

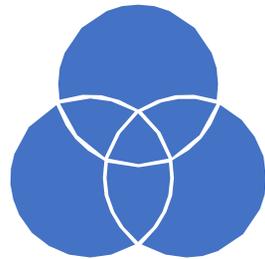
If you choose to be
an Incorporated
Driver You Should
Know.....

Driver Inc Defined

Table of Contents

3. **Explaining Driver Inc**
4. Understanding **Employee vs Contractor**
5. Understanding Employee vs Contractor (Cont.)
6. Scenario #1 – Where **Carrier Requests** Driver to be Incorporated
7. Scenario #2 – Where **Driver Requests** to be Incorporated
8. **What Does the Incorporated Driver Give Up?**
9. **SELF-EMPLOYED INDIVIDUALS Defined-** Excerpted from CRA Document
10. **PERSONAL SERVICES BUSINESS (PSB) Defined** - Excerpted from CRA Document
11. **REPORTING** – Excerpted from CRA Document
12. **Understanding the Wage Components-** Excerpted from CRA Document
13. Understanding the Wage Components- Excerpted from CRA Document (**Employee**)
14. Understanding the Wage Components- Excerpted from CRA Document (**Self Employed**)
15. Understanding the Wage Components- Excerpted from CRA Document (**PSB**)
16. **Consequences of Misclassification for Drivers**
17. Consequences of Misclassification for **Carriers**
18. Consequences of Misclassification for Carriers (Cont.)
19. **Insurance Perspective**
20. Recap

Explaining Driver Inc



- What the Transportation industry refers to as **Driver Inc.** is based on the circumstance that Commercial Vehicle Drivers, who do not own, lease or operate their own vehicle become **incorporated** and receive payment from their Carrier, with no source deductions
- Essentially this model is considered a form of employee misclassification (also in accordance with *Employment Standards Act, 2000 - Ontario Bill 148*)
- The **Canadian Labour Code** also supports this definition in **Bill C-86**, proposed Amendments, Section 443; subsection 167.1-167.2
- Both the Employment Standards Act and Canadian Labour Code stipulate that the Burden of Proof is on the Employer, where there is a complaint pertaining to misclassification

Understanding Employee vs Contractor

Employees

- Employees are entitled to benefits; WSIB & Healthcare + EHT (in Ontario)
- Are paid wages with payroll deductions such as CPP, IE and Income Tax, taken by the employer
- Employer pays (EHT) Employment Health tax 1.95% and WSIB at 6.97%
- 4% - 6% vacation accrual provided through employer
- Employer must pay Statutory Holidays
- Are paid a salary or wages, usually in the same amount regardless of the profitability of the business
- Are usually required to devote their full time and attention to their employer and cannot have side businesses or work elsewhere
- Are provided with all tools and equipment required to do their job — uniform, computer, truck/vehicle/office space, cell phone etc.
- Employees must perform their work themselves and cannot hire someone else to do their job. They are constrained in how they carry out their duties by the direction of the employer (as a Driver, the company usually dictates the lanes and schedules of the employee)



Understanding Employee vs Contractor

Independent Contractor/Incorporated Drivers

- Independent contractors/Incorporated Drivers have no entitlement to benefits, protections or healthcare
- Not covered under WSIB
- Independent contractors invoice the business for their work and make their own remissions to the government — Income tax, HST etc.
- Independent contractors run their own business and can deduct business expenses from their earnings
- Because independent contractors run their own businesses, they assume risk for the business's profitability or losses
- Independent contractors run their own business and therefore, can provide services to multiple clients at one time
- Independent contractors furnish themselves with the tools and equipment they need to perform services for the business (for Drivers, includes owning or leasing their own truck)
- Independent contractors design their own working arrangements, can hire their own employees and can control the way in which they provide services (for Drivers, this may include schedule and lane selection)

Scenario #1 – Where **Carrier** Requests Driver to be Incorporated

Carrier might decide to have incorporated drivers in order to isolate them from the business (Risk Management Strategy; two separate business entities, liability/legal claims are now at arms length)

Carrier might consider, “If they are not an employee, I do not have to take off taxes, WSIB, or pay out in healthcare benefits, etc.

Fleet is taxed at a lower rate than the individual

Carrier might say to Driver, “Why bother being an employee? Incorporate yourself. You can pay less in taxes, keep more money, write off business expenses, etc. We will cover the cost of your incorporation.”

