Independent Contractors, Employees, the Entertainment Industry and the IRS

Tax Administration Problem Heads for Hollywood

B. PAUL HUSBAND, MARILYN BARRETT, AND MITCHELL R. MILLER

Introduction

The Internal Revenue Service (IRS) recently began devoting time and attention to tax compliance issues pertinent to the entertainment industry, an industry unquestionably unique in many ways. A Market Segmentation Specialization Program (MSSP)[1] Entertainment Industry Group has been organized by the Internal Revenue Service. Its Branch Chief, Pamela Christensen, said to an entertainment industry audience in December 1992: "The entertainment industry is more unique than any industry I have seen in 18 years [with the Internal Revenue Service]." Apparently, there is truth in the old song lyric: "There's no business like show business."

One of the biggest issues, which is not unique to the entertainment industry, is the proper classification of workers as independent contractors or employees.

For the Entertainment Industry MSSP Group, the employee/independent contractor classification was high on the list of issues to explore. Many practitioners had for years advised their clients, who appeared to them to be independent contractors but who were treated as employees by some or all of their employers, to file returns which reported all compensation on Schedule C, and treat FICA and income tax withholding as though they were estimated tax payments. Such treatment of expenses triggered numerous examinations.

When revenue agents and tax auditors from the Entertainment Industry Group began reclassifying these individuals as employees, the practitioner community and the entertainment clients went wild; the resulting uproar led to headlines like "Is Hollywood on the I.R.S. Hit List?"

Moreover, the unique circumstances of the industry make this not merely a technical tax issue, but matters of life or death for many companies, and gross overtaxation for workers. In this article, we will analyze the classification problem as it relates to the entertainment industry and propose two possible solutions.

What Are the Differences?

The classification of a worker as an "independent contractor" or "employee" has extremely significant tax consequences.[2] If a worker is treated as an employee,

- the employer must pay the Federal Insurance Contributions Act (FICA) Tax (i.e., social security tax) imposed on the employer at the rate of 7.65 percent on compensation up to $57,600 and at the rate of 1.45 percent for amounts from $57,601 to $135,000;
- the employer must withhold and pay to the IRS the employee's FICA tax, which is imposed at the same rates as imposed on an employer;
- the employer must pay the Federal Unemployment Tax Act (FUTA) tax presently imposed at the rate of 6.2 percent on the first $7,000 of wages; and
- the employer will incur significant administrative overhead in fulfilling its obligations to withhold and pay to the government-withheld federal income and payroll taxes.

By contrast, if the worker is treated as an independent contractor,

- the worker is responsible for paying the Self Employment Contribution Act (SECA) tax (which is a tax equal to the combined employer/employee FICA tax);
- the employer is not liable for the employer FICA tax;
- the employer is not liable for withholding and paying over the employee's share of FICA tax;
- the employer is not liable for FUTA tax; and
- the employer is not obligated to calculate, withhold, or pay over to the government the worker's federal income tax.

Not surprisingly, many employers prefer to treat workers as independent contractors because of the lower tax and administrative cost to them. In contrast, the IRS prefers employee classification because it imposes the burden of collection on employers and thereby: (1) increases compliance; (2) results in the collection of additional tax revenues; and (3) accelerates the collection of tax revenues through the withholding system and quarterly to semi-weekly, or more frequent, payments.

Workers also often prefer independent contractor status since a worker's cash flow is improved by avoiding withholding tax as well as FICA and FUTA deduction from payment. Further, for some workers, problems of overwithholding and too much FICA tax being paid to the government as a result of substantial work for multiple employers are solved if the worker is classified and paid as an independent con-

tractor. Their income tax burden is substantially reduced, as tax is due only on their net profits, whereas deductions for expenses such as agents, managers, and attorney's fees may be reduced or even lost if the worker is classified as an employee.[3]

Finally, although most persons seeking independent contractor status are complying taxpayers, there are some individuals who will take advantage of the lack of withholding to avoid filing or paying tax altogether.

