

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 25019
[Redacted])
)
Petitioner.)
) DECISION
)
_____)

HISTORY

On February 29, 2012, the Idaho State Tax Commission’s Fuels Tax and Registration Fee Audit Division (FTRF) issued a Notice of Deficiency Determination (NODD) to [Redacted](Taxpayer) for fuels use tax for the period between October 1, 2008, and September 30, 2011, in the amount of \$4,035.52; being \$2,813 in tax, a \$281.30 penalty, and \$941.19 in interest that would accrue through March 30, 2012. The Taxpayer owns [Redacted].

The NODD was based on information collected during a fuels tax audit of the Taxpayer’s International Fuels Tax Agreement (IFTA) reports and records for its eight IFTA qualifying [Redacted] over the pertinent timeframe. The audit discovered unreported miles, missing fuel receipts, and misreporting in various instances throughout the audit period. Also, three of the IFTA [Redacted] were used under direction of another [Redacted] in [Redacted] during the [Redacted] there, but no records were available to show fuel purchases or gallons used during that timeframe.

On March 29, 2012, the Taxpayer faxed FTRF a request for additional time to provide further documentation. FTRF considered the request to be a timely petition for redetermination of the NODD and gave the Taxpayer until April 27, 2012, to submit additional supporting documentation showing that the NODD was inaccurate. The Taxpayer subsequently provided additional documentation regarding miles travelled in [Redacted] in the fourth quarter of 2008

and a copy of a lease agreement showing fuel was to be provided by the lessee for the [Redacted] it used for the [Redacted]. A redetermination of the IFTA audit was conducted by FTRF accounting for the additional information and resulting in a reduction of the amount in the original NODD to \$2,550.28; being \$1,755.69 in tax, a \$175.57 penalty, and \$619.02 in interest.

On May 22, 2012, [Redacted], of FTRF, held a telephone conference with [Redacted], the Taxpayer's office manager, to explain the findings of the redetermination and give the Taxpayer's representative an opportunity to ask questions. FTRF sent a letter to the Taxpayer on May 23, 2012, memorializing the telephone conference and requesting that the Taxpayer indicate on the document whether it agreed with the redetermination or if it wished to continue the protest process. The letter was returned to FTRF on May 30, 2012, marked that the Taxpayer wished to continue the protest process.

The Taxpayer's audit file was transferred to the Tax Commission's Legal/Tax Policy Division (Legal) on June 7, 2012, and a hearing rights letter was sent to the Taxpayer on June 15, 2012. The Commission has had no further communication with the Taxpayer and now moves forward with this decision.

PERTINENT LAW

The IFTA Procedures Manual outlines the type of records an IFTA licensee is required to maintain for distance records, fuel records, and tax-paid fuel purchases. Part P540 of that manual governs distance records and states, in part:

.100 Licensees shall maintain detailed distance records which show operations on an individual-vehicle basis. The operational records shall contain, but not be limited to:

- .005 Taxable and non-taxable usage of fuel;
- .010 Distance traveled for taxable and non-taxable use; and
- .015 Distance recaps for each vehicle for each jurisdiction in which the vehicle operated.

.200 An acceptable distance accounting system is necessary to substantiate the information reported on the tax return filed quarterly or annually. A licensee's system at a minimum must include distance data on each individual vehicle for each trip and be recapitulated in monthly fleet summaries. Supporting information should include:

- .005 Date of trip (starting and ending);
- .010 Trip origin and destination;
- .015 Route of travel (may be waived by base jurisdiction);
- .020 Beginning and ending odometer or hub odometer reading of the trip (may be waived by base jurisdiction);
- .025 Total trip miles/kilometers;
- .030 Miles/kilometers by jurisdiction;
- .035 Unit number or vehicle identification number;
- .040 Vehicle fleet number;
- .045 Registrant's name; and
- .050 may include additional information at the discretion of the base jurisdiction.

Idaho Motor Fuels Tax Administrative Rule 35.01.05.420.03 further governs in what manner information for IFTA reporting requirements may be recorded when it states, in part:

- f.** Hubometer or odometer readings from the beginning and ending of each trip and at the crossing of each jurisdiction's border. Interstate motor vehicles that, for certain time periods, do not cross jurisdiction borders need only record daily hubometer or odometer readings for those time periods; (7-1-98)
- g.** Complete routes of travel, including pick up and delivery locations; (7-1-98)

The IFTA Procedures Manual Part P550 Fuel Records states:

- .100 The licensee must maintain complete records of all motor fuel purchased, received, and used in the conduct of its business.
- .200 Separate totals must be compiled for each motor fuel type.
- .300 Retail fuel purchases and bulk fuel purchases are to be accounted for separately.

