

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 [Redacted])
 [Redacted],)
)
 _____)
 Petitioner.)

DOCKET NO. 1-007-147-008

DECISION

On April 4, 2019, the Fuels Tax and Registration Fee Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted] (Petitioner), proposing fuels use tax for the period of January 1, 2016, through September 30, 2018, in the amount of \$1,578.68.

On April 16, 2019, the Bureau received Petitioner’s appeal and petition for redetermination of the Notice. The Commission then sent Petitioner hearing rights letters dated August 12, 2019, and September 16, 2019. However, Petitioner requested no hearing and provided no documentation for the Commission’s consideration.

The Commission reviewed the audit file and upholds the Notice for the following reasons.

Background and Audit Findings

Petitioner maintains three motor vehicles (Fleet) in [Redacted], Idaho for transporting vessels throughout the Western United States and Canada. Petitioner’s Fleet is licensed in Idaho for operation under the International Fuel Tax Agreement (IFTA) provisions.

IFTA is a multi-jurisdictional agreement designed to promote and encourage use of the highway system through the uniform administration of motor fuels use tax laws with respect to motor vehicles operating in multiple member jurisdictions.

As an Idaho licensee, Petitioner reports and pays its motor fuels tax to Idaho. Idaho then distributes the tax that Petitioner reports on quarterly IFTA returns to each of the reported member jurisdictions.

To determine Petitioner's compliance with IFTA, the Bureau conducted a routine audit of Petitioner's business. During this audit, the Bureau compared Petitioner's tax-paid fuel invoices to the tax-paid fuel that Petitioner reported on its IFTA returns. The Bureau determined that Petitioner paid tax on its fuel at the time of purchase and no adjustment was necessary.

The Bureau also reviewed Petitioner's distance records for the entire audit period. During this review, Petitioner provided the Bureau with less than 50% of the Fleet's trip sheets to substantiate the mileage it reported on its IFTA returns. Since Petitioner provided the Bureau with limited mileage records, the Bureau was unable to verify the mileage that Petitioner reported on its IFTA returns. Consequently, the Bureau issued an inadequate records assessment, reducing the majority of Petitioner's reported miles per gallon (MPG) by 20%.

Petitioner's Protest

Petitioner disagrees with the results of the IFTA audit and claims to have documentation supporting the MPG filed on its IFTA returns.

Relevant Tax Code and Analysis

IFTA is governed by three documents that are equally binding upon the member jurisdictions and IFTA licensees. These governing documents are the IFTA Articles of Agreement, Audit Manual, and Procedures Manual. IFTA Procedures Manual, Section *P520 places the burden of proof on the licensee in an audit.

To determine the accuracy of a licensee's IFTA return, the base jurisdiction reviews a licensee's distance and fuel records for sufficiency and appropriateness. The adequacy of a licensee's records is addressed in IFTA Procedures Manual, Section *P530, stating in pertinent part:

***P530 ADEQUACY OF RECORDS**

The records maintained by a licensee under this article shall be 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 adequacy of a licensee's records is to be ascertained by the records' sufficiency and appropriateness. Sufficiency is a measure of the quantity of records produced; that is, whether there are enough records to substantially document the operations of the licensee's fleet. The appropriateness of the records is a measure of their quality; that is, whether the records contain the kind of information an auditor needs to audit the licensee for the purposes stated in the preceding paragraph. Records that are sufficient and appropriate are to be deemed adequate.

Provided a licensee's records are adequate under this definition, the records may be produced through any means, and retained in any format or medium available to the licensee and accessible by the base jurisdiction. If records are presented in a format or in a manner in which the base jurisdiction cannot audit them, they have not been made available as required.

Licensee records which do not contain all of the elements set out in P540, P550 and P560 may still, depending on the sufficiency and appropriateness of the records and of the licensee's operations, be adequate for an audit.

In Petitioner's case, it provided sufficient and appropriate fuel records but provided insufficient distance records. Thus, the Bureau imposed an inadequate records assessment.

The inadequate records assessment is set forth in IFTA Procedures Manual, Section *P570.

This section states in applicable part:

***P570 INADEQUATE RECORDS ASSESSMENT**

.100 If the base jurisdiction determines that the records produced by the licensee for audit do not, for the licensee's fleet as a whole, meet the criterion for the adequacy of records set out in P530, or after the issuance of a written demand for records by the base jurisdiction, the licensee produces no records, the base jurisdiction shall impose an additional assessment by either:

.005 adjusting the licensee's reported fleet MPG to 4.00 or 1.70 KPL; or

.010 reducing the licensee's reported MPG or KPL by twenty percent.

.200 This section does not affect the ability of a base jurisdiction to disallow tax-paid credit for fuel purchases which are inadequately documented, or, for cause, to conduct a best information available audit which may result in adjustments to either the audited or reported MPG or KPL, suspend, revoke, or cancel the license issued to a licensee.

Since Petitioner did not provide adequate records to substantiate its Fleet and jurisdictional mileage for IFTA, the Commission finds the Bureau correctly imposed an inadequate records assessment.

Conclusion

On appeal, a deficiency determination issued by the Commission “is presumed to be correct, and the burden is on the taxpayer to show that the Commission’s decision is erroneous.” *Parker v. Idaho State Tax Comm’n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson’s Inc. v. State Dep’t of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). To meet this burden, the Commission required Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioner did not provide adequate evidence to meet this burden. As a result, the Commission upholds the Notice.

Absent information to the contrary, the Commission finds the Notice to be an accurate representation of Petitioner’s liability for the period of January 1, 2016, through September 30, 2018.

The Bureau added interest to the fuels use tax deficiency. The Commission reviewed this addition, finds it to be appropriate per § 63-3045, Idaho Code, and updated interest accordingly. Interest is calculated through February 29, 2020, and will continue to accrue at the rate set forth in § 63-3045(6), Idaho Code, until paid. No penalty was assessed.



THEREFORE, the Notice is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax and interest:

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$1,426.63	\$208.11	\$1,634.74

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

An explanation of Petitioner's right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2020.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2020 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]
[Redacted]
[Redacted] [Redacted] [Redacted]
[Redacted]

Receipt No.