How the IRS Decides

The IRS has been very aggressive in classifying workers as employees and collecting unpaid taxes from their employers. In addition, penalties are typically imposed and interest accrues on the assessed liability. Employers frequently face substantial and potentially ruinous liabilities through the reclassification of their workers as employees.[4]

The determination of whether a worker is properly classified as an independent contractor or an employee is made by the so-called "common law test" that focuses on the degree of control by the employer over the worker, and is based on English common law principles. Treasury regulations provide a worker is deemed to be an employee if the employer has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished.[5]

> THE IRS HAS BEEN VERY AGGRESSIVE IN CLASSIFYING WORKERS AS EMPLOYEES AND COLLECTING UNPAID TAXES FROM THEIR EMPLOYERS.

The IRS utilizes a twenty-factor test set forth in Revenue Ruling 87-41 to ascertain whether the requisite control exists. These factors are:

1. the degree that employer's instructions are required to be followed;
2. whether the employer furnishes training;
3. the degree of integration of the work into the employer's general trade or business;
4. whether services must be rendered personally;
5. who has the right to hire, supervise, pay and fire assistants;
6. whether a continuing relationship exists;
7. who has control over hours of work;
8. whether full-time work is required;
9. who has control of place of work;
10. who has control of sequence of work;
11. whether reports are required by an employer;
12. whether payment is based on time or by the job;
13. who pays business and/or travel expenses;
14. who furnishes tools and materials;
15. whether the worker has a significant investment in facilities or equipment;
16. whether the worker has a risk of profit and loss;
17. whether the worker provides services for more than just one firm;
18. whether the worker's services are available to the public;
19. whether the employer has the right to fire without breach of contract liability; and
20. whether the worker has the right to quit without breach of contract liability.

This twenty-factor test, and its application by the IRS Employment Tax Examination Program, has been severely criticized. On November 2, 1992, the House Committee on Government Operations submitted a report entitled "Improving the Administration and Enforcement of Employment Taxes," that states:

> The Internal Revenue Service's ["IRS"] current enforcement practices regarding employment tax present small business taxpayers with a veritable nightmare of problems and policies that defy common sense. Virtually all of the IRS' enforcement efforts, centered in the Employment Tax Examination Program ["ETEP"] which begin in 1988, are focused on a narrow tax compliance issue—worker classifications. The classification issue is based on whether a worker is an employee or independent contractor. Businesses are responsible for filing W-2 Forms, withholding certain taxes, and paying other taxes when a worker is an employee. In other words, it is a salary or wage situation. On the other hand, businesses must report service payments made under a contract with a worker who is an independent contractor to the IRS on Form 1099 MISC. Unfortunately, the Department of the Treasury and the General Accounting Office ["GAO"] have both determined that the multi-factor test used to classify workers as either employees or as independent contractors is too vague to be administered on a consistent basis.[6]

The Employment Tax Enforcement Program (ETEP) focuses almost exclusively on worker classification. According to the House report,[7] since 1988, 6,900 audits have been conducted under ETEP. These audits have proposed tax assessments of $468 million with an average of $68,000 assessed per business examined. The House report went on to note that ETEP had also focused exclusively on businesses with assets of less than $3 million. The report concluded, as did an earlier report,[8] that the twenty-factor common law test required subjective judgments, and was inconsistently applied by the IRS.[9]

The Entertainment Industry—The Employers

As the twenty-factor test is being applied to the entertainment industry, with its unique employment relationships, many classification issues have surfaced for employers.[10] For example, it is not entirely clear whether actors who follow the instructions of a director as to "what to do" are under the control of the director as to "how to do it" and therefore are employees. It is also not clear whether, if they are indeed employees, they are employees of the production company, the producer, or the director. Moreover, many workers on a film production spend only several days on a specific film project and go from project to project. Since there is not a continual relationship as traditionally contemplated in an employment relationship, it is not clear whether such workers should be classified as employees.

