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**AG COAKLEY'S OFFICE RECOVERS OVER \$3 MILLION IN TAXPAYER FUNDS
BACK TO COMMONWEALTH IN SETTLEMENT WITH FEDEX GROUND**

*Company's Alleged Misclassification Of Workers Led To Underpayment To Commonwealth For
Payroll Taxes, Worker's Compensation, and Unemployment Insurance*

BOSTON – Attorney General Martha Coakley's Office has entered into a multi-million dollar agreement with Pittsburgh-based FedEx Ground to settle claims the company misclassified its drivers as independent contractors. Pursuant to the settlement, FedEx Ground agreed to pay more than \$3 million back to the Commonwealth's general fund. The Attorney General's Office alleged that FedEx Ground's failure to properly classify drivers had led the Company to make lesser payments to the Commonwealth for payroll taxes, worker's compensation and unemployment assistance.

"We have made enforcement against employer misclassification a priority because employers who misclassify workers are gaining an unfair advantage over their competitors and unfairly depriving the Commonwealth of tax and other revenues," AG Coakley said. "With today's agreement, we have recovered \$3 million owed to taxpayers and taken a step to level the playing field for businesses. I want to thank Governor Patrick and his Executive Office of Labor and Workforce Development and the Department of Revenue for assisting in the investigation and resolution of this matter."

In 2007, the Attorney General's Office cited FedEx Ground for violation of the Independent Contractor Law, by misclassifying its drivers, failing to provide a proper paystub, failing to provide workers' compensation, not paying overtime to certain drivers, and neglecting to deduct and withhold state income taxes. FedEx Ground appealed the matter to the Division of Administrative Law Appeals (DALA). The Attorney General's Office citations against Fed Ex Ground included penalties of more than \$190,000.

While FedEx Ground's appeal was pending before DALA, the Attorney General's Office coordinated further investigation with the Executive Office of Labor and Workforce Development and the Department of Revenue into FedEx Ground's business practices. The joint investigation revealed that FedEx Ground's misclassification of employees had resulted in significant underpayments to the Department of Revenue, Division of Industrial Accidents and

Department of Unemployment Assistance.

The settlement amount includes these significant underpayments. The settlement also provides for a payment for the 13 drivers named in the Attorney General's citation. FedEx Ground drivers in Massachusetts have brought their own lawsuit against FedEx Ground that remains pending and is not affected by this settlement. FedEx Ground denies liability in the settlement.

The Massachusetts Independent Contractor [Law](#) provides that an individual performing any service shall be considered to be an employee unless: (1) the individual is free from control and direction in connection with the performance of the service, both under his or her contract for the performance of service and in fact; and (2) the service is performed outside the usual course of the business of the employer; and, (3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

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