.400 The fuel records shall contain, but not be limited to:

- .005 The date of each receipt of fuel;
- .010 The name and address of the person from whom purchased or received;
- .015 The number of gallons or liters received;
- .020 The type of fuel; and
- .025 The vehicle or equipment into which the fuel was placed.

The IFTA Procedures Manual Part P560 Tax Paid Retail Purchases states:

.100 Retail purchases must be supported by a receipt or invoice, credit card receipt, automated vendor generated invoice or transaction listing, or microfilm/microfiche of the receipt or invoice. Receipts that have been altered or indicate erasures are not accepted for tax-paid credits unless the licensee can demonstrate the receipt is valid.

.200 Receipts for retail fuel purchases must identify the vehicle by the plate or unit number or other licensee identifier, as distance traveled and fuel consumption may be reported only for vehicles identified as part of the licensee's operation.

.300 An acceptable receipt or invoice must include, but shall not be limited to, the following:

- .005 Date of purchase;
- .010 Seller's name and address;
- .015 Number of gallons or liters purchased;
- .020 Fuel type;
- .025 Price per gallon or liter or total amount of sale;
- .030 Unit numbers; and
- .035 Purchaser's name (See R1010.300 of the IFTA Articles of Agreement).

Article V of the IFTA Articles of Agreement contains sections that identify reporting requirements for vehicles that are leased. Part *R510 Rental/Leasing of the Agreement states:

.100 Short-Term Leases. In the case of a short-term motor vehicle rental, by a lessor regularly engaged in the business of leasing, or renting motor vehicles without drivers, for compensation to licensees or other lessees of 29 days or less, the lessor will report and pay the fuel use tax unless the following two conditions are met:

- .005 The lessor has a written rental contract which designates the lessee as the party responsible for reporting and paying the fuel use tax; and
- .010 The lessor has a copy of the lessee's IFTA fuel tax license which is valid for the term of the rental.

.200 Long-Term Leases. A lessor regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation to licensees or other lessees may be deemed to be the licensee, and such lessor may be issued a license if an application has been properly filed and approved by the base jurisdiction

Part *R530 Independent Contractors states:

.100 Short-Term Leases. In the case of a carrier using independent contractors under short-term/trip leases of 29 days or less, the trip lessor will report and pay all fuel taxes.

.200 Long-Term Leases. In the case of a carrier using independent contractors under long-term leases (30 days or more), the lessor and lessee will be given the option of designating which party will report and pay fuel use tax. In the absence of a written agreement or contract, or if the document is silent regarding responsibility for reporting and paying fuel use tax, the lessee will be responsible for reporting and paying fuel use tax. If the lessee (carrier) through a written agreement or contract assumes responsibility for reporting and paying fuel use taxes, the base jurisdiction for purposes of this Agreement shall be the base jurisdiction of the lessee, regardless of the jurisdiction in which the qualified motor vehicle is registered for vehicle registration purposes by the lessor.

DISCUSSION

The Taxpayer did not comply with IFTA requirements or Idaho Motor Fuels Tax Administrative Rules. The Taxpayer had unreported mileage and missing fuel receipts for which it wanted credit. Per Idaho Code section 63-2438, Idaho Motor Fuels Tax Administrative Rule 420 and the IFTA Procedures Manual, the Taxpayer is required to keep mileage and fuel records and provide those records for audit. The Taxpayer did not provide complete documentation showing routes of travel for all of its vehicles, provide fuel invoices for all fuel purchases, or provide leases showing the company was not responsible for tracking fuel information for all pertinent time periods.

In Idaho, it is well established that a Tax Commission deficiency notice is presumed to be correct, and the taxpayer bears the burden of showing the deficiency is erroneous. Parsons v.

Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986); Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Some information originally identified in the audit as missing was provided to the Commission resulting in an adjustment of the original NODD. However, the Taxpayer's fuels records are still incomplete, as evidenced by the remaining fuels tax deficiency.

CONCLUSION

The Taxpayers have failed to present legal or factual information to dispute the basis of the entire original NODD and, therefore, failed to meet their burden to show that the NODD, as modified by FTRF, is incorrect.

WHEREFORE, the adjusted NODD dated February 29, 2012, directed to [Redacted], is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED the Taxpayer pay the following tax, penalty, and interest:

<u>YEARS</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008-2011	\$1,755.69	\$175.57	\$812.61	\$2,743.87

Interest is calculated through December 31, 2012.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the Taxpayer'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.
