

and has the right to establish his own working hours and places; and the agreement expressly states that the driver is aware he must be responsible for payment of federal self-employment taxes, and understands he is not within covered employment as defined by this article.

(vi) An individual, partnership, corporation, or other entity that is engaged in the messenger service delivery business is not required to comply with subparagraphs (i), (ii) and (iii) of this paragraph if it is shown to the satisfaction of the [Executive Director] SECRETARY that:

1. The messenger service business drivers provide their own vehicles;

2. The driver is paid on a commission basis only;

3. The driver has the right to establish the driver's own working hours; and

4. The written agreement between the driver and the entity that is engaged in the messenger service delivery business expressly and prominently provides that the driver is aware:

A. That the driver is responsible for payment of estimated social security taxes and State and federal income taxes;

B. That the social security tax payable by the driver is higher than the social security tax the driver would otherwise pay; and

C. That the work is not covered employment under this article.

(VII) A PERSON WHO PERFORMS SERVICES AS A DIRECT SELLER DOES NOT HAVE TO SHOW COMPLIANCE WITH SUBPARAGRAPHS (I), (II), AND (III) OF THIS PARAGRAPH IF IT IS SHOWN TO THE SATISFACTION OF THE SECRETARY THAT:

1. A. SUCH PERSON IS ENGAGED IN THE TRADE OR BUSINESS OF SELLING OR SOLICITING THE SALE OF CONSUMER PRODUCTS TO ANY BUYER ON A BUY-SELL BASIS, A DEPOSIT-COMMISSION BASIS, OR ANY SIMILAR BASIS FOR RESALE (BY THE BUYER OR ANY OTHER PERSON) IN THE HOME OR OTHERWISE THAN IN A PERMANENT RETAIL ESTABLISHMENT; OR

B. THE PERSON IS ENGAGED IN THE TRADE OR BUSINESS OF SELLING OR SOLICITING THE SALE OF CONSUMER PRODUCTS IN THE HOME OR OTHERWISE THAN IN A PERMANENT RETAIL ESTABLISHMENT.