



Do I have a business or hobby under Social Security guidelines?

Social Security is not required to follow IRS guidelines in determining whether an individual has a business. Filing a schedule C for tax purposes is one indication that they use, however they can and do deviate from the guidelines using POMS RS 01802.000. A single indicator is not enough to determine that there is a business, but not all indicators have to be present. There are four primary indicators of a business which follow:

1. The intention to make a profit or produce income. The nature and extent of services are not important, if the person derives their income from the activity, it is a business.
2. Ongoing operations, regular activities or standard transactions (billing, purchasing, etc.) Length of time of the operations is a factor however seasonality of the business also needs to be considered.
3. It is an occupation.
4. Representing to the community that it is a business.

An illegal activity may be a trade or business and must report and pay income and Social Security taxes.

Hobbies are activities in which there may be buying and selling, but the buying and selling involved with a hobby is generally done for the purpose of improving or otherwise furthering the hobby. The purpose is not to produce income.

The following questions are quoted from POMS RS 01802.010 and are the questions SSA Claims Reps. use to determine if the individual has a trade or business.

- Has IRS issued a ruling to the individual regarding the existence of a trade or business?
- What documents has the individual executed? (e.g., SS-4, tax reports or returns, etc.)
- Why does the individual feel the activities constitute a trade or business?
- Associating with other individuals? In what capacity? (i.e. partner, helper etc.)
- What business firms or other organizations did the individual deal with?
- How was income reported on tax return?
- Business licenses, permits, registrations?
- Place of business?
- Indications of availability to others for transacting business?
- Member of business or trade association?
- Other pertinent information?