FICA tax with respect to any of its employees because the employer treated that employee as a non-employee, to five factual situations. The revenue ruling also addresses whether in those situations, the IRS will issue a Notice of Employment Tax Determination under section 7436 of the Code, which provides that the Tax Court may review certain types of employment tax determinations made by the IRS.
- [Rev. Proc. 2025-10](#) modifies and supersedes Rev. Proc. 85-18, clarifying the definition of an employee under section 530 of the Revenue Act of 1978, the section 530 filing requirement for the filing of required returns, and the reasonable basis safe harbor rules. It also expands on guidelines for determining whether an individual was treated as an employee and incorporates statutory changes to section 530 since 1986.

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