

Email conversations – pre-fieldwork

2/1/12

Ms. Deer,

Tom and I have set the start date of the field work for April 30, 2011 and have planned to be there for 2 weeks. We hope two weeks will be enough time to complete the field work but we have left some open time later in May in our schedules in case it is needed. Before we can send you the audit engagement packet we need some information in order to select our sample quarters (the sample could also be on units). Would you please provide, at your earliest convenience, electronic copies of "by unit by quarter" summary reports for both distance and fuel? We understand the fuel side of this request may not be possible. Let me know if you have any questions regarding the audits and/or this request.

Thank you,
Mark A. Howshar

(Note – phone call changing the audit contact from Ms. Deer to Mr. Doe made by Mr. Doe previously)

2/14/12

Mark,

As we get prepared for the audit in April, we had a few questions for you concerning the regulations. Are IFTA tags required on DOT vehicles with a GVW greater than 10k lbs but less than 26k lbs that cross state borders? We have several DOT vehicles with a GVW of 25,999. If we have 20 Apportioned plates, should we only have 20 IFTA tags? Should the number of Apportioned vehicles be the same as the number of vehicles requiring IFTA tags?

We actually have only a few vehicles over 26k GVW that leave the state. We have ordered a lot more IFTA tags in the past because many of our managers were unsure if a particular vehicle would leave the state. Anyway, if you could clarify the above questions, I would appreciate it.

Thanks,
John Doe – ABC Company

(Notes: decal pairs – 100 in '10, 115 in '11, & 200 in '12. Apportioned vehicles – 40 in '11 & '12)

2/14/12

Mr. Doe,

The short answer to your first question, from an auditor's viewpoint, is those units should not have IFTA decals on them unless they have either the "3 or more axles" or "are used in combination" qualifiers. Please see below:

From WYDOT's web site (http://www.dot.state.wy.us/wydot/trucking_commercial_vehicles/ifta) regarding IFTA qualified motor vehicles:

A **qualified motor vehicle** is a motor vehicle used, designed or maintained for transportation of people or property and:

- Having two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 11,793 kilograms; or
- Having three or more axles regardless of weight; or
- Is used in combination when the weight of such combination exceeds 26,000 pounds or 11,793 kilograms gross vehicle or registered gross vehicle weight.
- Qualified motor vehicle does not include recreational vehicles.

From WYDOT's web site

(http://www.dot.state.wy.us/wydot/trucking_commercial_vehicles/irp) regarding IRP apportionable vehicles:

Apportionable Vehicle means (except as provided below) any power unit that is used or intended for use in two or more member jurisdictions and that is used for the transportation of people for hire or designed, used or maintained primarily for the transportation of property, and:

- has two axles and a gross vehicle weight or registered gross vehicle weight in excess of 26,000 pounds (11,793.401 kilograms), or
- has three or more axles, regardless of weight, or
- is used in combination, when the gross vehicle weight of such combination exceeds 26,000 pounds (11,793.401 kilograms).

A recreational vehicle, a vehicle displaying restricted plates, a bus used in the transportation of chartered parties or a government-owned vehicle is not an apportionable vehicle; except that a truck or truck tractor, or the power unit in a combination of vehicles having a gross vehicle weight of 26,000 pounds (11,793.401 kilograms) or less and a bus used in the transportation of chartered parties, nevertheless, may be registered under the plan at the option of the registrant.

Those are the "by the book" statements. According to your statement about units with a GVW of 25,999 (or less) - those vehicle do not qualify for IFTA under the weight clause. They may still qualify for IFTA under the axles and/or combination clauses. "Used in combination" means towing a trailer that moves the total weight above 26,000 pounds - but the vehicles **MUST** be so designated as having the higher weight. They still may qualify as "apportionable vehicles" under the last paragraph of the IRP "apportionable vehicle" section - and you may register them "at the option of the registrant".

2nd question: Not necessarily - you may have IRP units that do not qualify for IFTA but you've apportioned them "at (your) option". Typically we, as auditors, like seeing the same units in both IFTA and IRP but that isn't always the case. You, technically, are not required to have IFTA decals or apportioned plates (IRP) on any of your units as both programs are voluntary. However, you would have to purchase trip permits anytime you traveled out of state if your units aren't licensed in IFTA and/or registered in IRP.

If you have any questions about my answers, please call.

Also, please allow me to reiterate an earlier request in a different email: Before we can send you the audit engagement packet we need some information in order to select our sample quarters (the sample could also be on units). Would you please provide, at your earliest convenience, electronic copies of "by unit by quarter" summary reports for both distance and fuel? We understand the fuel side of this request may not be possible.

