As a technology or life science business manager, you may have automobile loss exposures that you aren’t aware of. Two types of auto exposures that could put your business’s assets at risk are: 1) hired and non-owned vehicles, and 2) foreign nationals driving on company business. The Hartford offers steps that you can take to help minimize your business’s losses from these types of auto exposures.

Hired and Non-Owned Vehicles
Many companies have employees who operate their own personal vehicles on company business. This can be as innocuous as an administrative employee who uses his or her own vehicle to go to the post office or bank for the company. Or it can be as extensive as a large sales or customer service force that receives a monthly car allowance for personal vehicle use. Such a business has an additional and potentially serious exposure to loss that arises from employees or others using a hired or non-owned vehicle for company business. What is the difference between hired and non-owned? Simply put:

- **Hired** is the rental of a vehicle in the company’s name for company business. This does not normally include leasing of vehicles, which usually are rented for a longer duration but which pose a similar loss exposure.
- **Non-Owned** is the use of a personal vehicle by an employee, volunteer, etc., for company-related business.

So, what’s the concern? Isn’t the employee responsible for properly operating and maintaining his or her own vehicles? If a collision occurs, wouldn’t the employee’s own automobile policy respond? The answer to both questions is “Yes.” However, your company may be drawn into the situation under various theories of vicarious liability, including negligent hiring, negligent supervision, and/or “respondeat superior,” under which you could be held liable for your employee’s acts or omissions arising in the course of employment.

For example, an action might be brought against you as the employer if the employee:
- Did not carry insurance
- Carried only the minimum limits of coverage that the state law requires, or carried limits inadequate to cover a particular claim
- Did not properly maintain the vehicle
- Had a Motor Vehicle Record (MVR) that is below standard

What’s more, your company could be at risk if your business does not have fleet controls or procedures in place to address these issues.

To see how hired and non-owned auto exposures could involve your business, consider these two scenarios.

**Scenario 1**
Sally Jones works for ABC Tech and drives to the bank each week, as a requirement of her job. One day, Sally drives to the bank and makes a deposit. On her way back to the office, she runs a red light, causing a collision with another vehicle. Both vehicles are totaled. There are serious injuries to the other vehicle’s occupants, one of whom is a small child. Sally is charged with failure to stop for a red signal light.

The subsequent investigation revealed that:
- Sally carried only the state-mandated minimum limits of $50,000 of automobile liability coverage.
- Sally’s MVR showed that she had three speeding tickets within the last two years and had been cited for failure to yield at an intersection.
As a result of the collision, the following actions take place:

- The other driver and the other driver’s insurance company bring a claim against Sally and her insurer under Sally’s policy.
- Sally’s insurance company pays its policy limit of $50,000. However, the total value of the claim is set at $1,000,000.
- The other driver hires an attorney and names Sally and ABC Tech as co-defendants in a lawsuit, seeking the remaining damages and alleging that:
  - Sally was negligent for failing to stop for a traffic control device, driving recklessly and speeding.
  - ABC Tech was negligent for failing to perform due diligence before permitting Sally to operate a motor vehicle on company business – and for not securing a copy of Sally’s MVR, not properly evaluating it, and not properly supervising the employee.
  - ABC Tech is vicariously liable for Sally’s actions because Sally’s negligence occurred while she was performing a work-related errand.

If the plaintiff is successful in the lawsuit, ABC Tech could potentially be responsible for $950,000 in damages:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>$1,000,000</td>
<td>Total claim value</td>
</tr>
<tr>
<td>- $50,000</td>
<td>Sally’s policy limit</td>
</tr>
<tr>
<td>$ 950,000</td>
<td>Damages ABC Tech would have to pay</td>
</tr>
</tbody>
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What’s more, if the jury determines that punitive damages are warranted, the costs could be two to three times the $950,000 underlying damage amount.

**Scenario 2**

Requiring employees who drive on company business to have adequate liability limits is important, but it’s not enough. Employers also need to verify that the required limits are maintained.

The following scenario is based on a true situation, although the names and some of the facts have been changed. It demonstrates why businesses should also verify that employees carry adequate liability limits for the personal vehicles they use on company business.

Joan Smith, a manager for XYZ Medical Technology, was driving home in her personal vehicle from an industry trade show. While negotiating a curve, Joan lost control of her minivan, crossed the median, returned back through the westbound lanes, and came to rest more than 60 feet into the woods. The front-seat passenger, Joan’s 10 year-old daughter, Cindy, was ejected and landed 110 feet from the vehicle. Cindy was not wearing a seatbelt and died en route to the hospital.

As a result of the accident:

- Cindy’s father, Joe, made a wrongful death claim against Joan, his ex-wife.
- Joe’s attorney used an economist to estimate Cindy’s future loss of income (without regard to consumption). Damages included the loss of enjoyment of life for the deceased.
- A survival action included damages for recovery of Cindy’s medical expenses before she died, and for her pain and suffering.

