

Letter of Findings: 41-20170637
International Registration Plan (IRP)
For the Years 2014 and 2015

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Indiana Motor Carrier was unable to establish that the Department's assessment of additional International Registration Plan fees was incorrect; Indiana Motor Carrier failed to maintain jurisdictional mileage records, travel routes, travel points, or odometer readings.

ISSUE

I. International Registration Plan - Assessment.

Authority: IC § 6-6-4.1-14; IC § 6-6-4.1-14(a); IC § 6-8.1-5-1(c); IC § 6-8.1-5-4(a); IC § 6-8.1-5-4(c); IC § 9-28-4-6; IRP § 1005 (2013); IRP § 1010 (2013); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer argues that the Department miscalculated the amount of IRP fees assessed Taxpayer.

STATEMENT OF FACTS

Taxpayer is an Indiana motor carrier which - according to publicly available information - operates five trucks and provides inter-state and in-state transportation services. Taxpayer chose Indiana as its base jurisdiction for purposes of the International Fuel Tax Association ("IFTA") and the International Registration Plan ("IRP"). The Indiana Department of Revenue ("Department") conducted an IFTA and IRP audit, which resulted in the assessment of additional IFTA taxes and IRP fees.

Taxpayer disagreed with the assessment and submitted a protest to that effect. Two administrative hearings were conducted during which Taxpayer's representatives explained the basis for the protest. This Letter of Findings results.

I. International Registration Plan - Assessment.

DISCUSSION

Taxpayer protests the imposition of IRP fees for the tax year 2015. 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 ("the Plan") via IC § 6-6-4.1-14 and IC § 9-28-4-6. 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 § 9-28-4-6 states in relevant part:

(a) The department of state revenue, on behalf of the state, may enter into reciprocal agreements providing for the registration of vehicles on an apportionment or allocation basis with the proper authority of any state, any commonwealth, the District of Columbia, a state or province of a foreign country, or a territory or

possession of either the United States or of a foreign country.

(b) To implement this chapter, the state may enter into and become a member of the International Registration Plan or other designation that may be given to a reciprocity plan developed by the American Association of Motor Vehicle Administrators.

Taxpayer operated "units" in Indiana and other states, but Taxpayer selected Indiana as its base jurisdiction, pursuant to Article IV of the Plan (2013). In conjunction with the IFTA audit, the Department conducted an IRP audit under the terms of Articles XV and XVI of the Plan (2013) and the International Registration Plans Audit Procedures Manual.

The Department selected 2014 as the registration year to audit. The Department determined that Taxpayer owed additional IRP fees based upon the documentation that was provided to calculate the IFTA assessment. Taxpayer argues that its records were adequately maintained and that the assessment of additional IRP fees is unwarranted.

§ 1005 of the Plan (2013) provides that:

(a) The Base Jurisdiction shall require a Registrant to preserve all Operational Records on which the Registrant's application for apportioned registration is based for a period of **3 years following the close of the Registration year to which the application pertains and to make these records available for examination by the Base Jurisdiction at its request.**

(b) Records may be kept on microfilm, microfiche, or other computerized or condensed record storage system acceptable to the Base Jurisdiction. **(Emphasis added).**

§ 1010 of the Plan (2013) goes on to provide that:

The Base Jurisdiction may impose an assessment on a Registrant that fails to maintain records in accordance with the APM or that fails to provide records within 30 calendar days of the issuance of a written request by the Base Jurisdiction. Such an assessment shall be based on the Base Jurisdiction's estimate of the Registrant's true liability as determined from evidence furnished by the Registrant or available to the Base Jurisdiction from its own or other sources.

The Department's audit found that "[a] true mileage audit could not be conducted due to inadequate mileage records" and that Taxpayer "did not maintain jurisdictional miles or routes of travel." The Department's audit found that it was not possible to review Taxpayer's "trip reports" for "continuity of dates, travel points, or odometer readings." The audit concluded that Taxpayer "had no internal controls in place" and "failed to understand [its] record keeping responsibility."

It should be pointed out that, "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 tax by reviewing those books and records." IC § 6-8.1-5-4(a). In addition, IC § 6-8.1-5-4(c) provides that, "A person must allow inspection of the books and records and returns by the department or its authorized agents at all reasonable times." IC § 6-8.1-5-4(c).

Taxpayer supplied the same records to dispute the assessment of additional IRP fees, which - the audit concluded - were similarly inadequate for the purposes of IRP.

During the administrative hearing, Taxpayer suggested that it was able to verify its mileage records by referring to the zip codes areas through which its vehicles traveled. However, Taxpayer failed to establish that its "zip code" records were complete or that its vehicles traveled to or within the areas indicated by those records.

It is Taxpayer's responsibility to maintain specific, detailed, and accurate information concerning its fuel purchases and jurisdiction miles. In the absence of complete, detailed source documentation, the Department's best information available audit assessment is reasonable and supported by law and the Plan and its Audit Procedures Manual. The taxpayer bears the burden of proving that any assessment is incorrect, and Taxpayer has failed to meet that burden. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

FINDING

Taxpayer's protest is respectfully denied.

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