

(3) SUBSTANTIALLY ALL OF THE COMPENSATION FOR THE EMPLOYMENT IS RELATED DIRECTLY TO SALES OR OTHER OUTPUT, INCLUDING THE PERFORMANCE OF A SERVICE, RATHER THAN TO THE NUMBER OF HOURS WORKED; AND

(4) THE WRITTEN AGREEMENT STATES THAT THE DIRECT SELLER WILL NOT BE TREATED AS AN EMPLOYEE FOR THE PURPOSE OF STATE AND FEDERAL INCOME TAXES WITH RESPECT TO THE EMPLOYMENT PERFORMED UNDER THE AGREEMENT.

(C) MESSENGER SERVICE DRIVERS.

WORK THAT A MESSENGER SERVICE DRIVER PERFORMS FOR A PERSON WHO IS ENGAGED IN THE MESSENGER SERVICE BUSINESS IS NOT COVERED EMPLOYMENT IF THE SECRETARY IS SATISFIED THAT:

(1) THE DRIVER AND THE PERSON WHO IS ENGAGED IN THE MESSENGER SERVICE BUSINESS HAVE ENTERED INTO A WRITTEN AGREEMENT THAT IS CURRENTLY IN EFFECT;

(2) THE DRIVER PERSONALLY PROVIDES THE VEHICLE;

(3) COMPENSATION IS BY COMMISSION ONLY;

(4) THE DRIVER MAY SET PERSONAL WORK HOURS; AND

(5) THE WRITTEN AGREEMENT STATES EXPRESSLY AND PROMINENTLY THAT THE DRIVER KNOWS:

(I) OF THE RESPONSIBILITY TO PAY ESTIMATED SOCIAL SECURITY TAXES AND STATE AND FEDERAL INCOME TAXES;

(II) THAT THE SOCIAL SECURITY TAX THE DRIVER MUST PAY IS HIGHER THAN THE SOCIAL SECURITY TAX THE DRIVER WOULD PAY OTHERWISE; AND

(III) THAT THE WORK IS NOT COVERED EMPLOYMENT.

(D) TAXICAB DRIVERS.

WORK IS NOT COVERED EMPLOYMENT WHEN PERFORMED BY A TAXICAB DRIVER WHO USES A TAXICAB OR TAXICAB EQUIPMENT OF A TAXICAB BUSINESS THAT IS CARRIED ON BY THE HOLDER OF A TAXICAB PERMIT IF THE SECRETARY IS SATISFIED THAT:

(1) THE DRIVER AND PERMIT HOLDER HAVE ENTERED INTO A WRITTEN AGREEMENT THAT IS CURRENTLY IN EFFECT FOR THE USE OF THE TAXICAB OR TAXICAB EQUIPMENT;

(2) THE DRIVER PAYS A STIPULATED AMOUNT FOR THE USE OF THE TAXICAB OR TAXICAB EQUIPMENT AND IS NOT REQUIRED TO MAKE ANY FURTHER ACCOUNTING TO THE PERMIT HOLDER;