

Letter of Findings: 42-20221745
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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 of 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](#); [45 IAC 15-11-2](#); IFTA Article XII, § R1210; IFTA Procedures Manual, § P530; IFTA Procedures Manual, § P540; IFTA Procedures Manual, § P570; *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 excessive.

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 that 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. Taxpayer's representative submitted a protest requesting a final determination without a 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 arguing that the proposed assessments are excessive. The Department based its determination that additional IFTA taxes were due on the fact that Taxpayer had inadequate records to verify reported IFTA taxes. 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 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, 291 (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 January 25, 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 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, § P530 (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).

Departmental regulation [45 IAC 15-11-2\(b\)](#) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." *Id.*

Departmental regulation [45 IAC 15-11-2\(c\)](#) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed"

Taxpayer did not provide adequate records during the initial audit. After receiving the audit results and submitting the protest, Taxpayer provided a copy of a blank trip sheet used by the Taxpayer's driver, arguing that the trip sheets should suffice and that the auditor's request for odometer readings would be too costly. Taxpayer argues it would cost time and money to stop at the border of each member jurisdiction. However, the Department provided in its report that even estimates would prove helpful. No new estimates were produced by Taxpayer.

When the base jurisdiction finds that there are inadequate records, it 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 agreement, including the IFTA Procedures Manual. Taxpayer has not shown the Department's assessment is erroneous.

Regarding Taxpayer's protest of the imposition of penalty, the Department may waive a negligence penalty when a taxpayer establishes that its failure to pay a tax was due to reasonable cause and not due to negligence. [45 IAC 15-11-2\(c\)](#). A taxpayer must demonstrate that it exercised ordinary business care in carrying out or failing to carry out a duty giving rise to the penalty. Reasonable cause is fact sensitive and will vary based on the facts of each individual case.

Taxpayer kept records through a software program that was used to calculate milage and fuel purchased. The program was a desktop program where users manually add the required information. Taxpayer kept a manual log of miles on a trip sheet that recorded the starting point and destination of each trip. The trip sheet recorded the date, city, state, gallons used, and state of fuel purchased. However, Taxpayer did not track trip odometer readings or any odometer readings on the trip sheets to confirm what was in the software program. The Taxpayer also did not verify the fuel purchased with the trip sheets, conduct MPG analysis, ensure jurisdictional continuity, or validate tax paid fuel credits.

In reviewing Taxpayer's argument, the Department takes note of not only the record keeping shortcomings but also recognizes Taxpayer's efforts to fulfill its record keeping obligations. Here the Taxpayer has displayed that it exercised reasonable care in performing its tax duties. Based on a "case-by-case" analysis and after reviewing "the facts and circumstances of each taxpayer" the Department cannot agree that the penalty should be waived.

Since the Department's reasoning and calculations follow IFTA provisions, and since Taxpayer has not provided the IFTA-required documentation, the Department disagrees with Taxpayer's argument that the assessments are excessive. Upon review of all the facts presented, the facts do not support a waiver of the penalty. Taxpayer has not met the burden of proving the proposed assessments wrong, as required by [IC 6-8.1-5-1\(c\)](#), therefore the base tax due and interest amounts remain the same.

FINDING

Taxpayer's protest respectfully denied.

January 27, 2023

Posted: 07/05/2023 by Legislative Services Agency
An [html](#) version of this document.