



CTA and the Driver Inc. Movement

Every industry has at least one lobby group that represents them. It's actually a fairly decent system where industry professionals assist elected officials in making policies and laws that govern respective livelihoods. Those who win elections often only have one major talent... getting elected. Too often cabinet positions are assigned based on qualifications that have little or nothing to do with actually knowing the portfolio to be governed. I know one elected official who had to be informed of the difference between a half ton truck and a highway tractor. A lobby group is needed to professionally assist elected officials without having to educate them with decades of details. It is designed to avoid taking an industry down dark and bumpy paths of ignorance or a lack of understanding.

The CTA (Canadian Trucking Alliance) is the Federal extension of the many Provincial Trucking Associations. It is designed to address Federal trucking issues. There are definitely transportation issues that the Federal Government needs to address that the individual, Provincial Associations cannot. The CTA's assistance with inter provincial freight movement is fundamental to effective and efficient oversight on many issues such as bio-diesel mandates to universal hours of service, just to name two. Their input is often times the greatest voice of reason in a multi-polar political climate.

However, in my opinion, the latest push by CTA to squelch incorporated drivers is truly beyond their mandate. It's not that I disagree with their position, but I think their approach is doomed to fail on many levels.

The CTA's position that they are defending the country against potential tax cheaters is an abominably weak argument. It is not the responsibility of CTA to do CRA's (Canada Revenue Agency) job. The assumption that CRA should

"police" the trucking industry at the direction of the CTA is preposterous.

I have successfully worked with CRA for over three decades. The vast majority of auditors and workers there are exceptionally fine individuals who are doing the best job they can within their system. Their mandate is to ensure that everyone is paying the correct amount of income tax, CPP and EI (if applicable). They simply do not care if the person is T4'd, self-employed or Incorporated. It is true that auditing a T4'd driver is much easier than the others. But ease of work load is irrelevant. It is also true that there are rules associated with classifying someone as "self-employed" or "employee". The Source Deduction Department of CRA could be emphatically against a self-employed driver but the GST/HST department couldn't care less and neither does the Income Tax Department. I've seen auditors sit down and train a "self-employed" driver to calculate GST/HST and organize their paperwork. As long as they pay the correct amount of taxes (including the employer's portion of CPP) they generally don't care and, why should they? Their mandate is to ensure people are paying the correct amount of taxes.

Not very long ago I had a conversation with a source deduction auditor about a perceived 15 hour per week "deduction exemption"; the one that implies that if a person works less than 15 hours per week the "employer" doesn't have to put them on payroll for deductions (a situation I DO NOT endorse but have had to occasionally deal with for clients). He concurred with me that there is NO SUCH EXEMPTION; however, he stated, many auditors do not enforce these levels of T4 classifications due to its inconsequential impact on the "employer" remittances. As long as the recipient (self-employed worker) declares the income, the issue is not relevant enough to enforce. This enforcement logic filters its way

through CRA at many (or even most) levels. If everyone is paying their taxes, CRA doesn't care much.

CTA's position that CRA should care about "potential" tax fraud is misdirection in several ways. It assumes CRA doesn't care about tax fraud (which it obviously does). CTA isn't motivated by potential tax fraud; they are trying to "level the playing field" by imposing employer costs on carriers who have found other options. They are trying to retain as many drivers as possible in a manageable pool. They are trying to get CRA to assist them in an area that they have failed to do on their own; care for and educate drivers to financially succeed in their chosen career.

A Blue Ribbon Task Force produced a report that addressed driver retention and turnover. Though it said carriers should look inward at how they treat their drivers, it presented its position with the strength of a "wet paper bag". I agree with the findings, but many carriers are just not getting it. They still treat their drivers like herds of cattle, prodded them with zappers and directing them with barbed wire. Using CRA as their latest zapper just shows the mentality of too many carriers (at least those with influence at the CTA) is still "a boot on the neck".

With the exception of non-taxable benefits (fully insured against audit), there is virtually NO QUANTIFIABLE VALUE to the average driver Incorporating and offering their services to a carrier. The driver abandons: employee rights (due to their work/pay being moved to a civil issue rather than an employer/employee issue), their rights to holiday pay, paid for workers compensation costs (WSIB), employer share of making CPP and EI payments and other miscellaneous potential benefits. The only tax benefits would be writing off minimal expenses and that nearly always produces less tax savings than the new added employer CPP cost and much higher tax return costs. It's simple math. Zapping those accepting a math error rather than selling the truth is a failure in optics.

Canada will always have tax cheats! But take heart; cheaters never (rarely) get ahead... even if they get away with a few years of tax fraud.

The level of fraud that the CTA implies is just not possible long term. Canada's tax reporting system eventually finds them... usually broke and running from creditors.

Carriers who impose Driver Inc. on their "employees" do it for a reason; to save costs and potential liability. Drivers should think through the cost benefit of changing their tax reporting methods. It requires a level of cost and commitment that MUST be compensated for. If it doesn't pay, find another carrier.

Our firm does have Driver Inc. clients. However, we find that 50% end up owning their own truck within two years and the other 45-49% end up closing their company within the same time frame (often owing taxes). The remaining 1-5% are all family related issues or unique situations. For my company, Driver Inc. companies are considered an entry level client and the introduction to becoming an Owner Operator.

Drivers, take your time; do the math; calculate the true cost/benefit. You should always retain your right to walk away from anyone requiring something like this be done and, don't let a special interest lobby group scare you into or away from a choice you've calculated to be prudent.

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