Given the difficulty of applying the broad common law test to the particular employment relationships found in the entertainment industry, and the propensity of the IRS to classify workers as employees, major studios adopt a very conservative posture with respect to classification of workers.[11] They tend to classify as many workers as possible as employees to avoid the severe consequences of IRS reclassification.[12] Certain problems are created by such a conservative posture, however. For example, because workers in the entertainment industry often have more than one employer during a given year, excessive FICA taxes may be collected from a given worker, because *each* employer will withhold 7.65 percent of the first $57,600 and at the rate of 1.45 percent for amounts from $57,601 to $135,000 paid in compensation. Similarly, withholding may be excessive.

Smaller producers face similar problems as larger studios, but with an even greater burden than the larger studios because the administrative overhead and increased tax costs have a more significant effect on a small production company. Additionally, in an area in which the application of tax law is uncertain and inconsistent, a mistake by a small production company in classifying workers as independent contractors rather than employees could result in the production company being forced into bankruptcy or out of business if the IRS reclassifies these workers.[13]

The additional costs to producers, both large and small, of classifying workers as employees, with attendant overhead costs of collecting and paying such taxes may well drive production out of the country, thus *both lowering employment* and *decreasing government revenue.*

The Entertainment Industry—The Workers

The present uncertain state of the law concerning employment taxes and its effects upon employers as described above also causes severe hardships for the workers. Employment relationships in the entertainment industry are unique. For example, many workers bear substantial costs of seeking employment, perhaps as much as 35 percent to 40 percent of a worker's total compensation,[14] which are not common to other industries. Entertainment industry workers also commonly bear the expenses of maintaining their job skill levels, expenses which would be borne by employers in other industries. Many workers in the entertainment industry work for multiple employers, although often full-time for a particular employer for a short duration, causing large amounts of excess FICA, the employer's share of which is not recoverable.

MAJOR STUDIOS TEND TO CLASSIFY AS MANY WORKERS AS POSSIBLE AS EMPLOYEES TO AVOID THE SEVERE CONSEQUENCES OF IRS RECLASSIFICATION.

If the expenses are incurred by an independent contractor, they are deductible under Internal Revenue Code section 162 as ordinary and necessary business expenses. However, if the worker is classified as an employee, these expenses would have to be deducted as miscellaneous itemized deductions on Schedule A, and therefore would be subject to the 2 percent floor of adjusted gross income on miscellaneous itemized deductions.[15] More significantly in many cases, for purposes of the alternative minimum tax these employee miscellaneous itemized business deductions are not deductible.[16] Accordingly, such employees can be subjected to substantially higher taxation under the alternative minimum tax[17] than they would incur under the regular tax rates, or than they would incur if classified as independent contractors.

Similarly, as noted above, for independent contractors the social security tax is also substantially reduced, being paid only once and then only on profits *after* full deduction for expenses.[18]

In the entertainment industry, actors, directors, cinematographers, casting directors, composers, set designers, cameramen, lighting technicians, sound mixers, film editors, and others may seem at the beck and call of production companies and therefore controlled by them, which would indicate employee status. However, such workers are generally hired because they have particular skills and abilities. They exercise a very high degree of control them-

selves in the manner in which they perform their services, and they incur substantial business expenses in promoting themselves and developing and maintaining their skills, all of which would indicate independent contractor status. Multiple employers and limited duration of employment for each project also point to independent contractor status.

> A SOLUTION TO THE WORKER CLASSIFICATION PROBLEM IN THE ENTERTAINMENT INDUSTRY NEEDS TO COME FROM CONGRESS.

The twenty-factor test now used by the IRS to determine the degree of control that the employer exercises over the worker simply does not work effectively in the entertainment industry. Some of the twenty factors, such as whether a worker has a significant investment in equipment or whether an employer provides a workplace simply are not as relevant to determining the degree of control over a worker as these factors would be in other industries. Significant investment in tools or equipment is another factor which can be misapplied. The worker who pays 35 percent or more of her gross compensation to obtain employment and manage her career has "invested" at least as much in her job as the plumber with his set of tools. Similarly, the fact that the worker must report to the production location does not distinguish her from the plumber who must work at the customer's home.

