

JGS



New York State Department of Labor
David A. Paterson, Governor
M. Patricia Smith, Commissioner

December 8, 2009

[Redacted]

Re: Request for Opinion
Employment Classification
Rabbi/Teacher
RO-09-0136

Dear [Redacted]

This letter is written in response to the letter received by the Department on October 1, 2009 in which you pose a question regarding the classification of a Rabbi/Teacher in his work for a Jewish Religious Organization. Your letter states that you represent a Jewish Religious Organization for which a Rabbi/Teacher worked in exchange for parsonage payments before he was let go from his position. The Religious Organization neither paid unemployment insurance nor did it withhold any payroll taxes with regard to the Rabbi/Teacher. You admit that the Religious Organization owes the Rabbi/Teacher compensation. In connection with that debt, your letter asks whether the Rabbi/Teacher was an employee of the Religious Organization or whether he was considered self-employed.

Initially, you should be aware that no blanket exemption exists excluding rabbis or religious teachers from the coverage of the New York State Labor Law. Attached please find a copy of a recent opinion letter of this Department which generally outlines the standards used for determining whether an employment relationship exists. Unfortunately, your letter does not provide sufficient information to allow us to determine whether an employment relationship existed between the Rabbi/Teacher and the religious organization. Had the Rabbi/Teacher in fact been an employee of the Religious Organization, under the standards described in the attached letter, it would appear that an underpayment of wages has taken place. Should that be the case, your client should promptly rectify the underpayment by remitting the full payment of all wages owed to the Rabbi/Teacher. If you still require a definitive determination as to the Rabbi/Teacher's status as an employee or independent contractor so that the amount of such payment can be more readily determined, please provide the name, address, and FEIN number of the Religious Organization, as well as the name and address of the Rabbi/Teacher, so that the Department may make such a determination based upon an investigation by the Department's Division of Labor Standards.

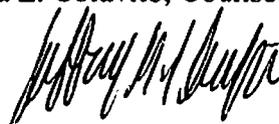
Tel: (518) 457-4380, Fax: (518) 485-1819
W. Averell Harriman State Office Campus, Bldg. 12, Room 509, Albany, NY 12240

This opinion is based on the information provided in your letter dated October 30, 2009. A different opinion might result if the circumstances outlined in your letter change, if the facts provided were not accurate, or if any other relevant fact was not provided. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Maria L. Colavito, Counsel

By:



Jeffrey G. Shapiro
Associate Attorney

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cc: Carmine Ruberto

Enclosure: RO-09-0024