

CANADIAN TRUCKING ALLIANCE BRIEFING NOTE

"Driver Inc."

Introduction

A new scam has emerged in the trucking industry that radically breaks with both the traditional employee and owner-operator models. Known as 'Driver Inc', a number of drivers and carriers are now entering into agreements whereby drivers will incorporate themselves and will then sell their driving services to the carrier. What distinguishes this from owner-operators is that these drivers do not own, lease or operate a vehicle. They drive the carrier's vehicles and have little to no financial investment in their business with little to no opportunity for financial loss.

Motivation

- While each company may organize things slightly differently, the basic process is:
- The Driver incorporates themselves.
- Driver brings no assets and is virtually indistinguishable from a tradition employee.
- The Employer makes no source deductions and does not pay employer share of remittances.
- Employer does not pay overtime, vacation pay, sick days and other employment entitlements.
- Provincially, workers compensation (WCBs) premiums are not being covered.
- Driver claims small business tax deductions they are not entitled to (or) does not pay taxes at all.

All said and done, the Canadian Trucking Alliance (CTA) conservatively estimates that companies can easily shed over \$20,000/ year in costs per employee. For even modest sized fleets, this can easily equate to millions per year in illegal savings.

Impact on Industry

The labour market in the trucking industry is as tight as it has been in decades, or perhaps ever. Companies who have employed this Driver Inc. model and who have enjoyed these savings in some cases have in turn used these savings to attract more drivers with higher mileage rates. While on the surface this sounds good for many drivers, it is also very short sighted and leaves the driver exposed from a tax, labour code, and workers compensation perspective. In other cases, some carriers are purposefully misinforming drivers and leading them to believe this is their best or only choice. In many cases, these drivers are new Canadians and they are being taken advantage of by unscrupulous companies. At this point in time the industry is at a tipping point. Compliant carriers are increasingly finding it hard to compete with companies who are gaining at least a 20% advantage through

illegal activities. Complaint carriers have now begun to publicly demand action on the Driver Inc. file.

Example of a Driver Inc. Arrangement

ABC is a for-hire common carrier employing what it calls "Incorporated Drivers". Mr. Smith, once hired by ABC trucking, incorporates himself and then 'sells' his driving services to ABC. In turn, ABC does not pay for Mr. Smith's workers compensation, any overtime accrued, or bear any other related costs that might be associated with a typical employee/ employer relationship. ABC does not make any source deductions (income tax) and does not pay the employer share of other source deductions such as EI and CPP. In turn, Mr. Smith does not have any financial investment in ABC or the commercial vehicle he operates. There is very little that distinguishes Mr. Smith from a regular employee.

In turn, the carrier through this illegal scheme saves thousands per year. While in some cases Mr. Smit may or may not receive a small bump in his mileage rate, he is also denied overtime pay, vacations pay, does not have his WCB premiums payed for, is not having the employer portion of other entitlements covered. When it comes time to file taxes, Mr. Smith will simply not file or will file incorrectly as a small business and will make deductions he is otherwise not entitled to.

Through this scheme, even companies with less than 100 drivers can see ill-gotten savings in the millions/ year.

Consequences

CRA has a responsibility to collect taxes owed and to combat the underground economy. ESDC has a responsibility to protect workers' rights and ensure that the protections granted under the Canada Labour Code are being extended to workers. WCB premiums need to be collected so that the worker is protected should they be injured on the job. EI and CPP should be paid and income tax should be deducted. However, Driver Inc. companies have built their business on dodging some or all these essential responsibilities.

The longer Driver Inc. keeps going unchecked, the more the industry is observing its spread.