

Letter of Findings Number: 10-0205
International Fuel Tax Agreement (IFTA)
Tax Years: 2006 – 2007

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ISSUE

I. IFTA – Assessment.

Authority: IC § 6-6-4.1-4(a); IC § 6-6-4.1-14(a); IC § 6-6-4.1-20; IC § 6-6-4.1-24(b); IC § 6-8.1-3-14; IC § 6-8.1-5-4(a); IFTA Articles of Agreement § R1210.300 (1998).

Taxpayer protests the assessment of additional tax.

II. IRP – Assessment.

Authority: IC § 6-6-4.1-14; IC § 6-8.1-3-14.

Taxpayer protests the assessment, which was based on the same information that produced the IFTA assessment.

STATEMENT OF FACTS

Taxpayer was an Indiana corporation. Taxpayer was purchased by a second Indiana corporation prior to the audit. Taxpayer was assessed fuel tax and registration fees as a result of an International Fuel Tax Agreement ("IFTA") audit of the 2006 and 2007 tax years and an International Registration Plan ("IRP") audit of the 2006 tax year. The audit determined that the Taxpayer did not maintain documentation sufficient to arrive at a conclusive determination of their liability. Taxpayer protests the assessment based on the lack of documentation. Taxpayer states that its accounting service mishandled the filing of its fuel reports, and that it also did not provide the auditor with the appropriate information that was requested.

I. IFTA – Assessment.

DISCUSSION

Taxpayer protests the Department's assessment of motor carrier fuel taxes pursuant to IFTA.

IFTA is an agreement between various United States jurisdictions and Canada allowing for the equitable apportionment of previously collected motor carrier fuel taxes. The agreement's goal is to simplify the taxing, licensing, and reporting requirements of interstate motor carriers such as Taxpayer. The agreement itself is not a statute but was implemented in Indiana pursuant to the authority specifically granted under IC § 6-6-4.1-14(a) and IC § 6-8.1-3-14.

Taxpayer operated trucks in Indiana. As such, it operated on Indiana highways and consumed motor fuel. Therefore, the Taxpayer was subject to motor carrier fuel IFTA taxes. IC § 6-6-4.1-4(a).

Tax assessments of motor carrier fuel tax under IFTA are presumed to be valid. IC § 6-6-4.1-24(b). The taxpayer bears the burden of proving that any assessment is incorrect. *Id.* The taxpayer has a duty to maintain books and records and present those to the Department for review upon the Department's request. IC § 6-6-4.1-20; IC § 6-8.1-5-4(a).

The Department conducted an audit and determined that Taxpayer owed additional IFTA fuel taxes for that year. The Department concluded that Taxpayer did not provide sufficient records. Due to the lack of documentation, the Department assessed tax based upon the best information available.

Following the hearing, Taxpayer's representative was able to provide documentation and analysis to the Department in support of its protest. Taxpayer has taken the first step of meeting the burden of establishing by a fair preponderance of evidence that the assessments are erroneous or excessive, as required by IFTA Articles of Agreement § R1210.300 (1998). The Department will conduct a supplemental audit and issue new assessments if appropriate.

FINDING

Taxpayer's protest is sustained pending the results of a supplemental audit.

II. IRP – Assessment.

DISCUSSION

Taxpayer protests the imposition of IRP fees for the tax year 2006. The IRP is a program for registering commercial vehicles that operate within member jurisdictions, including Indiana. The Indiana Code permits Indiana to join the IRP agreement via IC § 6-6-4.1-14 and IC § 6-8.1-3-14. IC § 6-6-4.1-14(a) states in relevant part:

The commissioner or, with the commissioner's approval, the reciprocity commission created by [IC 9-28-4](#) may enter into the International Registration Plan, the International Fuel Tax Agreement, or other reciprocal agreements with the appropriate official or officials of any other state or jurisdiction to exempt commercial motor vehicles licensed in the other state or jurisdiction from any of the requirements that would otherwise be

imposed by this chapter...

IC § 6-8.1-3-14 states in relevant part:

The department, on behalf of the state, may enter into and become a member of the International Fuel Tax Agreement or other reciprocal agreements providing for the imposition of motor fuel taxes on an apportionment or allocation basis with the proper authority of any state...

Taxpayer claims that the information provided to support their position as to the result of the IFTA audit assessment will also change the assessment amount in the IRP audit. Therefore, the Department will conduct a supplemental IRP audit as well.

FINDING

Taxpayer's protest is sustained pending the results of a supplemental audit.

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