

VK LAW GROUP – Client Advisory Memo

CRA AND ESDC CRACKDOWN ON MISCLASSIFICATION AND PSB AUDITS IN TRUCKING SECTOR

TO: TRUCKING INDUSTRY BUSINESSES

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Overview



The Canada Revenue Agency (CRA) and Employment and Social Development Canada (ESDC) have launched coordinated efforts to strengthen compliance in the trucking industry. Recent developments include an expanded Personal Services Business (PSB) Pilot Project and a new Information Sharing Arrangement (ISA) between CRA and the Labour Program. These measures signal a more aggressive posture toward identifying and penalizing worker misclassification, particularly among incorporated drivers.

The trucking sector has been specifically identified as a high-risk industry for potential misclassification, where workers may be incorrectly labeled as independent contractors or operate through personal corporations while, in substance, functioning as employees. This approach has allowed companies and drivers to benefit from tax or administrative efficiencies, but it now faces close federal scrutiny.

In this context, it is vital that businesses operating in the transportation and logistics space understand the legal and financial risks associated with such classification practices. This memo provides a summary of the government's latest initiatives, outlines how they could impact your operations, and explains the steps you can take to protect your company from non-compliance penalties and reputational harm.

Specifically, this memo outlines the scope and implications of the CRA's PSB Pilot Project, the mechanics and consequences of the new Information Sharing Arrangement with ESDC, the government's reporting mechanisms for misclassification, and our recommendations for risk mitigation and legal compliance.

Personal Services Business (PSB) Pilot Project

The CRA has launched a targeted compliance initiative known as the Personal Services Business (PSB) Pilot Project. This project is focused on identifying corporations—particularly those operated by individual drivers—that may fall within the definition of a PSB. A personal services business is typically a corporation through which an individual provides services to a single client or employer, under conditions that would otherwise be considered employment if the corporate entity did not exist.

If a driver's corporation is classified as a PSB, there are serious tax consequences. These corporations are not eligible for the small business deduction and are severely restricted in the types of expenses they can deduct. Additionally, the income earned is taxed at the full corporate rate, often resulting in



a significantly higher overall tax burden. This change can also trigger reassessments and penalties for prior years.

CRA's audits under this pilot project are focused on industries with high volumes of incorporated service providers—most notably, the trucking sector. Businesses that rely on incorporated drivers or independent contractors should take immediate steps to evaluate whether their operational structure could fall within the CRA's expanded interpretation of a PSB. Key factors include the degree of control exercised by the company over the driver's work, whether the driver provides services to more than one company, who supplies the tools and equipment, and whether the driver bears financial risk.

CRA-ESDC Information Sharing Agreement (ISA)

In parallel with the PSB Pilot Project, the federal government has formalized an Information Sharing Arrangement (ISA) between CRA and ESDC. This arrangement allows both agencies to exchange taxpayer and business information in order to detect and act on suspected cases of worker misclassification.



This integrated enforcement mechanism means that information shared with CRA during a tax audit can be used by ESDC for a labour investigation, and vice versa. For example, if CRA audits your company and finds a questionable contractor relationship, ESDC may be alerted to investigate whether the same individual is entitled to employment protections, such as vacation pay, statutory holiday pay, or overtime wages.

This development represents a fundamental shift in compliance enforcement. Employers are now exposed to parallel liability under both the Income Tax Act and the Canada Labour Code. Not only can this lead to tax penalties and reassessments, but it can also result in mandatory back pay, fines, and orders to change employment practices retroactively. This dual-agency enforcement strategy increases the urgency for all transportation businesses to ensure that their worker classification practices are fully compliant with current legal standards.

Reporting Mechanism for Misclassification

As part of this regulatory shift, the government has created a direct reporting mechanism for individuals to report cases of suspected worker misclassification. This includes reports from current or former workers, competitors, or other stakeholders who believe that a business is improperly treating employees as independent contractors or personal corporations.

These reports can trigger investigations by the Labour Program, which may lead to audits, enforcement actions, and public scrutiny. Businesses should be aware that this reporting mechanism adds a layer of compliance risk and makes it more important than ever to ensure that contracts, payroll records, and organizational structures are legally sound and properly documented.



Recommendations for Employers in the Trucking Sector

Given these developments, VK Law Group recommends that all trucking clients take the following proactive steps to mitigate risk and protect their businesses:

1. **Conduct a classification audit** of all contractor relationships, especially those involving incorporated drivers or single-service contractors. The audit should analyze the relationship in substance, not just in form.
2. **Review and update service agreements** to reflect clear and lawful distinctions between employees and independent contractors. Language should match the actual working relationship and avoid red flags, such as exclusivity or direction/control clauses.
3. **Implement internal policies and procedures** that ensure all new contracts are vetted for classification risks and that any changes in the working relationship are monitored and documented.
4. **Avoid relying solely on incorporation status** as proof of independence. Even where a driver is incorporated, the CRA and ESDC will examine the actual working arrangement to determine if it constitutes employment.
5. **Prepare for the possibility of joint audits or investigations.** Ensure that financial, HR, and legal teams are trained to respond consistently and legally across both tax and labour dimensions.
6. **Engage legal counsel proactively** to assess your company's exposure, revise documentation, and implement compliance strategies tailored to your operational model.



VK Law Group has extensive experience advising transportation clients on employment structure, tax compliance, and regulatory strategy. We are available to conduct worker classification audits, draft compliant contract templates, and assist with CRA or ESDC inquiries.

Conclusion

The federal government has made it clear that the trucking industry will be a primary focus of its renewed efforts to enforce proper worker classification and corporate tax compliance. Through the combined tools of the PSB Pilot Project and the Information Sharing Arrangement, businesses are now exposed to a higher degree of regulatory oversight than ever before.

This evolving legal landscape requires immediate attention from trucking companies that rely on non-traditional labour models. Failure to adapt could result in significant financial penalties, reputational harm, and operational disruptions. We encourage all clients to act swiftly to assess and correct any practices that may fall afoul of the new enforcement framework.



Should you have any questions or wish to schedule a compliance review, please contact VK Law Group at your earliest convenience. Our team is here to help you navigate this regulatory environment with confidence and clarity.