Thank you,
Mark

2/15/12
Mark,

Thanks for the quick response. I will get with Ms. Deer and we will get you the requested information.

Regards,

Mr. Doe

2/15/12
John,

You are most welcome. I hope my answers were clear. We look forward to receiving the information and will get you the engagement packet inclusive of sampling agreement as quickly as possible. Please note: we would appreciate your input when we select the sample in order to make certain it is as representative of your fleet as possible.

Thank you,

2/15/12
Mark,

I have attached our vehicles units and mileage for the last 3 years. These are vehicles that had IFTA tags. We have since realized that we probably did not need so many IFTA tags since we only have a few

vehicles with GVW over 26k lbs that leave the state. Let me know if you can pick your sample from these spreadsheets.

Back in 2008 or 2009 I came up with the average mile/gallon as 5.5 miles. We do not have easy access to fuel receipts and travel logs. Our drivers keep driving logs based on DOT requirements. I noticed that if we do not have receipts or distance records, you would charge us at an average mile/gallon at 4.0 miles. If we can't produce the receipts and travel logs, do you want us to recalculate our IFTA based on 4 miles/gallon?

We do have bulk fuel that is only used for our machines (i.e. backhoes, excavators, scrapers, graders, bulldozers). The IRS audits our bulk fuel tanks annually to make sure we do not have fuel with the presence of dye.

Let me know if you need anything else.

Regards,

John

(Notes: Summaries received for the audit period as well as internal workbooks for IFTA returns. Also note the year(s) stated for the decision to use 5.50 mpg and who made it.)

2/15/12

John,

Tom and I will get the attached information looked at as soon as possible and attempt to determine our sample accordingly. The 4.00 MPG may be applied in this case depending upon what we are actually able to look at regarding source documents. US DOT requirements state logs "must be retained for six months", however, if the logs are your "source documents" for distance records they must be retained for four years plus the current quarter for IFTA and four years plus the current application year for IRP (total of 5.5 years at the maximum). IFTA agreement sampling requirements are for "three representative quarters" and IRP is "at least one" for each application year. We may be able to drill the samples down to the unit level as well. The IRP audits are for application years 2011 and 2012. The distance time frames for those audits are 3rd '09 - 2nd '10 and 3rd '10 - 2nd '11, respectively.

You stated, "We do not have easy access to fuel receipts and travel logs." That is of primary concern with respect to the IFTA and IRP audits. We audit source documents for both programs of which "fuel receipts and travel logs" are generally exactly those. We will work with any alternative distance records you may have including maintenance, dispatch, and anything else that can substantiate the distances you reported. Fuel records are more problematic. Since you have bulk fuel and OTR (Over the Road) purchases, we need to see the receipts to give you credit for "tax-paid fuel" reported on the IFTA return. There are a few other requirements regarding bulk fuel including "bulk reconciliation" and "bulk disbursement journal" which will take a bit more explanation. Suffice it to say that a "bulk reconciliation" means you measure the volume of your bulk tank(s) on a regular basis and account for fuel dispensed and purchased arriving at a "zero" balance and "bulk disbursement journal" means whatever was metered out into an IFTA qualified vehicle is written down somehow with date, gallons, and unit number at the very least.

We have already had a bit of conversation with Jane concerning the bulk situation and understand some of the difficulties inherent in reconciling the "tax-paid fuel" reported on the IFTA returns in this case. We won't know exactly how we're going to handle it until we actually see the fuel documentation you have.

I strongly urge you to inform all of your locations to retain all DOT logs from now on and to get all logs associated with the IFTA and IRP audit periods they have in their possession to your office as soon as possible. The same also goes for all fuel receipts - whether bulk or OTR.

We may have our hands tied on how we are able to perform the audits if you do not have the requisite records. The worst-case scenarios are:

IFTA: 4.00 MPG applied for every quarter under audit with no tax-paid credit on fuel reported.

IRP: 100% Base Jurisdiction (WY) fees applied to all units for both years OR 20% extra fees for all apportioned jurisdictions applied to all units for both years.

Since we have engaged IFTA and IRP audits of your company, you are not allowed to revise those returns under audit. In fact, that is exactly what our audits will be doing for you.

If you would like, we could generate the dollars associated with those absolute worst-case scenarios for you.

For your information, here are the IFTA record keeping requirements according to the IFTA website (<http://www.iftach.org/manuals/2011/PM/Procedures%20Manual%20-%20Final%20-%20December%202011%20page%20number%20correction.pdf>) Procedures Manual Section P500 - P570 for both distance and fuel. Please see the attached "IFTA Procedures Manual Record Keeping Requirements.pdf" document which I have pared down from the full Procedures Manual. The IRP distance record keeping requirements are basically a mirror image and may be found at: <http://www.irponline.org/irp/DocumentDisplay.aspx?id={F880413C-5DE7-4FAB-8A35-0ECF03EBE0F6> - specifically "ARTICLE 4 - REGISTRANT RESPONSIBILITIES".

