

Letter of Findings: 42-20220043
International Fuel Tax Agreement (IFTA) Assessment
For the Tax Year 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Business was not able to meet the burden proving the proposed assessment was wrong; therefore, the assessment remains as issued.

ISSUE

I. International Fuel Tax Agreement Tax - Assessment.

Authority: IC § 6-6-4.1-4; IC § 6-6-4.1-14; IC § 6-6-4.1-20; IC § 6-6-4.1-24; IC § 6-8.1-3-14; IC § 6-8.1-5-1; IC § 6-8.1-5-4; IFTA Article XII, § R1210; IFTA Procedures Manual, § P540; IFTA Procedures Manual, § 570; *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); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); International Fuel Tax Agreement, <https://www.iftach.org/manual2020.php>.

Taxpayer argues that the assessment of additional IFTA taxes is unwarranted.

STATEMENT OF FACTS

Taxpayer is an Indiana company that provides trucking services. As the result of an audit, the Indiana Department of Revenue ("Department") determined Taxpayer had underreported the amount owed under the International Fuel Tax Agreement ("IFTA") because of inadequate records. The Department issued proposed assessment for IFTA taxes plus penalties and interest. In the Department's process of scheduling an administrative hearing, Taxpayer's representative expressed Taxpayer's concerns during an informal phone call, and this discussion became the hearing. This Letter of Findings results. Additional facts will be provided as necessary.

I. International Fuel Tax Agreement Tax - Assessment.

DISCUSSION

Taxpayer protests the imposition of additional IFTA taxes for the tax year 2019. The Department based its determination that additional IFTA taxes were due on the fact that Taxpayer had inadequate records. As a result, the Department adjusted the reported figures for each quarter of the audit period per the IFTA guidelines.

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 the Department's claim for the unpaid tax is valid. IC § 6-8.1-5-1(c). The burden of proving 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). 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).

IFTA is an agreement between various United States jurisdictions and Canadian provinces allowing for the equitable apportionment of previously collected motor carrier fuel taxes. International Fuel Tax Agreement, <https://www.iftach.org/manual2020.php> (last visited September 19, 2022). The agreement's stated 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, on Indiana highways, and consumed motor fuel. Thus, 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). A taxpayer bears the burden of proving the assessment is incorrect. *Id.* A taxpayer has a duty to maintain book and records and respond to the Department's request to review such records. IC § 6-6-4.1-20; IC § 6-8.1-5-4(a).

IFTA Article XII, § R1210.300 (2017) provides that the assessment made by the base jurisdiction is presumed to be correct and the burden lies on the licensee to establish by a fair preponderance of evidence that the assessment is erroneous or excessive.

The IFTA Procedures Manual, § P540 (2017) requires licensees to maintain distance records "adequate to enable the base jurisdiction to verify the distances traveled and fuel purchased by the licensee for the period under audit and to evaluate the accuracy of the licensee's distance and fuel accounting systems for its fleet." The licensee must keep records to "substantially document the operations of the licensee's fleet." *Id.* Specifically, distance records produced by means other than a vehicle-tracking system must show the following:

- .005 the beginning and ending dates of the trip to which the records pertain
- .010 the origin and destination of the trip
- .015 the route of travel
- .020 the beginning and ending reading from the odometer, hubodometer, engine control module (ECM), or any similar device for the trip
- .025 the total distance of the trip
- .030 the distance traveled in each jurisdiction during the trip
- .035 the vehicle identification number or vehicle unit number

IFTA Procedures Manual, § P540.100 (2017).

Further, distance records using a vehicle-tracking system ("GPS") should include:

- .005 the original GPS or other location data for the vehicle to which the records pertain
- .010 the date and time of each GPS or other system reading, at intervals sufficient to validate the total distance traveled in each jurisdiction
- .015 the location of each GPS or other system reading
- .020 the beginning and ending reading from the odometer, hubodometer, engine control module (ECM), or any similar device for the period to which the records pertain
- .025 the calculated distance between each GPS or other system reading
- .030 the route of the vehicle's travel
- .035 the total distance traveled by the vehicle
- .040 the distance traveled in each jurisdiction
- .045 the vehicle identification number or vehicle unit number

IFTA Procedures Manual, § P540.200 (2017).

Taxpayer did not provide adequate records during the initial audit. After receiving the audit results and submitting the protest, Taxpayer provided additional documents. However, the records were still inadequate because Taxpayer could not provide individual vehicle mileage or fuel summaries. The records were not adequate to verify miles traveled or fuel used. When an auditor finds that there are inadequate records, then the base jurisdiction shall impose an additional assessment by either "adjusting the licensee's reported fleet MGP to 4.00 or 1.70 KPL; or reducing the licensee's reported MPG or KPL by twenty percent." IFTA Procedures Manual, § 570.100 (2017). As provided above, it is Taxpayer's responsibility to maintain specific, detailed, and accurate records concerning its fuel purchase and jurisdiction miles. Because Taxpayer lacks the required records, the Department's original audit is reasonable and supported by the law and the IFTA Procedures Manual. Taxpayer has not shown the Department's assessment is erroneous.

FINDING

Taxpayer's protest respectfully denied.

September 19, 2022

