

ATTN Shippers:

Ref. OTA (Ontario Trucking Association) Tip Sheet

Talk with your carrier about their labour practices. Ask them how they pay their drivers and if they use 'incorporated drivers' who operate the carrier's equipment?

1. 'Ownership of Assets, Equipment or Tools' – in this case a truck – is a key component of the WSIB's (*Workplace Safety & Insurance Board*), ESDC's (*Employment and Social Development Canada*), and CRA's (*Canada Revenue Agency*) test for independence. True owner-operators (independent contractors) will own or lease their truck while incorporated drivers that do not have a financial stake in their 'tools of the trade' will likely be considered employees by regulatory authorities.

*Ask the carrier if they are making all appropriate source deductions and if they are remitting their share?

2. If the company does not have true owner-operators, ask if they are holding and remitting income tax on behalf of their employees? Are they also paying the employer portion of CPP and EI? Companies not meeting these requirements for their employees are committing serious offences.

*If you can find advertisements for the carrier online (on their website, postings on job boards, etc.), have a look at their pay packages for drivers.

3. If the job is a seemingly normal driving position but indicates that the employer pays "+HST" or they "pay to corporations", this is a signal the carrier may be a Driver Inc. company. When drivers who would normally be considered employees incorporate and participate in Driver Inc., there is a chance the company is not paying the driver's WSIB premiums as well.

This means when your firm utilizes these drivers and/or they are on your property, you might be putting yourself in a precarious position. It is also not unusual for Driver Inc. companies to register a very small percentage of their drivers in order to produce a clearance certificate. To limit your liability exposure, it is good practice to ensure your carriers have coverage for all their workers. If the company has incorporated drivers, ask if they issue each driver a T4A for tax purposes.

4. They should be doing this if their drivers are incorporated and operating as Personal Services Businesses (PSBs). And don't forget – even if this is being done, if these are Driver Inc. drivers, and not true owner-operators – the carrier may still be in violation of labour laws.

Other questions you might want to ask

- Have you ever had a WSIB audit? If so, what was the outcome?
- What is your WSIB certificate number?
- How much did you pay in WSIB premiums last year?
- Please provide proof your Employer Health Tax (EHT) remittances were paid last year.
- For how many employees were the EHT remittance for?
- How many company trucks do you have? And what is your total T4 payroll expense?
- How many CVORs do you operate and what are the numbers?
- Do you use owner-operators? If so, do they pass the CRA, ESDC, and WSIB tests for independence?