

**Letter of Findings Number: 06-0093  
IFTA  
For the Tax Period 2003-2004**

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**ISSUES**

**I. International Fuel Tax Agreement-Imposition**

**Authority:** [IC 6-8.1-3-14](#), [IC 6-8.1-5-1](#)(b), [IC 6-8.1-5-4](#)(a).

The taxpayer protests the imposition of IFTA taxes.

**II. Tax Administration-Penalty**

**Authority:** [IC 6-8.1-10-2.1](#), [45 IAC 15-11-2](#)(b).

The taxpayer protests the imposition of the negligence penalty.

**STATEMENT OF FACTS**

The taxpayer is a corporation engaged in trucking. After an audit, Indiana Department of Revenue, hereinafter referred to as the "department," assessed International Fuel Tax Agreement (IFTA) taxes, penalty, and interest against the taxpayer. The taxpayer protested this assessment. A hearing was held. This Letter of Findings results.

**I. International Fuel Tax Agreement-Imposition**

**DISCUSSION**

IFTA is an agreement between various United States jurisdictions and Canada allowing for the equitable apportionment of previously collected motor fuel taxes. The agreement's goal is to simplify the tax, licensing, and reporting requirements of interstate motor carriers such as the taxpayer. The agreement itself is not a statute, but was implemented in Indiana pursuant to the authority granted under [IC 6-8.1-3-14](#).

The taxpayer protests the department's imposition of taxes pursuant to IFTA.

The taxpayer was a trucking concern that operated in Indiana. As such, it operated on Indiana highways and consumed motor fuel. Therefore, the taxpayer was subject to IFTA taxes.

All tax assessments are presumed to be accurate. The taxpayer bears the burden of proving that any assessment is incorrect. [IC 6-8.1-5-1](#)(b). Taxpayers have the duty to maintain books and records of their affairs and present those to the department for review upon the department's request. [IC 6-8.1-5-4](#)(a).

The taxpayer was unable to produce any documentation demonstrating that it had paid the proper amount of tax on the motor fuel it used in its operations. The taxpayer failed to sustain its burden of proving that the department incorrectly imposed IFTA taxes in this situation.

**FINDING**

The taxpayer's protest is denied.

**II. Tax Administration- Ten Percent Negligence Penalty**

**DISCUSSION**

The taxpayer protests the imposition of the ten percent negligence penalty pursuant to [IC 6-8.1-10-2.1](#). Indiana Regulation [45 IAC 15-11-2](#)(b) clarifies the standard for the imposition of the negligence penalty as follows:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

Through its lack of reasonable care and failure to follow the instructions of the department, the taxpayer did not pay taxes it owed to the state. This constitutes negligence.

**FINDING**

The taxpayer's protest is denied.

*Posted: 09/13/2006 by Legislative Services Agency*

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