

**Letter of Findings: 08-0511
Motor Carrier Fuel Tax
For the Years 2005 and 2006**

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ISSUE

I. Jurisdictional Tax Paid Gallons – Motor Carrier Fuel Tax.

Authority: IC § 6-8.1-5-1(c); IC § 6-8.1-5-4(a); IFTA Articles of Agreement, R1210.300 (1998); IFTA Procedures Manual, P540, 550 (1996).

Taxpayer states that it has produced records sufficient to warrant a jurisdictional tax paid credit.

STATEMENT OF FACTS

Taxpayer operates an Indiana hauling company. Taxpayer transports automobile parts and operated under contract with several other companies. The Indiana Department of Revenue (Department) conducted an audit for the years 2005 and 2006. As a result of that audit, the Department assessed additional Motor Carrier Fuel Tax. Taxpayer protested, an administrative hearing was conducted during which taxpayer's representative explained the basis for the protest, and this Letter of Findings results.

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DISCUSSION

The audit report indicated that it was handicapped by "inadequate or non-existent records...." and that "[a]ll aspects of [taxpayer's] reporting system were rated as inadequate due to the fact that no records were provided in support of reported figures." In particular, the audit report denied taxpayer credit for fuel previously paid because taxpayer "failed to provide fuel receipts for the audit period [sufficient] to verify jurisdictional tax paid credit." As a result, "The fuel tax credit originally reported was reduced to zero for all jurisdictions during the audit period."

Taxpayer claimed that his 2005 and 2006 business records were inadvertently discarded. Whatever the reason for taxpayer's original failure to provide the requested records, it is the taxpayer's ongoing responsibility to maintain specific, detailed, and accurate information concerning its fuel purchases. As set out in IC § 6-8.1-5-4(a):

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks. See also IFTA Procedures Manual, P540, 550 (1996).

The Department's proposed assessment of additional fuel tax, under IC § 6-8.1-5-1(c), is deemed to be "prima facie evidence that the department's claim for the unpaid tax is valid." That same section of the Indiana Code goes on to state that "the burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." In addition, IFTA Articles of Agreement, R1210.300 (1998), provides in part that, "[T]he burden of proof shall be on the licensee to establish by a fair preponderance of the evidence that the assessment is erroneous or excessive." (Emphasis added).

Subsequent to the administrative hearing, taxpayer presented copies of original fuel receipts from its vendor stating that the receipts had been unavailable at the time the hearing was conducted. Taxpayer asks that the receipts be reviewed and that it be given credit for the taxes indicated on those receipts.

Taxpayer has not met its burden of demonstrating that the Motor Carrier Fuel Tax assessment is incorrect. However, after an initial examination of the receipts, the Department is prepared to agree that the receipts warrant review by the Audit Division and that if the Audit Division deems the receipts adequate, that taxpayer should be given credit for the amount of tax indicated on the receipts.

FINDING

Subject to review by the Audit Division, taxpayer's protest is sustained.

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