

ARTICLES OF AGREEMENT

TEXTUAL NOTE

The International Fuel Tax Agreement Articles of Agreement has been subject to amendments under Section R1600 of the Agreement. It is the purpose of this publication to provide a commentary when sections have been amended.

The official commentary voted on by the IFTA membership is shown italics. All commentaries initiate from Consensus Board interpretations of issues or history/intent segments of IFTA ballots.

An asterisk (*) next to a Section number indicates commentary to that Section.

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ARTICLE I

R100 AGREEMENT PRINCIPLE

R110 TITLE

This multijurisdictional agreement shall be referred to, cited, and known as the International Fuel Tax Agreement, referred to hereinafter as "the Agreement".

*R120 GOVERNING DOCUMENTS

The Audit Manual and Procedures Manual authorized by this Agreement are equally expressive of, and constitute evidence of this multijurisdictional agreement. The provisions of all three IFTA documents shall be equally binding upon the member jurisdictions and IFTA licensees and are known as the IFTA governing documents.

*R130 PURPOSE

It is the purpose of this Agreement to promote and encourage the fullest and most efficient possible use of the highway system by making uniform the administration of motor fuels use taxation laws with respect to motor vehicles operated in multiple member jurisdictions.

.100 To effect this purpose, the Agreement implements three core provisions that, as between states of the United States, constitute an interstate compact approved by Congress in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). These core provisions, incorporated by ISTEA, are:

.005 The base jurisdiction concept, which allows a licensee to report and to pay motor fuel use taxes to a base jurisdiction for distribution to other member jurisdictions in which the licensee traveled and incurred motor fuel use tax liability.

.010 Retention of each jurisdiction's sovereign authority to determine tax rates, exemptions and exercise other substantive tax authority.

.015 A uniform definition of the vehicles to which the Agreement applies.

.200 To enable participation in this Agreement and to supplement the core provisions, the relationship among the member jurisdictions is further expressed in:

.005 Reciprocal statutes enacted in member jurisdictions authorizing participation in IFTA, and

.010 Provisions in the Agreement reflecting a reciprocal administrative agreement for the administration of the IFTA program. These administrative provisions are subject to amendment and interpretation as provided in this Agreement.

*R140 COOPERATIVE ADMINISTRATION

It is the purpose of this Agreement to enable participating jurisdictions to act cooperatively and provide mutual assistance in the administration and collection of motor fuels use taxes. By virtue of signing an IFTA license application or a renewal containing the certification set out in P160, a person who applies for and operates under an IFTA license agrees to be bound by the duties and obligations of licensees as set forth in the Agreement currently and as it may be amended. The base jurisdiction must enforce those duties and obligations

within its jurisdiction. The member jurisdictions may also enforce those duties and obligations within their jurisdictions. The licensee acknowledges that, in addition to the licensee's duties and obligations under the Agreement, the licensee is also subject to the laws, rules and regulations of all jurisdictions in which it operates.

***R150 ONE LICENSE AND ONE BASE JURISDICTION**

It is the purpose of this Agreement to establish and maintain the concept of one fuel use license and administering base jurisdiction for each licensee and to provide that a licensee's base jurisdiction will have the primary responsibility for administering this Agreement and executing its provisions with respect to such licensee.

Commentary to Article I

- R120** IFTA Ballot 2-1996 added IFTA Articles of Agreement Section R120 to clarify that all of the IFTA governing documents are equally binding on the member jurisdictions and IFTA licensees and was effective July 1, 1998.
- R130** Ballots 90-267-1 and 90-267-2, passed in March 1991, amended the many references to U.S. measurement units such as miles and gallons, and added additional language in the Agreement and Procedures Manual to allow the Canadian provinces to join IFTA. IFTA Articles of Agreement Sections which were amended by these ballots are: R130, R212, R224, R245, R263, R325, R510.100, R830, R840, R930.200, R960.100, R1150 and R1230.
- R130** IFTA Ballot 1-2001 amended IFTA Articles of Agreement Section R130 to embody the core principles identified in the Final Report of the State Legislation and Constitutional Provisions Project conducted by NCSL and was effective July 1, 2003.
- R140** IFTA Ballot 1-2001 amended IFTA Articles of Agreement Section R140 to embody the core principles identified in the Final Report of the State Legislation and Constitutional Provisions Project conducted by NCSL and was effective July 1, 2003.
- R150** IFTA Ballot 1-2001 amended IFTA Articles of Agreement Section R150 to embody the core principles identified in the Final Report of the State Legislation and Constitutional Provisions Project conducted by NCSL and was effective July 1, 2003.

ARTICLE II

R200

DEFINITIONS

***R203 Annual Tax Reporting Period** means January 1 through December 31.

R206 Applicant is a person in whose name the uniform application for licensing is filed with a base jurisdiction for the purpose of motor fuel tax reporting under the provisions of this Agreement.