Scenario #2 – Where Driver Requests to be Incorporated

A Driver might feel that as an Incorporated Driver, instead of bringing home \$700 per week (as an example), they get a full \$1000

They might feel a sense of pride and accomplishment, “I own my own business”

They might feel, “I make considerably more money, especially when I consider the business expenses I can write-off and the dollars I am saving in deductions”

Driver might go to Carrier and say; “Will you pay me as a separate business entity?”

This is OK; if the Driver pays the correct amount of taxes (including the employer’s portion of CPP) and is aware of the associated disadvantages (next slide) and risks if they do not adhere to the guidelines defined in the following slides (excerpts from CRA document)

What Does the Incorporated Driver Give Up?



The driver abandons: employee rights (due to their work/pay being moved to a civil issue rather than an employer/employee issue)



Their rights to holiday pay



Pay for workers compensation costs (WSIB)



Employer share of making CPP and EI payments/miscellaneous potential benefits



Only tax benefits: Writing off minimal expenses (nearly always produces less tax savings than the new added employer CPP cost and much higher tax return costs)



It would be advisable for an Owner/Operator (who owns or leases their own truck) to consider the cost:benefit analysis, understand any risks or losses and hire an accountant, prior to becoming Incorporated

SELF-EMPLOYED INDIVIDUALS Defined- Excerpted from CRA Document



If you are a self-employed individual (sometimes referred to as an independent contractor), you will not have income tax, CPP, and EI deducted from amounts paid to you. At year-end, you are responsible for:

- paying all income taxes owing
- paying CPP contributions (equivalent to both the employee and employer portions); and
- paying EI premiums if you entered into an agreement with the Canada Employment Insurance Commission to have access to EI special benefits (maternity, parental, sickness and caregiving benefits)



All amounts paid to you must be reported on a **T4A slip** – Statement of Pension, Retirement, Annuity and Other Income.



For more information, see **Guide RC4157**, Deducting Income Tax on Pension and Other Income, and Filing the T4A Slip and Summary, on the **Canada.ca** website.

PERSONAL SERVICES BUSINESS (PSB)

Defined -
Excerpted
from CRA
Document

You may choose to incorporate; however, if you would normally be an employee if it were not for the existence of the corporation, the CRA will consider you a personal services business (PSB). This is sometimes referred to as an incorporated employee.

TAX IMPLICATIONS PSBs are not entitled to income tax deductions available to other corporations such as the small business deduction and the general rate reduction. Your corporation will be subject to the full federal and provincial tax rates on all taxable income. For 2018, the combined federal and provincial tax rate is 33%.

In addition, PSBs cannot deduct most expenses available to other corporations. These types of expenses include things such as office supplies, travel expenses, meals, and cell phone costs. The only expenses that your corporation will be able to deduct are:

- the salary and wages the corporation pays to its incorporated employee(s);
- any benefit or allowance the corporation provides to its incorporated employee(s); and
- legal expenses the corporation incurs for collecting amounts owing to it

REPORTING

– Excerpted
from CRA
Document



All amounts paid to your corporation must be reported on a **T4A slip** – Statement of Pension, Retirement, Annuity and Other Income.



You will be responsible for completing a **T2 Corporate Income Tax Return** for the PSB in addition to a **T1 Personal Income Tax and Benefit Return** as an individual.



Amounts paid by one business for services provided by another business are not subject to statutory payroll deductions. However, if you pay salary and wages to yourself from your corporation, or to another employee of your corporation, these amounts will be subject to withholding of income tax, CPP, and, in some cases, EI. At year-end, your corporation will have to report the income paid to employees and the deductions on **T4 slips (Statement of Remuneration Paid)**.

Understanding the **Wage** **Components**- Excerpted from CRA Document



Example – Employee, Employer, and PSB , based on John:



• John is a truck driver with a single source of income



• He is not married, has no children, and is only eligible to claim the basic personal amount



• John's province of employment is Ontario



• We will look at John's tax implications from 3 scenarios



• employee • self-employed • personal services business



• All figures are an estimation.

Understanding
the Wage
Components
(Employee) -
Excerpted from
CRA Document

Example – Employee

Taxable Income	\$ 70,000.00
Federal Income Tax	9,318.60
Provincial Income Tax	4,546.80
Maximum CPP Contribution	2,593.80
Maximum EI Contribution	858.22
Take Home Pay	\$ 52,682.58

Understanding
the Wage
Components
(Self Employed) -
Excerpted from
CRA Document

Example – Self-Employed

Gross Income	\$ 70,000.00
Business Expenses (repairs, cellphone, etc.)	5,000.00
Taxable Income	\$ 65,000.00
Federal Income Tax	7,891.60
Provincial Income Tax	3,894.80
Maximum CPP Contribution	5,187.60
Maximum EI premiums for Special Benefits	858.22
Take Home Pay	\$ 47,167.78

- Business expenses could vary drastically from one business to the next.

