



May 26, 2016

## **Owner Operator Remuneration Hold Backs**

### Background

It has come to the attention of the Office of the BC Container Trucking Commissioner (the "OBCCTC") that some TLS licence holders are engaging in the practice of holding back money owed to Owner Operators who have resigned from their company. In particular, the OBCCTC is aware of a practice of keeping a remuneration holdback for a period of time to cover potential, future insurance claim costs after an Owner Operator has left the company.

Industry has questioned whether this practice complies with the *Container Trucking Act* (the "Act"), the Regulation and the Container Trucking Services Licence.

### Interpretation

Appendix E to Schedule 1 of Licence B and the 2016/17 Container Trucking Services Licence states:

"The Licensee must not set off or deduct Business Costs from Compensation or Wait Time Remuneration owed to a Trucker"

In both Licences, Business Costs are defined as:

"...includes, but is not limited to: chassis rental, wear and tear on tires, cargo insurance, Smart Phone costs, bridge or road tolls, loading fees, Access Agreement charges, fees related to the Terminal Gate Compliance Initiative, GPS-related expenses, (unless the Sponsored Independent Operator has unreasonably failed to cooperate in the return of the GPS unit to the Commissioner or to the Licensee)."

The OBCCTC also notes that Section 24 (2) of the Container Trucking Regulation states:

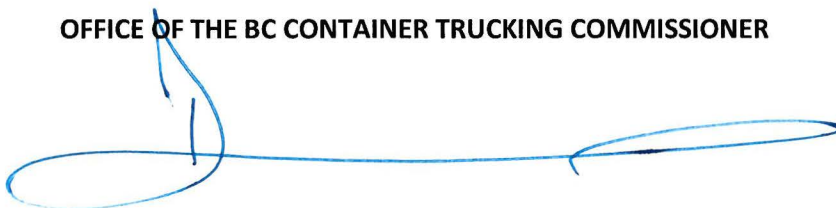
"A licensee must pay remuneration, wait time remuneration or fuel surcharge owed to an independent operator no later than 30 days after the end of the calendar month in which the independent operator performed the container trucking services for which the remuneration, wait time remuneration or fuel surcharge is owed."

The OBCCTC considers insurance claim costs to be a Business Cost under the Licence. Therefore, the holding back of remuneration to cover potential, future insurance claim costs after an Owner Operator has left the company is prohibited.

The OBCCTC has also been advised of remuneration hold-backs relating to the Port of Vancouver's GPS Program. Unless the Sponsored Owner Operator has unreasonably failed to cooperate in the return of the GPS unit to the Commissioner or to the Licensee, the hold-back of remuneration for a period of time related to the GPS Program is also considered to be a violation of a licensee's obligations under its licence.

Sincerely,

**OFFICE OF THE BC CONTAINER TRUCKING COMMISSIONER**

A handwritten signature in blue ink, consisting of a large, stylized loop on the left and a horizontal line extending to the right, ending in a small flourish.

Duncan MacPhail  
BC Container Trucking Commissioner