

Letter of Findings Number: 06-0094
IRP
For the Tax Period 2004

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ISSUES

I. International Registration Plan - Imposition

Authority: [IC 6-8.1-4-2](#), [IC 9-28-4-6](#), [IC 6-8.1-5-1](#) (b), [IC 6-8.1-5-4](#)(a), IRP Agreement Article IV 400(a), IRP Agreement Article II 210.

The taxpayer protests the imposition of International Registration Plans fees.

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 Registration Plan fees against the taxpayer. The taxpayer protested this assessment. A hearing was held. This Letter of Findings results.

I. International Registration Plan - Imposition

DISCUSSION

The International Registration Plan, hereinafter referred to as the "IRP," is an agreement between various United States jurisdictions and Canada allowing for the proportional registration of commercial vehicles and providing for the recognition of such registrations in the participating jurisdictions. The agreement's goal is to promote the fullest possible use of the highway system by authorizing apportioned registration of fleets of vehicles. The agreement itself is not a statute, but was implemented in Indiana pursuant to the authority granted under [IC 6-8.1-4-2](#) and [IC 9-28-4-6](#).

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

The taxpayer was a trucking concern that operated in Indiana and other states. Therefore, the taxpayer was subject to IIRP 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 IRP tax. The taxpayer failed to sustain its burden of proving that the department incorrectly imposed IRP 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.

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