Understanding
the Wage
Components
(PSB) -
Excerpted from
CRA Document

Example – Personal Services Business

Gross Income	\$ 70,000.00
Business Expenses (salary & wages)	55,000.00
Taxable Income	\$ 15,000.00
Corporate Income Tax (33%)	4,950.00
Take Home Pay (Corporation)	\$ 10,050.00
Salary & Wages Paid from Corporation	\$ 55,000.00
Federal Income Tax	6,250.60
Provincial Income Tax	3,176.80
Maximum CPP Contribution	2,593.80
Maximum EI premiums for Special Benefits	858.22
Take Home Pay (Individual)	\$ 42,120.58

- \$10,050 remains in the corporation for investment purposes, and \$55,000 is paid out to the incorporated employee as salary and wages.

Consequences of Misclassification for Drivers

If you are a self-employed individual (referred to as an Owner Operator), you own your own truck, and are responsible for truck payments, repairs, fuel and other costs. You will not have tax, CPP, and EI deducted from the amounts paid to you. At year-end you are responsible for:

- Paying all income tax owed
- Paying CPP Contribution
- Paying EI premiums

All amounts must be reported on a **T4A slip** – Statement of Pension, Retirement, annuity and Other Income

For Incorporated Drivers who do not own or lease their own truck and where it is determined that an employer-employee relationship is more prevalent, this would be considered **Employee Misclassification**. Some consequences may include:

- Back-Taxes (Some Drivers have reported owing anywhere from \$30,000 to \$40,000 depending on pay in addition to **19.7%** compounded **daily interest** on owed taxes)
- Miss out on important workplace protections such as Employment Insurance (EI), workers' compensation, ineligible for company-provided benefits such as health insurance, retirement funds, or stock options.
- While many workers choose to be independent for the flexibility and autonomy it provides, if they are mistakenly or purposely misclassified, they are often left with lower incomes and little economic security



Consequences of Misclassification for Carriers

In Canada, there are guidelines established to determine the class of the worker.

The Fourfold test or Entrepreneur test – This test looks at four specific dimensions to determine if there is an employer-employee relationship. It is a combination of elements from the first two tests. These four dimensions are:

- Degree of control over the worker;
- Ownership of tools and equipment;
- Chance of profit;
- Risk of loss.
- **Integration in the organization** – This test examines a worker's role, the nature of their work and whether they are an integral part of the organization.

Consequences of Misclassification for Carriers

If a company/carrier is found to have misclassified employees as independent contractors, they may be required to pay significant penalties, interest and legal fees, in addition to outstanding payroll deductions. Here are some of the costs/consequences you may incur (per misclassified employee):

- Employer required to pay unremitted taxes to the CRA (Canada Revenue Agency)
- Penalties of 10% to 20% on unpaid Income Tax, EI and CPP premiums, plus interest;
- Workers' compensation premiums, plus fines and interest;
- Unpaid Canada Pension Plan premiums (workers' and employers' share);
- Minimum wage, overtime, parental leave, vacation pay, and more;
- Potential claims for wrongful dismissal damages following the termination of Contractors who later take the position that they were contractors
- **Business may collapse** – Contractors who do not wish to be reclassified might quit. Financially, if majority of company are misclassified workers, the amount in unremitted taxes (**with Interest**) + retroactive payment of benefits/WSIB for each misclassified employee can bankrupt the company

Insurance Perspective

Injured on job? Who is responsible for WSIB?

How does this affect the individual policies with individual carriers? When buying insurance, company might state “We have 100 employees”, however, if 50% are “Driver Inc” they only have 50.

Accident Benefits - There are 2 Drivers in the truck, one is the owner operator and the co-driver is “Driver Inc”. Truck gets into an accident. Does the owner/operator have to pay WSIB Premiums for the Driver Inc Co-Driver?

See Case Study **Workplace Safety and Insurance Appeals Tribunal - Decision No. 1201/03** in the [Case Studies](#) section of the [Driver Inc website](#) for an example

Summary

It is our mission to educate the Driver to understand how the government tax system works, and how a true employer / employee relationship should be.

The driver needs to understand the implications of Driver Inc to the extent of missed employee benefits such as:

Accrual Vacation Pay - Paid time off

Stat Holidays - 9 paid Statutory Holidays

EHT = Government health care paid by the company for you and your family

Benefits - Relief from the burden of cost for dental and health care etc.

WSIB – Accident Benefits

*Your Source deductions paid according to government standards

END

Driver Inc

?

Understand Your Rights