



Understanding the Misclassified Driver Model

ATTENTION ENTRY-LEVEL DRIVERS: when you are being interviewed for a driving position, talk to your potential carrier about their employment practices. For example:

Ask how the carrier pays their drivers and if they hire “incorporated drivers” who use the carrier’s equipment? “Ownership of the tools” – in this case a truck – is a key element in the assessment of the degree of independence by Employment and Social Development Canada and the Canada Revenue Agency. Truly autonomous drivers (Owner Operators) are owners or long-term leasers of their truck, while incorporated drivers with no financial stake in their “work tools” will likely be considered employees by regulatory authorities.

Ask the carrier if they make all the appropriate withholdings and pay their share? If the company does not have true Owner Operators, ask if they file tax deductions and payments on behalf of their employees? Also, do they pay the employer’s share of Canada Pension Plan and Employment Insurance? Companies not complying with these requirements are committing serious law violations.

Other valuable questions to ask are:

- Have you ever been audited by occupational health and safety insurance authorities? If so, what was the result?
- How many company trucks do you have?
- Do you use Owner Operators? If so, do they meet the independence criteria of the Canada Revenue Agency and Employment and Social Development Canada?
- Do they have adequate personal insurance?

If you can find a carrier’s job postings online (on their website, job board, etc.), look at their driver compensation packages. If the job posting appears to be for a normal driver position but indicates that

the employer pays the applicable provincial tax or “pays corporations”; this is a signal that the carrier could be a Corporate Misclassified Driver Model.

When drivers who would normally be considered employees incorporate and participate in the Misclassified Driver model, chances are the company you are dealing with is also not paying the occupational health and safety insurance premiums of these drivers. This means that when your company uses these drivers and/or they are on your property, you could put yourself in a precarious situation. Additionally, if you work as an incorporated driver, many of your protections and benefits (i.e. vacation pay, unemployment pay and disability benefits) will not be in place.

If a Misclassified Driver is injured while performing work at your establishment, he/she may try to be compensated, as he/she is probably not covered by insurance. Therefore, you could be subject to prosecution. To limit your risk exposure, we strongly recommend that you ensure that your carriers have coverage for all their workers and that the subcontractors with whom they do business benefit from equivalent personal coverage.

If the company has incorporated drivers, ask if they issue a T4A for tax purposes.

This should be the case if the drivers are incorporated and operate as Personal Services Businesses (PSBs). Remember that even if this is the case, and it is a Misclassified Driver Model (not true Owner Operators), the carrier could still be in violation of labour laws.