***R209 Audit means:**

.100 The physical examination of the source documentation of the licensee's operations either in detail or on a representative sample basis;

.200 The evaluation of the internal controls of the licensee's accounting system and operations; and

.300 The accumulation of sufficient competent evidential matter to afford a reasonable basis for determining whether or not there are any material differences between actual and reported operations for each affected jurisdiction in accordance with the provisions of the International Fuel Tax Agreement and all affected jurisdictions' fuel use tax laws.

***R212 Base Jurisdiction** means the member jurisdiction where qualified motor vehicles are based for vehicle registration purposes and

.100 Where the operational control and operational records of the licensee's qualified motor vehicles are maintained or can be made available; and

.200 Where some travel is accrued by qualified motor vehicles within the fleet. The commissioners of two or more affected jurisdictions may allow a person to consolidate several fleets that would otherwise be based in two or more jurisdictions.

***R215** Cancellation means the termination of a license by the licensing jurisdiction pursuant to Section R410.

R218 Commissioner means the official designated by the jurisdiction to be responsible for administration of this Agreement.

R221 Fleet means one or more vehicles.

R222 Gallon of compressed natural gas means a quantity of compressed natural gas equal to 126.67 cubic feet of natural gas at 60 degrees Fahrenheit and one atmosphere of pressure. In the alternative, it means a quantity of compressed natural gas that weighs 5.66 pounds.

***R224 In-Jurisdiction Distance** means the total number of miles or kilometers operated by a licensee's qualified motor vehicles within a jurisdiction including miles/kilometers operated under an IFTA temporary permit. In-jurisdiction distance does not include miles/kilometers operated on fuel tax trip permit or exempted from fuel taxation by a jurisdiction.

***R227 Jurisdiction** means a state of the United States of America, the District of Columbia, a province or territory of Canada, or a state of the United Mexican States.

- *R230 Lessee** means the party acquiring the use of equipment with or without a driver from another.
- *R233 Lessor** means the party granting the use of equipment with or without a driver to another.
- R236 Licensee** means a person who holds an uncancelled Agreement license issued by the base jurisdiction.
- R237 Liter** of compressed natural gas means a quantity of compressed natural gas equal to 1.0 cubic meters of natural gas at 15 degrees Celsius and one atmosphere of pressure. In the alternative, it means a quantity of compressed natural gas that weighs 0.678 kilograms.
- *R239 Motor Fuels** means all fuels placed in the supply tank of qualified motor vehicles.
- R242 Person** means an individual, corporation, partnership, association, trust, or other entity.
- *R245 Qualified Motor Vehicle** means a motor vehicle used, designed, or maintained for transportation of persons or property and:
- .100 Having two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 11,797 kilograms; or
 - .200 Having three or more axles regardless of weight; or
 - .300 Is used in combination, when the weight of such combination exceeds 26,000 pounds or 11,797 kilograms gross vehicle or registered gross vehicle weight.
- Qualified Motor Vehicle** does not include recreational vehicles.
- R247 Records** means information created, received, and maintained by an organization or person in the transaction of business, or in the pursuance of legal obligations, regardless of media.
- R248 Recreational Vehicle** means vehicles such as motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.
- R251 Registration** means the qualification of motor vehicles normally associated with a prepayment of licensing fees for the privilege of using the highway and the issuance of license plate and a registration card or temporary registration containing owner and vehicle data.
- *R254 Quarterly Tax Reporting Period** means a period of time consistent with the calendar quarterly periods of January 1 - March 31, April 1 - June 30, July 1 - September 30, and October 1 - December 31.
- R257 Revocation** means withdrawal of license and privileges by the licensing jurisdiction.
- *R258 Roadside Enforcement** means necessary action, by those persons within a jurisdiction, charged with inspection or compliance checks of qualified vehicles being operated within the jurisdiction. It includes any activity by authorized personnel at any permanent or temporary weight or inspection site or any other location as deemed appropriate by the jurisdiction.
- R260 Suspension** means temporary removal of privileges granted to the licensee by the licensing jurisdiction.

- *R263 Temporary Decal Permit** means a permit issued by the base jurisdiction or its agent to be carried in a qualified motor vehicle in lieu of display of the permanent annual decals. A temporary decal permit is valid for a period of 30 days to give the carrier adequate time to affix the annual permanent decals.
- *R266 Total Distance** means all miles or kilometers traveled during the tax reporting period by every qualified vehicle in the licensee's fleet, regardless of whether the miles or kilometers are considered taxable or nontaxable by a jurisdiction.
- R269 Weight** means the maximum weight of the loaded vehicle or combination of vehicles during the registration period.

Commentary to Article II

- R203** IFTA Ballot 9-1994 amended IFTA Articles of Agreement Sections R200 and R930.200 to define an annual reporting period and to require jurisdictions only to notify other member jurisdictions in which a licensee operated during a prescribed period of an annual reporting request by a licensee and was effective January 1, 1996.
- R203** IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.
- R209** IFTA Ballot 4-2002 amended IFTA Articles of Agreement Section R209 to expand the definition of an audit and was effective July 1, 2004.

