

## **TRUCKING COMPANIES TARGETED BY SUSPECTED FUEL TAX SCAM**

Several Ontario trucking companies have been targeted by a suspected fuel tax scam which has cost some victims tens of thousands of dollars.

Helen Pelton, a lawyer with Cummins Seto Pelton, said she has been approached by four trucking companies that have been duped by the scheme. They are all small- to medium-sized trucking firms. Two of the firms became suspicious and backed out before forking over large sums of money to the suspected fraudsters. However, two other clients are out tens of thousands of dollars.

"There's clearly a scam going on, preying on truckers and trucking companies," Pelton told Trucknews.com.

According to Pelton, the alleged scam works this way: A company representing itself as an accounting firm approaches a Canadian trucking company and suggests the carrier may be entitled to a refund of the excise tax paid on fuel purchased in the US. The company says it charges only a percentage of the refund obtained, so there's no risk for the carrier. The trucking company provides information such as the amount of fuel purchased in the US, and the accounting firm then files for the refund on their behalf.

However, the refund that is applied for is intended for US-based farmers purchasing dyed, off-road diesel fuel - not for Canadian trucking companies. While Canadian companies do not qualify for the refund, the IRS generally issues the refund upon receiving the application, and then verifies the validity of the application at a later date. By then, the Canadian trucking company has likely paid a percentage of the refund (anywhere from 18-50%, according to Pelton) to the accounting firm. '

"The IRS gets the form and doesn't really scrutinize it, and issues the refund for a substantial amount of money - as much as US\$100,000," explained Pelton. "They send the check to the trucking company, who are ecstatic - it's found money to them. They cut a check to the scam artists, who I believe will disappear soon after."

Pelton's fear is that the accounting firm will go out of business long before her clients have their day in court, leaving them with little recourse. Victims of the suspected scam are not only unlikely to

recover the money paid out to the 'accounting firm,' but they have also run awry of the IRS.

"We've not yet had the IRS come down on anybody, but we feel it's just a matter of time," said Pelton. "In two cases, we were able to negotiate a repayment to the IRS with an interest penalty, but no fine. But the IRS doesn't mess around. If they figure you defrauded the US government, they're quite likely to say 'we're going to penalize you from ever doing business in the US again'."

Pelton has teamed up with a legitimate Buffalo, N.Y.-based accountant, Wade Larkin, who is helping victims negotiate repayment plans with the IRS. The IRS recently released a bulletin addressing the 'Dirty Dozen' notorious tax scams for 2008, and fuel tax credit scams were among them. The bulletin pointed out a US\$5,000 fine can now be levied against companies who improperly claim the fuel tax credit intended for farmers.

Victims of the scheme have reported the con artists are very convincing and come across as extremely credible. However, Pelton warned there are some steps you can take to avoid falling for a similar ploy.

"They should ask the person approaching them precisely what provision of US tax law they believe this potential rebate will come from and ask to be shown this," suggested Pelton. "I'm quite surprised – two of my clients have had these people file returns for them that they haven't seen themselves. In one case, the accounting firm forged the signature of one of my clients. You need to be shown what regulation the person is applying under, see a draft of what they propose to send in and then you need to review that form with a lawyer before it goes in with your name on it."

With four of her own clients having been caught up in the scheme, Pelton is concerned the case may be much more widespread. If you think you've been approached by the perpetrators of the scam, you can contact her via e-mail at [hpelton@cumminsseto.com](mailto:hpelton@cumminsseto.com). The Buffalo-based accountant who's also working on the case can be reached at [wade@larkingibbs.com](mailto:wade@larkingibbs.com).