Thank you,
Mark

2/23/12

John and Jane,

This email is meant as a recap of the discussion we had this afternoon. As we covered many topics about the audits, I would appreciate you letting us know if there is anything I miss or get wrong in this recap. The list is in no particular order.

1. Whether or not you should file an amended 2012 IRP application and I told you not to as the original 2012 application is under audit and the audit will perform the same function.
2. Records availability - source documents for distance and fuel. P cards are a potential source for fuel information and you will find out what information may be gathered from them for one unit that is definitely IFTA and IRP qualified. You will also investigate the availability of original fuel purchase receipts. Distance records - alternative records such as Dispatch and Maintenance information may also be used to verify the reported distance. You will consult dispatchers and others concerning these documents as well as the store managers to discover what may be gathered for the distance verification.
3. You stated none of the bulk fuel was used in the IFTA qualified units. Therefore, I stated we would not need Bulk Disbursement Journals or Bulk Reconciliation information. I do not remember whether or not I said we would include a review of the bulk fuel purchases. Since you stated the bulk was not used in IFTA units, we will **NOT** review bulk fuel purchases and they will **NOT** be included in our determination of "Tax Paid Fuel".
4. Worst case scenario for IFTA is approximately \$140,000.00 without interest for the entire audit period. Worst case scenarios for IRP I believe I said would be around "2 or 3 thousand" for each year. I have reviewed that information and for at least one year the total due for a worst case scenario is approximately \$7,500.00 and the total for both years under audit (2011 and 2012) would be roughly double.

5. I suggested Tom and I visit the Cheyenne location again to see what source documentation they have for distance and fuel stored there and, possibly, set up a conference call with John, Jane, the Store Manager, and whomsoever else he desires to discuss what we've located. This would **NOT** constitute an "audit" of the Cheyenne location as the repository for all information has been agreed upon as Casper.
6. We spent a fair amount of time on "worst case scenario" for IFTA. During the discussion, I attempted to explain how we arrived at the dollars in #4 above. I directed you and Jane to the IFTA return for 4th '11 and your spreadsheet that is set up to replicate an IFTA return. Through the process of showing you how the "Tax Paid Fuel" and "Taxable Gallons" columns interact, I was able to show that by replacing the "Tax Paid Fuel" for WY and replacing the MPG with 4.00 in that quarter with a zero generates approximately 77,000 gallons of taxable fuel with a result of approximately \$10,000 due. This worst case scenario shows no tax paid credit for fuel claimed as tax paid on the return at a 4.00 mpg while holding you accountable for both the distance and fuel reported on that return. Multiplying that \$10,000 by 12 approximates the \$140,000 without interest worst case scenario.
7. The P card discussion, depending upon what information is available from those statements, should mitigate the potential of no credit given for tax paid fuel.
8. The potential for alternative records including maintenance and dispatch should yield a path to verify, at the very least, total distance reported as well as origin/destination, dates of travel, and other information required by the IFTA agreement and IRP plan.
9. We discussed why you were using clear diesel in your bulk tanks when you stated none of that fuel was placed into "on road vehicles". I directed you to the IRS for clarification.
10. I brought up the potential of postponing the audits until later this summer (June, July, August were mentioned) as you stated you were currently dealing with federal taxes, your annual financial audit, and the potential time consuming search for the source documents for distance and fuel. I would discuss this with Tom, Gerald, and Rick at our earliest convenience.
11. I requested you copy Tom and I on any discussions about what records are available at the various locations at your discretion.
12. I reiterated you should always contact the agency involved in administering any program with your questions and to not rely on my statements. Furthermore, I stated you should always ask your questions in written form and request an answer in written form as well.

I'm sure I've left out quite a few things in this list and hope you will be able to fill in the gaps of our discussion. Please feel free to add anything I've missed or remembered incorrectly in your reply as well as confirming my memory of our discussion. I will also respond with confirmation, addition, or correction if you add to this list. I have copied Tom, Gerald Jackson (our supervisor), and Rick Scheer (our administrator) with this email in order to keep everyone in the loop.

Thank you,

(Note: No reply was received concerning the email recapping the call. It was presumed the email contents were correct and as complete as possible.)

3/21/12

Start date of field work was postponed until 7/27/12 due to internal financial audit and other concerns.

Other than some basic housekeeping and other discussions the above contains the bulk of the conversations held with the carrier.