

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of

████████████████████,

Petitioner.

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DOCKET NO. 0-708-978-688

DECISION

On July 25, 2019, the staff of the Fuels Tax and Registration Fee Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (Notice) to ████████████████████ (Petitioner), proposing fuels use tax, penalty, and interest for the period April 1, 2016, through March 31, 2019, in the total amount of \$3,511.93.

On August 20, 2019, Petitioner filed a timely appeal and petition for redetermination of the Notice. The Commission then sent Petitioner a hearing rights letter dated September 23, 2019. Petitioner responded and stated they were working on gathering information for the quarterly fuel reconciliations. The Commission received those reconciliations November 2, 2020. The information provided was not detailed enough to prove which vehicles the bulk fuel was used in.

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

**Background and Audit Findings**

██████████████████ is based out of Bruneau, Idaho and currently operates four units for both International Fuel Tax Agreement (IFTA) and International Registration Plan (IRP). They are a common carrier that hauls cattle in Idaho, Nevada, Montana, Oregon and Utah.

The Bureau conducted an audit of the Petitioner’s IFTA records. During its examination, the Bureau found that the Petitioner uses bulk fuel for the IFTA units and does not keep withdrawal records. The bulk tanks are used to fuel equipment, licensed vehicles and IFTA trucks. To arrive at the tax paid gallons reported on the IFTA quarterly return, Petitioner uses a stagnant six miles per gallon (mpg). The bulk tanks were mixed-use tanks comprising both taxable and non-taxable

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fuel, and by estimating the mpg, non-taxed fuel was claimed for tax-paid credit on their IFTA returns.

### **Protest**

The Petitioner protested the Bureau's findings and presented information showing the purported usage in the audit is incorrect. Petitioner asserts that the audit results in fuel usage in excess of fuel gallons available for use.

### **Relevant Tax Code and Analysis**

The IFTA Procedures Manual outlines the type of records an IFTA licensee is required to maintain. The IFTA Procedures Manual P550 Fuel Records states:

.100 The licensee shall maintain complete records of all motor fuel purchased, received, or used in the conduct of its business, and on request, produce these records for audit. The records shall be adequate for the auditor to verify the total amount of fuel placed into the licensee's qualified motor vehicles, by fuel type.

.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 findings show Petitioner did not comply with the IFTA requirements and the Bureau could not arrive at an accurate number for the tax-paid gallons.

IFTA Procedure 570.100 states that if the records produced for audit do not meet the criterion for adequacy of records, the auditor shall impose an additional assessment by either adjusting the mpg to four or reducing the mpg by 20%. In this case, an inadequate assessment of

20% was applied. Tax paid credit was allowed on bulk fuel delivery statements that showed taxes were paid.

**Conclusion**

Absent information to the contrary, the Commission finds the Notice prepared by the Bureau to be a reasonably accurate representation of the Petitioner’s fuels use tax liability for the period April 1, 2016, through March 31, 2019.

The Bureau added interest and penalty to the deficiency. The Commission reviewed those additions and found both to be appropriate per Idaho Code §§ 63-3045 and 63-3046. Interest is calculated through April 30, 2021 and will continue to accrue at the rate set forth in § 63-3045(6), Idaho Code, until paid.

THEREFORE, the Notice of Deficiency Determination dated July 25, 2019, 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, penalty and interest:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 2019        | \$2,925.96 | \$292.60       | \$576.23        | \$3,794.79   |

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 \_\_\_\_\_, 2021.

IDAHO STATE TAX COMMISSION



**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2021 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.

\_\_\_\_\_

CC-POA Address

[REDACTED]