This is by no means to say that all entertainment industry workers are legitimate independent contractors, or that some workers do not deliberately take advantage of the ambiguity of the test to claim independent contractor status for income tax purposes but at the same time claim employee status for filing unemployment or worker's compensation purposes. This ambiguity only makes the case for a clarifying change in policy more compelling.

Proposals for Change

A need for change is clear when the systemic difficulties with the present standards for determining whether a worker is an independent contractor or an employee are juxtaposed with the unique employment relationships in the entertainment industry.

In most instances, such a change could be accomplished by the IRS by means of a revenue ruling or regulations; however, in this area Congress explicitly prohibits the IRS from changing its published policy.

Section 530(b) of the Revenue Act of 1978[19] prohibits the IRS from enacting any regulation or revenue ruling "with respect to the employment status of any individual for purposes of the employment taxes." This provision, which was intended to ameliorate the harsh results of reclassification, and which anticipated corrective congressional action, also prevents the IRS from doing anything but continuing to make *ad hoc*, generally unfavorable, decisions. To date, no congressional action has materialized. Thus, a solution to the worker classification problem in the entertainment industry needs to come from Congress, either by way of merely repealing the prohibition against the IRS publishing guidance, or by the enactment of an entirely new legislative scheme.

Proposal One: Change the Twenty-Factor Test of Revenue Ruling 87-41

One possible change, assuming the IRS were permitted to issue new guidance, would be to alter the twenty factors presently used as criteria that fit the industry.

To fairly classify workers in the entertainment industry the following criteria should be used:[20]

1. Whether the worker holds himself/herself out as available to work for any production company; this could be accomplished through the use of an agent, listings in industry directories, placement of ads in the trades, or auditioning for different roles, among other means.
2. Whether the worker is paid a regular, continuous salary (i.e., does the worker get paid even when not working on a specific project).
3. The degree of creativity or uniqueness of skill required by the worker in his/her job; the greater the creativity or uniqueness of the skill, the more likely the worker is an independent contractor.[21]
4. Whether the worker pays his/her own expenses in obtaining employment, managing his/her career, and maintaining his/her overall skills.

By reducing the number of factors and focusing on the more objective factors involved in making the determination, it is likely that both employers and the IRS will be able to make the determination more efficiently and with more agreement. These criteria are easy to reduce to a checklist that can be utilized by IRS personnel.[22]

Proposal Two: The Entertainment Contractor

An alternative solution to achieve greater certainty in this area would be by legislative enactment of a new statutory test and the Internal Revenue Code could be amended to provide for a new definition of "employee" for application in the entertainment industry. Under this proposal:

- All persons employed in the entertainment

industry who qualify as "entertainment contractors who are employed solely for the purpose on a qualified film project" would be treated as independent contractors;

• The term "entertainment contractor" would be defined to include producers, directors, writers, actors, casting directors, composers, set designers, cameramen, lighting technicians, grips, foley personnel, art directors, costume designers, location scouts, sound mixers, film editors, prop designers, caterers, and other persons who exercise a significant degree of control over the manner in which they carry out their obligations;

• The term "qualified film project" would be defined to include any audio-visual film or other medium, or portion thereof, which is produced for exploitation in theaters, amusement parks, commercial carriers, television (including closed circuit, cable and broadcast), commercials, trailers, television spots, specials, featurettes, "promos," "sneaks," corporate training and sales presentations and music videos that are not a part of an ongoing series of interrelated films; a film that is shown in no more than four different segments, such as a television mini-series, would be deemed not to be a series, but a television series intended to be shown on a weekly basis would be considered a television series even if cancelled after four or fewer showings because of low ratings;

