

Supplemental Letter of Findings Number: 06-0165
International Fuel Tax Agreement
For the Years 2001-2003

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. International Fuel Tax Agreement—Applicability

Authority: IC § 6-6-4-1-24

Taxpayer protests the Department's determination of IFTA taxes.

STATEMENT OF FACTS

Taxpayer operates a trucking company. The Department audited Taxpayer with respect to Taxpayer's International Fuel Tax Agreement (IFTA) taxes for years 2001, 2002, and 2003. On October 14, 2005, the Department issued an audit which assessed Taxpayer a base tax liability of \$3,825 for the years in question.

After receiving the audit results, Taxpayer contacted the Department with respect to eight specific items of disagreement. The Department conducted a supplemental audit, which the Department issued on March 8, 2006. The Department agreed with seven of Taxpayer's eight contentions and reduced Taxpayer's base tax liability to \$3,091.

After Taxpayer received the supplemental audit, Taxpayer was still not satisfied with the Department's tax determination. After contacting the Department, Taxpayer filed a protest of the remaining assessment.

On June 6, 2006, the Department conducted an administrative hearing with Taxpayer. Taxpayer submitted documentation for the Department to review and effectively requested another audit. Taxpayer also submitted a third-party audit of its IFTA tax liabilities.

On August 10, 2006, the Department issued a Letter of Findings denying Taxpayer's protest. On August 31, 2006, Taxpayer requested a rehearing with respect to its protest. On September 12, 2006, the Department granted Taxpayer's request for rehearing.

On March 27, 2007, the Department conducted a rehearing with respect to Taxpayer's protest and this Supplemental Letter of Findings results. Any matters not specifically listed in this Supplemental Letter of Findings are deemed to be resolved in the manner consistent with the Department's supplemental audit dated March 8, 2006.

I. International Fuel Tax Agreement—Applicability

DISCUSSION

Taxpayer protests the imposition of International Fuel Tax Agreement (IFTA) taxes for three years. In particular, Taxpayer protests the methodology and determination of the Department's prior audits.

Under IC § 6-6-4-1-24, "the notice of proposed assessment is prima facie evidence that the Department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." The Department has reviewed Taxpayer's information and determined that the following adjustments should be made:

For the 2nd quarter of 2001, the mileage should be 60,837 miles, and the mileage for each state should be determined in accordance with Taxpayer's provided jurisdictional allocation.

For the 3rd quarter of 2001, the mileage should be 97,205 miles, and the mileage for each state should be determined in accordance with Taxpayer's provided jurisdictional allocation.

For the 2nd quarter of 2003, the mileage should be 105,093, and the mileage for each state should be determined in accordance with Taxpayer's provided jurisdictional allocation.

For the 3rd quarter of 2003, the mileage should be 129,754. The mileage for each state should be determined in accordance with Taxpayer's jurisdictional allocation.

For the 2nd quarter of 2001, the fuel consumed should be 11,192 gallons.

For the 3rd quarter of 2001, the fuel consumed should be 17,009 gallons.

For the 1st quarter of 2002, the fuel consumed should be 15,872 gallons.

FINDING

Taxpayer's protest is sustained to the extent stated herein and subject to audit review. Taxpayer's protest is otherwise denied. This Supplemental Letter of Findings is the final administrative determination with regards to Taxpayer's protest.

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