§ 404.1005

(1) A State, a political subdivision of a State, or an instrumentality of any one or more States or political subdivisions of a State;

(2) An individual who is a resident of the United States;

(3) A partnership, if at least two-thirds of the partners are residents of the United States;

(4) A trust, if all of the trustees are residents of the United States; or

(5) A corporation organized under the laws of the United States or of any State.

(2) American aircraft means an aircraft registered under the laws of the United States.

(3) American vessel means a vessel documented or numbered under the laws of the United States. It also includes a vessel neither documented nor numbered under the laws of the United States, nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States, or corporations organized under the laws of the United States or of any State.

(4) Citizen of the United States includes a citizen of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands.

(5) Foreign affiliate refers to a foreign affiliate as defined in section 3121(l)(6) of the Code.

(6) On and in connection with refers to the performance of work on a vessel or aircraft which concerns the vessel or aircraft. Examples of this kind of work are the services performed on a vessel by employees as officers or crew members, or as employees of concessionaires, of the vessel.

(7) On or in connection with refers to work performed on the vessel or aircraft and to work which concerns the vessel or aircraft but not actually performed on it. For example, shore services in connection with repairing, loading, unloading, or provisioning a vessel performed by employees as officers or crew members, or as employees of concessionaires, of the vessel are included, since this work concerns the vessel though not performed on it.

(8) State refers to the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
§ 404.1006 (relating to corporation officers) or § 404.1008 (relating to workers in four specific jobs). In general, you are a common-law employee if the person you work for may tell you what to do and how, when, and where to do it. The person or firm you work for does not have to give these orders, but needs only the right to do so. Whether or not you are a common-law employee is not always clear. Several aspects of your job arrangement are considered in determining whether you are an employee or are self-employed under the common-law rules.

(b) Factors that show employee status. Some aspects of a job arrangement that may show you are an employee are as follows:

1. The person you work for may fire you.
2. The person you work for furnishes you with tools or equipment and a place to work.
3. You receive training from the person you work for or are required to follow that person’s instructions.
4. You must do the work yourself.
5. You do not hire, supervise, or pay assistants (unless you are employed as a foreman, manager, or supervisor).
6. The person you work for sets your hours of work, requires you to work full-time, or restricts you from doing work for others.
7. The person you work for pays your business or traveling expenses.
8. You are paid by the hour, week or month.

(c) Factors that show self-employed status. Some aspects of a job arrangement or business venture that may show you are self-employed are as follows:

1. You make a profit or suffer a loss.
2. You are hired to complete a certain job and if you quit before the job is completed you may be liable for damages.
3. You work for a number of persons or firms at the same time.
4. You advertise to the general public that you are available to perform services.
5. You pay your own expenses and have your own equipment and work place.

(d) Questions about your status. If there is a question about whether you are working as an employee or are self-employed, we or the Internal Revenue Service will make a determination after examining all of the facts of your case.

§ 404.1008 Agent-driver or commission-driver, full-time life insurance salesman, home worker, or traveling or city salesman.

(a) General. In addition to common-law employees and corporation officers, we consider workers in the four types of jobs described in paragraphs (b) through (e) of this section to be employees if their services are performed under the following conditions:

1. Under the work arrangement the worker is expected to do substantially all of the work personally.
2. The worker must not have a substantial investment in the facilities used to do the work. Facilities include such things as a place to work, storage space, equipment, machinery and office furniture. However, facilities do not include tools, equipment or clothing of the kind usually provided by employees nor transportation such as a car or truck.
3. The work must be performed as part of a continuing work relationship between the worker and the person for whom the work is done. The work performed must not be a single transaction. Part-time and regular seasonal work may be performed as part of a continuing work relationship.

(b) Agent-driver or commission-driver. This is a driver hired by another person to distribute meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services. We consider you an agent-driver or commission-driver if you are paid a commission based on your sales or the difference between the price you charge your customers and the amount you pay for the goods or services. It makes no difference whether you drive your own truck or the company’s truck or whether you solicit the customers you serve.

(c) Full-time life insurance salesman. A full-time life insurance salesman’s main activity is selling life insurance or annuity contracts, or both, mostly for one life insurance company. If you are a full-time life insurance salesman,