

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 39273
[Redacted],)
)
)
Petitioner.) DECISION
)
_____)

[Redacted] (petitioner) submitted a timely protest of a Notice of Deficiency Determination (Notice) issued December 5, 2014, by the Idaho State Tax Commission (Commission) proposing additional registration fees, penalty, and interest in the total amount of \$1,081.51 for Registration Years 2013 and 2014. The Notice was issued when the petitioner did not provide records and it was based on an inadequate records assessment increasing registration fees in all jurisdictions by 20 percent. The petitioner protested the inadequate records assessment and provided records. The auditor used the records to revise the Notice. The petitioner did not withdraw the protest in favor of the revised Notice. The Commission hereby issues its decision based on information contained in the file.

The petitioner is a common carrier transporting [Redacted] and other [Redacted] in Idaho, Oregon, and Washington using two vehicles weighing over 26,000 lbs. GVW, which qualified the carrier to register the vehicles under the International Registration Plan (Plan).

The Plan is a multijurisdictional agreement which allows carriers to register qualifying vehicles with more than one participating jurisdiction through one base jurisdiction. In this case, the petitioner claims Idaho as its base jurisdiction and reports to the Idaho Transportation Department (ITD) all distance traveled in each jurisdiction for which the qualifying vehicles are registered on its annual Idaho application. The petitioner pays ITD registration fees due to each

jurisdiction based on the proportional percentage of distance in each jurisdiction times its registration fees.

The Commission audits approximately 125 Plan registered carriers a year, as authorized by Section 49-439, Idaho Code. Each carrier is generally selected for audit randomly, in conjunction with the carrier's International Fuel Tax Agreement (IFTA) license. A carrier may also be selected for audit if errors are discovered on its application.

The Fuels Tax/Registration Fee Audit Section reviewed the registration applications for 2013 and 2014 and requested adequate records from the petitioner to verify its application miles. When the petitioner did not provide any records, a Notice was issued raising the fees in all jurisdictions by 20 percent as allowed by Section Article X, Section 1015, of the Plan.

Section 49-439, Idaho Code, states, in pertinent part:

(5) An owner who fails to maintain records as required by the provisions of this section may have the registration of all vehicles registered under section 49-434 or 49-435, Idaho Code, suspended until such time as adequate records as required by the provisions of this section are provided. **In the event that the owner does not produce records, the state tax commission may generate a notice of deficiency based on an estimate of the operation. The state tax commission shall develop a methodology to be used to calculate a notice of deficiency based on an estimate of the operation. That methodology shall be in accordance with the international registration plan and international fuel tax agreement guidelines.** (Emphasis added)

Section 1015 of the International Registration Plan states:

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 including Apportionable Fees based on Estimated Distance. In an instance where the Base Jurisdiction knows that it is the Registrant's second such offense, the Base Jurisdiction shall impose an assessment of fifty percent of the Apportionable Fees paid by the Registrant for the registration of its Fleet in the Registration Year to

which the Records pertain. When the Base Jurisdiction knows it is the Registrant's third offense, and on any subsequent offenses of the Registrant known to the Base Jurisdiction, the Base Jurisdiction shall impose an assessment of 100 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)

After the protest was received, the petitioner provided records that were adequate to revise the Notice. The revised Notice proposed a credit of fees due, less penalty and interest, totaling \$45.56. The penalty and interest for a Plan audit are calculated only for additional Idaho registration fees due.

The changes in registration fees for Registration Year 2013 were minimal and resulted in a credit of fees due of \$0.69. The mileage changes for each jurisdiction were less than 30 miles.

In Registration Year 2014, miles were increased for Idaho by 881, increased for Oregon by 5,476, and decreased for Washington by 704. Fees were increased for Idaho by \$26.14, increased for Oregon by \$56.70, and decreased for Washington by \$133.46. The changes in registration fees for Registration Year 2014 were a net credit of fees due of \$51.10.

When the protest was not withdrawn, the file was referred, with the IFTA audit file, to the Legal/Tax Policy Division for administrative review. The petitioner was sent a letter explaining the methods available for redetermining a protested Notice. A hearing was held on April 21, 2015. The policy specialist explained the hearing procedure. He also informed the petitioner that while the Plan audit and IFTA audit were held simultaneously, the protests of the Notices were separate and he was not required to protest both Notices. Since the revised Notice for the Plan audit was a credit due the petitioner, he could withdraw the protest of the Plan Notice and continue to protest the IFTA Notice. The petitioner agreed to withdraw the protest of the Plan Notice and would send the request in writing. A letter was received, but it did

not include a withdrawal for the protest of the Plan Notice. A second request was sent by mail, but there was no response.

Since the protest of the Plan Notice was not withdrawn, a decision from the Commission is required. The Commission finds the revised Plan Notice to be a reasonably accurate representation of the petitioner's registration fee liability under the Plan for Registration Years 2013 and 2014.

THEREFORE, the revised Notice of Deficiency Determination directed to [Redacted] dated December 5, 2014, is AFFIRMED.

Since the petitioner is due a credit of registration fees, no demand for payment is made or necessary.

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

DATED this _____ day of _____ 2015.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2015, 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.
