

DEPARTMENT OF STATE REVENUE

41-20221666.LOF
42-20221665.LOF**Letter of Findings: 41-20221666; 42-20221665
International Fuel Tax Agreement (IFTA) and
International Registration Plan (IRP) Assessments
For the Years 2019 and 2020**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

The Department was unable to agree with Motor Carrier that the assessment of IFTA tax and IRP fees should be abated; Motor Carrier failed to provide any documentation or information which would have justified the request.

ISSUE**I. International Fuel Tax Agreement Tax and International Registration Plan Fees - Assessments and Record Keeping Requirements.**

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](#); [IC 9-28-4-6](#); IFTA Procedures Manual § P510 (2017); IFTA Procedures Manual § P530 (2017); IFTA Procedures Manual § P540 (2017); IFTA Procedures Manual § P550 (2017); IFTA Procedures Manual, § P570 (2017); IRP § 1005 (2019); IRP § 1015 (2019); *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); International Fuel Tax Agreement, <https://www.iftach.org/manual2020.php>.

Taxpayer challenges the Department's assessment of additional IFTA tax and IRP fees.

STATEMENT OF FACTS

Taxpayer is an Indiana company in the business of providing general freight transportation services. According to the Department's audit report, Taxpayer owns and operates one semi-tractor.

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 2019 IFTA taxes and additional 2018 and 2019 IRP fees. The total assessment was approximately - including both the IFTA and IRP assessment - \$14,000.

Taxpayer disagreed with IFTA and IRP assessment amounts and submitted a protest to that effect. An administrative hearing was scheduled in order to allow Taxpayer's representative to further explain the basis for the protest. However, Taxpayer decided not to participate in the hearing. This Letter of Findings is based on the information contained within the IFTA and IRP audit reports.

I. International Fuel Tax Agreement Tax and International Registration Plan Fees - Assessments and Record Keeping Requirements.**DISCUSSION**

In Taxpayer's initial protest, Taxpayer indicated that "new documentation" required the Department to review the original assessments.

A. Indiana's IFTA Audit Findings.

The IFTA tax assessment was attributable to the Department's finding that Taxpayer's "records presented for

audit were not compliant and . . . rated as inadequate." The audit report states that the Department relied on "discovery sampling . . . to determine the adequacy of records presented for audit."

The audit report further stated as follows:

The licensee had no processes in place to capture and check trip information for appropriate content, verify accuracy of trip distance, or check trip information for continuity. There were no procedures in place to ensure distance and fuel were reported in the same quarter. No procedure was in place for validating tax paid fuel credits.

The audit pointed out what were regarded as additional deficiencies in Taxpayer's record keeping practices.

The licensee did not provide appropriate and sufficient distance records[.]

The licensee was unable to provide fuel documentation to substantiate the taxpaid credit claimed in any quarter of the audit period.

The licensee did not maintain any distance or fuel records to support the reported figures on [Taxpayer's] IFTA returns. Therefore an audit of the distance and fuel could not be conducted, and the tax paid credit could not be validated.

In effect, the Department - representing Indiana as Taxpayer's "base jurisdiction" - was unable to accurately determine the exact amount of tax owed Indiana or any of the other jurisdictions in in which Taxpayer's vehicle traveled or may have traveled during the years under review.

The audit report cites to the authority for assessing additional IFTA taxes:

As required by the IFTA Procedures Manual, Article P570.100 Inadequate Records Assessment, if the base jurisdiction determines that the records produced by licensee for audit do not, for the licensee's fleet as a whole, meet the criterion for the adequacy of records set forth in P530, or after the issuance of a written demand for records by the base jurisdiction, the licensee produces, the base shall impose an additional assessment by either:

.005 Adjusting the licensee's reported MPG to 4.00 or 1.70 KPL; or

.010 Reducing the licensee's reported MPG or KPL by **twenty percent. (Emphasis added).**

The audit report explains the results:

In accordance with IFTA Article P570.100 Inadequate Records Assessment . . . the **reported MPGs were multiplied by 20[percent]** to determine the MPG reductions. The MPG reductions were subtracted from the reported MPGs to determine the audited MPGs for each quarter. **(Emphasis added).**

As a result, and based upon the information available, the Department concluded that Taxpayer should be assessed additional IFTA tax. In addition, the Department assessed penalties and interest.

B. IFTA Reporting Requirements and Taxpayer's Responsibilities Under That Agreement.

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 January 3, 2023). 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 is headquartered in Indiana and operated vehicles in Indiana and other states. As such, Taxpayer operated on Indiana and other state's highways and consumed motor fuel while on those highways. Therefore, the Taxpayer was subject to Indiana and other state's motor carrier fuel taxes under the IFTA. [IC 6-6-4.1-4\(a\)](#).

