

**Letter of Findings: 65-20221437
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 (the "Department") 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 meet its burden of proof.

ISSUE

I. Motor Vehicles - Overweight Penalty.

Authority: [IC 6-8.1-5-1](#); [IC 6-8.1-1-1](#); [IC 9-20-1-2](#); [IC 9-20-4-1](#); [IC 9-20-4-4](#); [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); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the assessment of an overweight civil penalty.

STATEMENT OF FACTS

Taxpayer is a trucking company hauling salt within Indiana. On March 14, 2022, the Indiana State Police ("ISP") examined Taxpayer's commercial motor vehicle and issued an overweight violation. Later, ISP informed the Department of the violation. As a result, the Department issued Taxpayer a civil penalty for being overweight. Taxpayer protested the assessment and waived its right to an administrative hearing. This decision therefore relies on evidence submitted alongside Taxpayer's protest. Further facts will be provided as necessary.

I. Motor Vehicles - Overweight Penalty.

DISCUSSION

ISP reported that Taxpayer was 3,800 pounds over the statutorily allowed limit for gross weight, 3,250 pounds over the limit for its rear tandem axle group, and 5,600 pounds over the limit for its tri-axle group. Taxpayer claims ISP incorrectly stated the weight limits for its vehicle.

As a threshold issue, it is a taxpayer's responsibility to establish that the existing proposed assessment is incorrect. As stated in [IC 6-8.1-5-1\(c\)](#), "[t]he 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).

The Department notes that "when [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 shall be entitled to deference.

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 9-20-4-1](#) provides the formula for determining a vehicle's gross weight limit and lists specific tandem axle weight limits. These weight limits are administered by the Department. [IC 9-20-4-4](#).

[IC 9-20-18-14.5](#)(d) authorizes the Department to impose civil penalties against a taxpayer that transports a loaded vehicle over the legal weight limit. [IC 6-8.1-1-1](#) states that fees and penalties stemming from IC Art. 9-20 violations are a "listed tax." 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.

In this case, the Department issued Taxpayer a "Civil Penalty Proposed Assessment for Oversize/Overweight Violation(s)" for three different overweight violations. According to the ISP report, Taxpayer transported a load of salt at a weight that was more than the amount allowed under [IC 9-20-4-1](#). A weight violation for which no permit is available is subject to a civil penalty of not more than \$10,000. [IC 9-20-18-14.5](#)(d).

Taxpayer maintains that the weight taken by ISP was incorrect and that ISP incorrectly listed the weight maximums on its citation. Along with its protest, Taxpayer provided a cab registration and a certificate of weight and measure showing a weight for the vehicle in question that differs from that taken by ISP. However, these documents do not show that the weight limits used by ISP are incorrect. Moreover, the alternative weights are still in violation of the statutory weight limits. These documents do not establish that the assessment is incorrect. Taxpayer has not met the burden imposed under [IC 6-8.1-5-1](#)(c) of proving the proposed assessment wrong.

FINDING

Taxpayer's protest is respectfully denied.

January 27, 2023

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