

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	DOCKET NO. 24299
)	
[Redacted],)	DECISION
)	
Petitioner.)	
)	
)	
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On June 24, 2011, the Fuels Tax and Registration Fee Audit section (FTRF) of the Idaho State Tax Commission (Commission) issued an Audit Determination Letter to [Redacted] (petitioner) proposing additional fees due, penalty, and interest for the period of July 1, 2007, through June 30, 2009, in the total amount of \$3,372.45.

A timely protest and petition for redetermination was filed by the petitioner. The petitioner requested a meeting with the auditor to present additional information. The meeting was held as scheduled; however, the information provided was not for the tax years under audit. The auditor contacted the petitioner and advised him of the error, and the requested records were delivered on November 9, 2011. On November 15, 2011, a letter was mailed to [Redacted] notifying him the auditor was unable to determine jurisdictional mileage or total mileage from the records provided. The auditor then requested additional information which was not provided. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

During the audit period, the petitioner was based in [Redacted], Idaho, and operated one International Registration Plan (IRP) qualified motor vehicle. The petitioner traveled from Idaho to various states in the West and Midwest areas. No information is available on what product was hauled or any operational changes as no records were provided.

The petitioner's records were audited to verify the accuracy of his International Fuels Tax Agreement (IFTA) returns and IRP applications. No mileage or fuels records were provided for the

audit period. The scope of the audit covered [Redacted] operations for sixteen IRP jurisdictions. All available mileage records, accounting/reporting records, and IRP registration application documents were examined. The auditor was unable to utilize sample periods as no records were submitted for review. Also, internal controls could not be evaluated. No fuel receipts or mileage records were provided for review. The ratio of the audited jurisdiction miles was compared to the ratio of reported jurisdiction miles. The percentage change in jurisdiction ratios was multiplied by the original fees paid. The Idaho fee tier was determined by comparing the average total application miles per unit to the Idaho tier chart. The audited tier was determined by comparing the average total audited miles per unit to the application tier. Fees were adjusted by unit based on the difference between the average application miles and the average audited miles. IFTA mileage was compared to the IRP application and ITD reports from sightings at ports of entry. Discrepancies found between the IFTA quarterly returns and the IRP application were treated as one-time adjustments.

The IRP PROCEDURES MANUAL outlines the type of records an IRP licensee is required to maintain for distance records, fuel records, and tax-paid fuel purchases.

The IRP PROCEDURES MANUAL ARTICLE 401 states in part:

(b) The Registrant must maintain Operational Records that support the total In-Jurisdiction Distance and Total Distance traveled everywhere. Operational Records include source documents suitable for verification of Fleet distance as reported on the Registrant's application for apportionment. An acceptable source document for verifying Fleet distance traveled is an "Individual Vehicle Distance Record" (IVDR). A standardized IVDR is suggested and encouraged, but not required. While it is desirable, the necessary information for a trip need not be contained on a single source document. IVDRs shall contain the following information:

- (i) Date of trip (starting and ending);
- (ii) Trip origin and destination;
- (iii) Route of travel (may be waived by Base Jurisdiction);
- (iv) Beginning and ending odometer or hubodometer reading of the trip (may be waived by Base Jurisdiction);
- (v) Total Distance;

- (vi) In-Jurisdiction Distance; and
- (vii) Power Unit number or vehicle identification number.

Idaho Motor Fuels Tax Administrative Rule 35.01.05.421 states:

Registrants must keep records to verify the accuracy of any Idaho International Registration Plan (IRP) application submitted to the Idaho Transportation Department. Registrants must keep the records required by Rule 420 of these rules for all IRP registered vehicles. Also, registrants must keep individual vehicle records by registered fleet for each application reporting period of July 1st through June 30th.

The findings show [Redacted], did not comply with the IFTA and IRP requirements. The petitioner did not provide mileage or fuel records for the audit. Per Idaho Code section 63-2438, Idaho Motor Fuels Tax Administrative Rule 421, and the IRP Procedures Manual, the petitioner is required to keep mileage and fuel records and provide those records for audit.

The petitioner has not provided the Commission with information to establish that the amounts asserted in the Audit Determination Letter are incorrect. A determination of the State Tax Commission is presumed to be correct. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the petitioner to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). Therefore, the Commission must uphold the deficiency as asserted.

THEREFORE, the Audit Determination Letter dated May 25, 2011, is hereby APPROVED, AFFIRMED, and MADE FINAL .

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following fees due, penalty, and interest:

<u>PERIOD</u>	<u>FEEES</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
7/1/07-6/30/08	\$1,418.08	\$131.88	\$257.04	\$1,807.00
7/1/08-6/30/09	1,347.87	131.88	85.70	<u>1,565.45</u>
			TOTAL DUE	<u>\$3,372.45</u>

Interest is computed through February 29, 2012.

An explanation of the petitioner's right to appeal this decision is enclosed.

DATED this ____ day of _____ 2012.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____ 2012, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