XYZ required employees who drive their personal vehicles on company business to carry a minimum limit of $300,000 of personal liability coverage. However, Joan’s personal auto policy had limits of only $25,000/ $50,000. XYZ’s insurance company established a $1,500,000 reserve to pay for the claim and litigation.

This case reinforces that employers should have a procedure to verify that required limits are in place for employees who use personal vehicles on company business. This should be an ongoing process, not a one-time risk management function.

In this case, however, even if Joan had carried the required limits, XYZ would have had some exposure in an accident this serious. Other risk management steps discussed below are designed to minimize the chances of this type of accident occurring.

**Steps to Help Minimize Your Company’s Risk**

Hired and non-owned automobile exposures can place a company’s assets at serious risk. Implementing controls can help to reduce and minimize these risks. At a minimum, your company should:

- Identify all employees who operate their personal vehicles on company business.
- Regularly require these employees to provide proof of adequate limits of automobile liability insurance. Your insurance agent or broker can help determine adequate limits.
- Obtain periodic MVRs on all employees with driving responsibilities, including those who operate their personal vehicles on company business. Review their MVRs and evaluate them against written criteria. If an employee’s MVR is unacceptable, do not permit...
him or her to operate either a personal vehicle or a company-owned vehicle on company business.

- Inspect employee vehicles and determine if they are in good operating condition and that all safety devices, such as headlights, signals, brake lights, backup lights, horn, windshield, etc., are in proper working order.
- Document everything you do so that you have written records/files.

If you have a large number of employees who use their own cars on company business, the same fleet controls should be established and applied as for drivers of company-owned vehicles. This would include all the steps above, plus driver training programs and formal collision review procedures.

Foreign Nationals Driving on Company Business

Another common, and often unrecognized, auto exposure arises when companies hire foreign nationals who may operate a car on company business. (A foreign national is any person who is not an American citizen or a permanent resident alien of the United States.)

Most states allow foreign nationals to use their existing driver’s licenses for three to six months before having to obtain a driver’s license in the state in which they reside or work. Some states base their rule on whether the worker has a temporary or a permanent visa. In some states, if the worker is not establishing a residence, they do not need to obtain a state driver’s license. Many states now require a Social Security card and number to issue a driver’s license.

Many foreign nationals have an international driver’s license, which allows them to drive in the United States. However, this permit only verifies that they hold a valid license in their home country where licensing requirements, rules of the road, and driving conditions may be quite different than in the United States. The foreign national must have an original and valid license issued by the country in which he/she is from plus an international driver’s license. The U.S. does not issue international driver’s licenses to foreign visitors.

Please note: A foreign national is not allowed to operate a vehicle that requires a Commercial Driver’s License (CDL). The Federal Motor Carrier Safety Regulations pertaining to a CDL are covered under FMCSR Part 383.

Driving Concerns

Allowing foreign nationals to drive on company business is cause for concern because you may not be able to obtain their driving and accident history via an MVR or the Department of Motor Vehicles. Other concerns are that they may not:

- Understand or speak English
- Know applicable state regulations
- Understand and read traffic signs, signals, etc.
- Be familiar with driving on the right side of the road or handling vehicle controls on the left side of the car

Driving Guidelines

Before you allow foreign nationals to drive on company business:

- Contact the state in which the foreign national is living or working.
  - Verify that the state accepts a foreign or international license, or whether the foreign national is required to obtain a state driver’s license.
  - Confirm that the employee’s driver’s license is valid and current.
- Consider requiring any individual whose driving history cannot be obtained to complete a questionnaire or application that requests driver information, such as:
  - Type of vehicles driven
  - Total miles of operation
  - Years of driving experience
  - Accident record for the last three years
  - Number and type of traffic convictions for the last three years
- Consider requiring any individual whose driving history cannot be obtained to take a road test given by a “qualified” supervisor or by an employee who is trained to evaluate defensive driving.
- Give any individual without a valid driver’s license issued in the U.S. a written driving test similar to the state-required test for obtaining a driver’s license.
- Require any individual without a valid driver’s license issued in the U.S. to get a medical checkup to verify physical ability to operate a vehicle – especially if the employee will be transporting other people.
- Periodically check the employee’s driving to confirm that the driver is properly and safely operating the vehicle.
• Require any individual without a valid driver’s license issued in the U.S. to take and pass a defensive driving course, such as The Hartford 3-D Driver Improvement Program or the National Safety Council’s Defensive Driving Course.

Don’t expect that a foreign national is capable or comfortable with driving in the United States. Screen the foreign driver just as if you were hiring a new employee or driver that does not have U.S. driving experience.

Drive Down Auto Losses
At The Hartford, we recognize that insurance is not your day to day business. That’s why we encourage you to:
• Use the tips in this Best Practice to help you avoid these types of auto losses.
• Discuss your coverage needs with an insurance professional who has experience working with technology companies.

For More Information
For more information on how to manage risks for your business, contact your local Hartford agent, or visit www.thehavenford.com.

Best Practices for Your Business

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