• A worker would be employed "solely for the purpose of working on a qualified film project" if that person's employment relationship was evidenced by a written contract which provided for definite compensation (for this purpose, compensation based on a percentage of net or gross profits from the qualified film project for which the worker was hired would be deemed definite); provided for employment of a definite length (completion of the "qualified film project," or any stage thereof, would be considered a definite length of time for this purpose); provided that the worker was responsible for all of his or her own expenses except for those directly related to the project and specified in the contract; and exposed both the worker and the employer to claims for breach of contract if either failed to fulfill their obligations under the contract without just cause;

• Successive contracts would be aggregated so that the employer could not avoid employee classification simply by entering into a series of contracts with the worker; however, two successive contracts would not be aggregated so long as they relate to separate and distinct qualified film projects;

• Employers would be required to file Form 1099s reporting compensation paid to entertainment contractors to the extent such compensation exceeded $600; a substantial penalty would be imposed for failure to do so, as well as backup withholding where appropriate;

• An entertainment contractor would be required to waive unemployment and worker's compensation benefits; and

• Other persons employed by the production company would be subject to the current common law test for employee-independent contractor status.

Conclusion

The House Committee on Government Operations has recognized the need for change in two reports. Concerning the impact on employment, the 1990 House Report[23] recognized potential damage to the government as well as to workers put out of work as a result of misclassification: "Once out of business, the employer would no longer be paying income tax and his former employees would find themselves out of a job. *The future income tax loss to the Treasury could be considerable.*"[24]

The entertainment industry contributes a significant amount to the gross national product and to the health of the national economy by its favorable balance of payments. The country as a whole, and southern California in particular, can ill afford to lose additional jobs or small production companies when production is driven out of the United States as a result of the activity of the Hollywood-focused MSSP.

This article has proposed two alternative methods of resolving the existing difficulties encountered by the government and taxpayers alike in classifying workers as independent contractors or employees. Under either of the proposals, or even if the current common law test is retained, Congress should evaluate an amnesty program under which employers could agree to reclassify workers as employees on a prospective basis but would not be liable for payroll taxes, penalties, and interest for preceding years.

Prompt congressional action is necessary to provide fair tests for the evaluation of workers as independent contractors or as employees in the entertainment industry to ameliorate the excess costs incurred by production companies from overclassification of workers as employees and the debilitating,

PROMPT CONGRESSIONAL ACTION IS NECESSARY TO PROVIDE FAIR TESTS FOR EVALUATING WORKERS AS INDEPENDENT CONTRACTORS OR EMPLOYEES.

and sometimes ruinous, assessment of back payroll taxes, penalties, and interest from the IRS's aggressive and retroactive classification of workers as employees. ■

B. Paul Husband practices entertainment, tax, and equine law as a solo practitioner in Encino, California. He serves on the Executive Committee of the Entertainment Section of the Beverly Hills Bar Association, is a member of the Entertainment Committee of the Tax Section of the Los Angeles County Bar Association and will serve as co-chair of the Tax Section of the San Fernando Valley Bar Association for fiscal 1993–94. Marilyn Barrett is a solo practitioner in Century City specializing in business and tax law, primarily in the entertainment industry. She currently serves as third vice-chair of the Los Angeles County Bar Association Taxation Section and is a member of the Executive Committee of the California State Bar Taxation Section. She served as chair of the Entertainment Tax Committee of the Los Angeles County Bar Association Taxation Section for fiscal year 1991–92. Mitchell R. Miller served as chair of the Entertainment Tax Committee, Los Angeles County Bar Association Tax Section for 1992–93. He is a solo practitioner in Beverly Hills specializing in tax, estate, and business planning and controversy matters.

