

Letter of Findings: 65-20220026
Indiana Overweight Proposed Assessment
For the Year 2022

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Motor Carrier failed to provide sufficient evidence to establish that it should not be assessed the full penalty for operating a vehicle that was over the statutorily allowed weight on two axles.

ISSUE

I. Motor Vehicles - Overweight Penalty.

Authority: IC § 6-8.1-5-1; IC § 6-8.1-1-1; IC § 9-20-1-1; IC § 9-20-1-2; IC § 9-20-4-1; IC § 9-20-18-14.5; *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).

Taxpayer protests the assessment of an overweight civil penalty.

STATEMENT OF FACTS

Taxpayer is an Indiana-based trucking company. On January 5, 2022, the Indiana State Police ("ISP") cited Taxpayer's commercial motor vehicle for an overweight violation. The Indiana Department of Revenue ("Department") assessed a civil penalty under IC § 9-20-18-14.5(d). Taxpayer protested the assessment and requested resolution without a hearing. This Letter of Findings results. Additional facts will be provided as necessary.

I. Motor Vehicles - Overweight Penalty.

DISCUSSION

Taxpayer's commercial motor vehicle was cited for being overweight on two axles. The Department issued a "No Permit Available Civil Penalty" pursuant to IC § 9-20-18-14.5(d). In its written explanation accompanying the protest, Taxpayer explained that this particular stop was conducted on a "quad axle" truck and argued that, under the "bridge formula," the truck was not overweight. Taxpayer provided calculations and asserted the total weight allowed for its truck was 73,280 pounds; therefore, a civil penalty should not be assessed.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. A proposed assessment is prima facie evidence that DOR's claim for the unpaid tax is valid. IC § 6-8.1-5-1(c). The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made. *Id.*; See e.g., *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*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

According to IC § 9-20-1-1, "[e]xcept as otherwise provided in [IC Art. 9-20], a person, including a transport operator, may not operate or move upon a highway a vehicle or combination of vehicles of a size or weight exceeding the limitations provided in [IC Art. 9-20]."

According to IC § 9-20-1-2, the owner of a vehicle "may not cause or knowingly permit to be operated or moved upon a highway [in Indiana] a vehicle or combination of vehicles of a size or weight exceeding the limitations provided in [IC Art. 9-20]."

IC § 9-20-18-14.5 authorizes the Department to impose civil penalties against Motor Carriers that obtain a permit under IC Art. 9-20 and violate IC Art. 9-20 ("Permit Violation Civil Penalty") or are required, but fail, to obtain a permit under IC Art. 9-20 ("No Permit Civil Penalty"). The Department may also impose a civil penalty for vehicles or loads subject to the size and weight limits provided in IC Art. 9-20 for which no permit is available ("No Permit Available Civil Penalty").

IC § 6-8.1-1-1 states that fees and penalties stemming from IC Art. 9-20 violations are a "listed tax." Under IC § 9-20-18-14.5(a) these listed taxes are in addition to and separate from any arrangement or agreement made with a local court or political subdivision regarding the traffic stop.

ISP cited Taxpayer's vehicle for being overweight on axle 3 and axle 4, respectively weighing 21,300 pounds and 21,100 pounds. The ISP inspection report indicates the total allowed on the tandem axle was 34,000 pounds. Taxpayer's tandem axle weighed 42,400 pounds, or 8,400 pounds over the allowed statutory limit.

Taxpayer argues that Indiana follows the "bridge formula" under IC Art. 9-20. Considering the bridge formula and the related calculations, Taxpayer opines that it is allowed 50,333 pounds "on the load." Taxpayer further believes that the total gross weight allowed for its quad axle truck under the bridge formula is 73,280 pounds.

Indiana includes the bridge formula calculation in IC § 9-20-4-1(a)(1). The formula is defined as follows:

$$W = 500 \{[(LN) / (N-1)] + 12N + 36\}.$$

IC § 9-20-4-1(a)(1). The formula determines the overall gross weight ("W") by using "L" - the distance in feet between the extreme of any group of two or more consecutive axles - and "N" - the number of axles in the group under consideration. *Id.* The overall gross weight of the vehicle or combination of vehicles may not exceed 80,000 pounds. *Id.*

Taxpayer provided its own calculations using the equation where L equals 12.5 feet and N equals 4 axles. Using the numbers provided by Taxpayer, the bridge formula provides a weight of 50,333 pounds. As noted in IC § 9-20-4-1(a), the weight calculated using the formula provides the "**total gross weight, with load, in pounds of any vehicle of combination of vehicles. . .**" (**Emphasis added**). The "Summary of Indiana Size and Weight Law under TITLE 9 Article 20" provided by Taxpayer states the same. The number calculated by Taxpayer is the maximum gross weight allowed for its vehicle with load and not the gross weight for the load.

IC § 9-20-4-1(c) states the following, in part:

The greater of the weight limits imposed under subsection (a) or this subsection applies to vehicles operated upon a highway. The weight limits in effect on January 4, 1975, for any highway that is not designated as a heavy duty highway under [IC 9-20-5](#) are the following:

- (1) The total gross weight, with load, in pounds of a vehicle or combination of vehicles may not exceed seventy-three thousand two hundred eighty (**73,280 pounds**). (**Emphasis added**).

Considering IC § 9-20-4-1(c), the maximum weight for the vehicle was 73,280 pounds. The ISP inspection report does not provide a total weight for the vehicle, so it is unknown whether the gross vehicle weight was above or below 73,280 pounds. Taxpayer argues the gross vehicle weight was under this limit but does not provide any documentation in support.

Further, the Department assessed the civil penalty as overweight on tandem axles. IC § 9-20-4-1(a) provides a gross load of 34,000 pounds on consecutive sets of tandem axles **provided the overall distance between the first and last axles. . . is thirty-six (36) feet or more** (**Emphasis added**). It is unknown how much space exists on Taxpayer's vehicle between the axles in question, as Taxpayer did not provide any documentation in support of its argument.

Further, IC § 9-20-4-1(a)(2) states the weight on a roadway surface from any tandem group may not exceed 34,000 pounds total weight. ISP weighed Taxpayer's vehicle at 42,400 pounds on axles 3 and 4 - a weight significantly above the statutory limit. Taxpayer has failed to provide any documentation showing the Department's proposed assessment is wrong as required under IC § 6-8.1-5-1(c). Taxpayer's protest is denied.

FINDING

Taxpayer's protest is denied.

March 14, 2023

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An [html](#) version of this document.