

Letter of Findings: 41-20200115
International Registration Plan (IRP)
For the Tax Year March 2018 to February 2019

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 ("IRP") fees was incorrect; the Department was unable to verify Motor Carrier's reported interstate and intrastate mileage distances because the Motor Carrier's records did not comply with the IRP requirements.

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 (2019); IRP § 1015 (2019); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); International Registration Plan, Inc., <https://www.irponline.org/default.aspx>.

Taxpayer argues that the Department erred in assessing additional IRP fees.

STATEMENT OF FACTS

Taxpayer is an Indiana motor carrier which - according to publicly available information - provides for the removal and disposal of hazardous and non-hazardous waste materials such as industrial solvents and contaminated soil. Taxpayer provides its services to customers in Indiana, Ohio, Michigan, Kentucky, and Illinois.

Taxpayer operates 15 vehicles which travel both interstate and intrastate highways in providing its disposal 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. In its protest submission, Taxpayer asked for a "Final Determination without a hearing." After considering both Taxpayer's protest and the information contained within the audit file, this Letter of Findings addressing the IRP fees results.

The IFTA assessment is addressed at Letter of Findings 42-20200116 (March 20, 2020).

I. International Registration Plan - Assessment.

DISCUSSION

Taxpayer protests the imposition of IRP fees for the year March 2018 to February 2019. The IRP is a program for registering commercial vehicles that operate within member jurisdictions, including Indiana. The IRP "provides apportioned payments of registration fees, based on the total distance operated in participating jurisdictions. International Registration Plan, Inc., <https://www.irponline.org/default.aspx> (last visited March 11, 2020).

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.

Although Taxpayer operated vehicles in Indiana and other states, 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 March 2018 to February 2019 as the registration year to audit. The Department determined that Taxpayer owed additional IRP fees based upon the documentation provided. Taxpayer argues that its third-party service provider had assured Taxpayer that it was "compliant with all regulations related to [Department of Transportation] and IFTA reporting." According to Taxpayer, it "was only through this audit that we learned otherwise." Taxpayer further explains that it recently changed its compliance vendor and that it has now verified that the replacement vendor's computer program "does in fact meet the reporting requirements."

§ 1005 of the Plan (2019) provides that:

- (a) The Records maintained by a Registrant under Section 1000 shall be adequate to enable the Base Jurisdiction to verify the distances reported in the Registrant's application for apportioned registration and to evaluate the accuracy of the Registrant's distance accounting system for its Fleet.
- (b) Provided a Registrant's Records meet the criterion in subsection (a), the Records may be produced through any means, and retained in any format or medium available to the Registrant and accessible by the Base Jurisdiction.

§ 1015 of the Plan (2018) goes on to provide in part that:

If the Records produced by the Registrant for Audit do not, for the Registrant's Fleet as a whole, meet the criterion in Section 1005(a), or if, within 30 calendar days of the issuance of a written request by the Base Jurisdiction, the Registrant produces no Records, the Base Jurisdiction shall impose on the Registrant an assessment in the amount of **twenty percent of the Apportionable Fees** paid by the Registrant for the registration of its Fleet in the Registration Year to which the Records pertain.

(Emphasis added).

The Department's audit found that Taxpayer's records "were not compliant and have been treated as inadequate." The audit report indicates that Taxpayer used its vendor's "vehicle tracking systems in the subject vehicles, [but that] the distance tracking report was not maintained for the audit period." In effect, "No internal control was put into place to check the distance captured with the [vendor's] tracking system" and the reported mileage distances "could not be verified."

As a result, the Department's audit resorted to § 1015 of the Plan (2019) to impose a 20 percent assessment of the apportionable IRP fees.

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).

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 additional assessment of IRP fees, based upon § 1015 of the Plan (2019), 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.

March 20, 2020

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