APPENDIX 1
Revenue Ruling 87-41
Twenty-Factor Test

1. *Instructions.* A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions.****;

2. *Training.* Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner. ****;

3. *Integration.* Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business. ****;

4. *Services Rendered Personally.* If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results. ****;

5. *Hiring, Supervising, and Paying Assistants.* If the person or persons for whom the services are performed hire, supervise and pay assistants, that factor generally shows control over the workers on the job. However, if one worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, this factor indicates an independent contractor status. ****;

6. *Continuing Relationship.* A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals. ****;

7. *Set Hours of Work.* The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control. ****;

8. *Full Time Required.* If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor, on the other hand, is free to work when and for whom he or she chooses. ****;

9. *Doing Work on Employer's Premises.* If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker, especially if the work could be done elsewhere. **** Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom and control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends o the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required. ****;

10. *Order or Sequence Set.* If a worker must perform services in the order or sequence set by the person or persons from whom the services are performed, that factor shows that the worker is not free to follow the worker's own pattern of work but must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if such person or persons retain the

right to do so. ****;

11. *Oral or Written Reports.* A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control. ****;

12. *Payment by Hour, Week, Month.* Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on a straight commission generally indicates that the worker is an independent contractor. ****;

13. *Payment of Business and/or Traveling Expenses.* If the person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities. ****;

14. *Furnishing of Tools and Materials.* The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. ****;

15. *Significant Investment.* If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees (such as the maintenance of an office rented at fair value from an unrelated party), that factor tends to indicate that the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for such facilities and, accordingly, the existence of an employer-employee relationship. **** Special scrutiny is required with respect to certain types of facilities, such as home offices;

16. *Realization of Profit or Loss.* A worker who can realize a profit or suffer a loss as a result of the worker's services (in addition to the profit or loss ordinarily realized by employees) is generally an independent contractor, but the worker who cannot is an employee. **** For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for his or her services, however, is common to both independent contractors and employees and thus does not constitute a sufficient economic risk to support treatment as an independent contractor;

17. *Working for More Than One Firm at a Time.* If a worker performs more than de minimis services for a multiple of unrelated persons or firms at the same time, that factor generally indicates that the worker is an independent contractor. **** However, a worker who performs services for more than one person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

18. *Making Service Available to General Public.* The fact that a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship. ****;

19. *Right to Discharge.* The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications. ****;

20. *Right to Terminate.* If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer-employee relationship. ****

APPENDIX 2
Checklist for Entertainment Independent Contractor Status

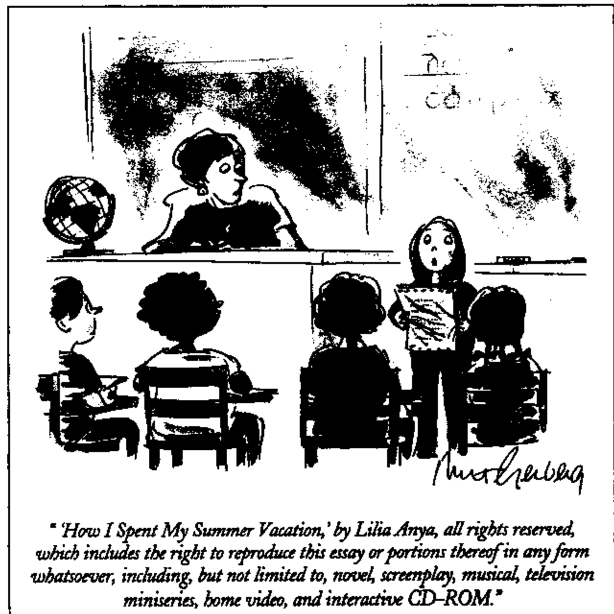
1. Are you listed in industry directories? Please provide copies of your listing.

2. Please provide dates, names of the projects, and the production companies for your last five jobs.

3. Did your compensation continue between those jobs? If so, who paid it?

4. Are you responsible for finding your next project? If not, who is? Do you have an agent?

5. How did you learn your trade? Do you take classes to keep up your skills or with new developments? If so, who pays for them?



"'How I Spent My Summer Vacation,' by Lilia Anya, all rights reserved, which includes the right to reproduce this essay or portions thereof in any form whatsoever, including, but not limited to, novel, screenplay, musical, television miniseries, home video, and interactive CD-ROM."

Drawing by Mort Gerberg. © 1993 The New Yorker Magazine, Inc. All Rights Reserved.