Assessments of motor carrier fuel tax under IFTA are presumed to be valid. [IC 6-6-4.1-24\(b\)](#). In addressing any challenges to those assessments, the taxpayer bears the burden of proving that any assessment is incorrect. *Id.* The taxpayer has a duty to maintain books and records and present them to the Department for review upon the Department's request. [IC 6-6-4.1-20](#); [IC 6-8.1-5-4\(a\)](#).

Taxpayer is subject to the specific, detailed reporting requirements under the IFTA and Indiana is required to enforce those reporting and record keeping standards.

The IFTA Procedures Manual, § P530 (2017) in part, imposes upon licensees the responsibility to maintain verifiable mileage and fuel purchase records:

The records maintained by a licensee under this article shall be 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 adequacy of a licensee's records is to be ascertained by the records' sufficiency and appropriateness. Sufficiency is a measure of the quantity of records produced; that is, whether there are enough records to substantially document the operations of the licensee's fleet. The appropriateness of the records is a measure of their quality; that is, whether the records contain the kind of information an auditor needs to audit the licensee for the purposes stated in the preceding paragraph. Records that are sufficient and appropriate are to be deemed adequate. **(Emphasis added)**.

In addition, the IFTA Procedures Manual at § P550.100 (2017), imposes upon IFTA licensees the responsibility of maintaining and then making available verifiable fuel purchase and fuel consumption records.

The licensee shall maintain complete records of all motor fuel purchased, received, or used in the conduct of its business, and on request, produce these records for audit. The records shall be adequate for the auditor to verify the total amount of fuel placed into the licensee's qualified motor vehicles, by fuel type.

One of those record keeping requirements is that of maintaining specific records such as fuel receipts based on § P550 and detailed distance records with supporting documentation called for in § P540 of the IFTA Procedures Manual (2017). The IFTA Procedures Manual § P510 (2017) provides in part that:

A licensee shall retain the records of its operations to which IFTA reporting requirements apply for a period of four years following the date the IFTA tax return for such operations was due or was filed, whichever is later, plus any period covered by waivers or jeopardy assessments. **A licensee must preserve all fuel and distance records** for the period covered by the quarterly tax returns for any periods under audit in accordance with the laws of the base jurisdiction. **(Emphasis added)**.

Exercising its authority and responsibility as the Taxpayer's chosen base jurisdiction, the Department assessed the additional IFTA tax. In other words, the Department did what it is required to do.

C. Indiana's IRP Audit Findings.

The Department conducted a fuel and mileage tax audit of Taxpayer's travel records and determined that Taxpayer owed additional 2019 IRP fees. The assessment was made because "[t]he records presented for audit were not compliant and have been rated as inadequate."

The IRP audit report explained:

The registrant did not maintain any distance records to support the reported jurisdictional distance. Therefore, an audit of the distance could not be conducted.

D. IRP Requirements and Taxpayer's Record Keeping Responsibilities.

The Indiana Code permits Indiana to join the IRP agreement ("the Plan") under [IC 6-6-4.1-14](#) and [IC 9-28-4-6](#). [IC 6-6-4.1-14](#)(b) 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 its vehicle in Indiana and other member jurisdictions, Taxpayer chose Indiana as its base jurisdiction pursuant to Article IV of the Plan (2013). In conjunction with the IFTA audit, the Department conducted the IRP audit under the terms of Articles XV and XVI of the Plan (2013) and the International Registration Plan's Audit Procedures Manual.

The Department selected July 2020 to April 2021 as the registration year to audit. The Department determined that Taxpayer owed additional IRP fees based upon the documentation provided. § 1005 of the Plan (2019) explains 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 (2019) 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).

As with the IFTA tax audit noted above, Department's audit found that Taxpayer's records "were not compliant and have been treated as inadequate." 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.

E. Taxpayer's Burden of Proof.

The Department issued Taxpayer assessments, and Taxpayer objected. As such it becomes Taxpayer's responsibility to establish that the existing proposed assessments were 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*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

F. Analysis and Conclusion.

Taxpayer has not challenged anything in either the IFTA or IRP reports other than to submit an undocumented objection to the assessments. Although Taxpayer's protest refers to "new documentation," no documents were provided. In addition, Taxpayer failed to take advantage of the administrative hearing scheduled for the purpose of allowing Taxpayer to explain the basis for the protest first submitted in July 2022.

The Department acted correctly in its enforcement of the IFTA and IRP agreements. Taxpayer failed to provide any documentation or analysis to prove the proposed assessments wrong, as required by [IC 6-8.1-5-1\(c\)](#). Therefore, Taxpayer's protest is denied.

FINDING

Taxpayer's protest respectfully denied.

January 17, 2023

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