

Supplemental Letter of Findings 41-20200318 and 42-20200317
International Fuel Tax Agreement (IFTA) and
International Registration Plan (IRP) Assessments
For January 1, 2015 to December 31, 2015 (IFTA)
For July 1, 2014 to June 30, 2015 (IRP)

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 Supplemental Letter of Findings.

HOLDING

Indiana Motor Carrier failed to provide original source records sufficient to allow Indiana to accurately apportion IFTA taxes and IRP fees owed to the various jurisdictions in which Motor Carrier's vehicle traveled. On rehearing, Motor Carrier had again failed to provide additional supporting information, and the Department had no other option than to deny Motor Carrier's protest.

ISSUE

I. International Fuel Tax Agreement Tax and International Registration Plan Fees - Tax and Fee Abatement.

Authority: IC § 6-8.1-5-1(c); IC § 6-8.1-5-4; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); IRP § 1015.

Taxpayer argues that the Department's assessment of additional IFTA taxes and IRP fees is unwarranted and that a review of its supplemental documentation will verify that assertion.

STATEMENT OF FACTS

Taxpayer is an Indiana, multi-state motor carrier. Taxpayer - according to publicly available information - is a general freight hauler specializing in transporting refrigerated products. Taxpayer provides year-round services to customers in Indiana and outside Indiana.

Taxpayer operates one truck but has no trailer or trailers. One public source indicates that Taxpayer has six employees while another source lists a single employee. Taxpayer's vehicle travels both interstate and intrastate highways in providing Taxpayer's hauling services. Taxpayer chose Indiana as its base jurisdiction for purposes of the International Fuel Tax Association ("IFTA") and for purposes of the International Registration Plan ("IRP"). The Indiana Department of Revenue ("Department") conducted an IFTA and IRP audit, which resulted in the assessment of additional 2015 IFTA taxes and additional 2014 and 2015 IRP fees.

Due to lack of documentation, the Department assessed the 2015 IFTA taxes based upon the best information available to the Department during the audit and in accordance with the IFTA rules and regulations.

Again, due to the lack of documentation, the Department assessed 2014 and 2015 IRP fees based upon the best information available to the Department and in accordance with the IRP rules and regulations.

Taxpayer disagreed with both assessments and submitted a protest to that effect. An administrative hearing was conducted November 2019 and Letter of Findings 42-20191133 (March 18, 2020), [20200527-IR-045200272NRA](#), and Letter of Findings 41-20191132.LOF (March 18, 2020), [20200527-IR-045200269NRA](#), were issued. In the LOF addressing the IRP fees, "Taxpayer's protest [was] denied" because "there [was] insufficient documentation to verify the reported amount of miles driven." In the LOF addressing the IFTA assessment, the protest was denied because there were insufficient documents necessary to "[E]valuate the accuracy of the licensee's distance and fuel accounting systems for its fleet" and because the Department was not "able to check Taxpayer's records for continuity of dates, travel points, odometer readings or continuity of jurisdictions" The

Department found that the available IFTA information was not "verified or verifiable."

In other words, as to both the IRP fees and IFTA taxes, Taxpayer's protests were denied finding that Taxpayer had provided neither documentation nor any analysis justifying its conclusions.

Taxpayer disagreed with LOFs' conclusions and requested a rehearing. The request was granted, and a rehearing conducted August 2020. During that hearing, Taxpayer's representative stated it had conducted additional record research and would be able to produce the results by September 6, 2020. Taxpayer failed to meet the deadline but in a later email indicated that Taxpayer's representative needed additional time because he was "waiting to get [I]nternet connected." On September 14, 2020, Taxpayer was asked "when do you expect to have the documentation to [the hearing officer]?"

Taxpayer did not respond to the question and no further information has been provided. This Supplemental Letter of Findings results based on the information available and incorporates the analysis, facts, and conclusions contained in Letter of Findings 42-20191133 (March 18, 2020) and Letter of Findings 41-20191132.LOF (March 18, 2020).

I. International Fuel Tax Agreement Tax and International Registration Plan Fees - Tax and Fee Abatement.

DISCUSSION

A. Indiana's IFTA Audit Findings.

The IFTA tax assessment was attributable to the Department's finding that Taxpayer was unable to provide the complete necessary records to verify the IFTA returns it filed for 2015. Due to lack of documentation, the Department assessed tax based upon the best information available to the Department during the audit and in accordance with IFTA. Taxpayer protests the Department's assessment of motor carrier fuel taxes pursuant to IFTA and Indiana law.

1. Taxpayer's Burden of Establishing That the IFTA Assessment Should be Abated.

As a threshold issue, it is Taxpayers' responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the [D]epartment'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." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 897 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as the preceding audit, shall be entitled to deference.

B. Indiana's IRP Audit Findings.

The Department conducted an audit in 2017 and determined that Taxpayer owed additional IRP fees. The Department's audit concluded that Taxpayer was unable to provide the complete necessary records to verify reported mileage. Due to the lack of documentation, the Department assessed tax based upon the best information available to the Department. Taxpayer protests the Department's assessment of IRP fees.

1. Taxpayer's Burden of Establishing that the IRP Fees Should be Abated.

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."

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, 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*, 867 N.E.2d at 292.

2. Conclusions.

This Supplemental Letter of Findings addresses the issue of whether Taxpayer has now met its burden of establishing that the proposed assessments of IFTA tax and IRP fees was wrong. The Department finds that the Taxpayer has failed to provide information or explanation beyond what was available to the auditor and the first hearing officer who drafted the March Letters of Finding. In this case, the Department has no other option than to again deny Taxpayer's protests.

FINDING

Taxpayer's protests are respectfully declined.

December 15, 2020

Posted: 02/24/2021 by Legislative Services Agency

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