[Editor's Note: IFTA Ballot 15-2004 attempted to amend the Articles of Agreement, Section R209. However, IFTA Ballot 4-2002 had amended the same language effective July 1, 2004.]

- R209** IFTA Ballot 4-2002 amended IFTA Articles of Agreement Section R209 to expand the definition of an audit and was effective July 1, 2004.
- R212** See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.
- R212** In July 1991, the membership unanimously ratified inclusion of Consensus Board Interpretation, Issue 4, as narrative to IFTA Articles of Agreement Sections R212 and R510.200.

ISSUE: Whether an independent contractor based in an IFTA jurisdiction, but permanently leased to a carrier not based in an IFTA jurisdiction, must be licensed as an IFTA licensee when the lease agreement between the lessor and lessee provides that the lessee (carrier based in a non-IFTA jurisdiction) is responsible for reporting and remitting of the fuel use tax.

In the fact situation set forth in this issue, the lessors are located in Indiana and the lessees are located in non-IFTA jurisdictions. The lease agreement specifically states that the lessees will report and pay the fuel use taxes. The lessees would not qualify as IFTA licensees because they do not meet the requirement of "base jurisdiction" set forth in Section R212.

It has come to the attention of Indiana that other jurisdictions are ticketing such lessors' vehicles because they do not have an IFTA decal or cab card. If such lessors were to become IFTA licensees in Indiana, they would simply be licensing to file quarterly returns showing no operations because the lessees would be reporting and paying the fuel use tax to Indiana pursuant to their annual motor carrier fuel tax permits. Apparently, the lessors are receiving tickets even though they are carrying copies of their lease agreements that clearly show the non-IFTA carriers are responsible for reporting and remitting the fuel use taxes. Further, the lessee is properly licensed in the other jurisdiction to report and pay the fuel tax, and the appropriate credentials are being carried in the vehicle. It seems apparent that the licensing of these lessors as IFTA carriers is unnecessary in light of the fact that they are leased to non-IFTA carriers. Indiana proposed that such lessors should not be IFTA licensees.

BOARD INTERPRETATION:

The Board unanimously concurred with Indiana's Interpretation.

R212 In July 1991, the membership unanimously ratified inclusion of Consensus Board Interpretation, Issue 6, as narrative to IFTA Articles of Agreement Sections R212, R224, R245, R800, R820, and R1000.

ISSUE: Can the State of Indiana allow buses tax-exempt status; if this is permitted, are all fuel purchases made by the buses in Indiana fully refundable?

BOARD INTERPRETATION:

The Board consensus was that a jurisdiction may have its own specific exemptions for types of vehicles. However, jurisdictions are required to collect taxes and enforce fuel tax reporting pursuant to other jurisdictions' laws regarding vehicles taxed in their jurisdictions. The Board agreed that in the case of a return being filed where there is a vehicle exemption, the return would be prepared by the carrier to include miles traveled in the total miles field, not include those miles in the taxable miles field, and the carrier would receive credit for any purchases made. The Board also agreed that various examples of how to accommodate exemptions from other jurisdictions would be sent to the membership for review.

R215 IFTA Ballot 4-2004 amended the IFTA Articles of agreement, Section R215 to redefine cancellation and was effective July 1, 2006. Also see commentary to R410.

R222 IFTA Ballot 3-2013 amended the IFTA Articles of Agreement to add a definition of Gallon and was effective July 1, 2015.

R224 IFTA Ballot 1-92 amended IFTA Articles of Agreement Section R224 to include miles operated under a temporary permit and was effective January 1, 1993.

R224 See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.

R224 In July, 1991, the majority of the membership concurred to include the commentary on miles traveled while under a trip permit as narrative to IFTA Articles of Agreement Sections R224 and R263. The quote is as follows:

Miles traveled while utilizing a trip permit would be included in total miles traveled, and the miles would also be reported as part of the total miles traveled in the applicable jurisdiction. However, the miles would not be included as taxable miles traveled for that jurisdiction. Fuel purchases while traveling under a trip permit would be included in total fuel consumed and should also be included in the tax-paid purchase column (if taxes were paid at the time the fuel was purchased) under the appropriate jurisdiction.

R224 See commentary at IFTA Articles of Agreement Section R212 regarding vehicle exemptions.

R224 In July 2000, the membership ratified inclusion of Consensus Board Interpretation, Issue 56-99, as narrative to the IFTA Articles of Agreement, Sections R224 and R830.100

ISSUE: Doesn't a member jurisdiction have the responsibility to honor the exempt/nontaxable mile claim of one of its base carriers when the carrier claims nontaxable miles from a member jurisdiction when it is clearly stated in the member jurisdiction's fuels tax code and annual IFTA Report?

BOARD INTERPRETATION:

Exempt/nontaxable miles or kilometers in any jurisdiction may be claimed on a licensee's IFTA tax return filed in its base jurisdiction. Such exempt miles or kilometers, if allowed by

the law of the jurisdiction for which the exemption is claimed, may be deducted from that jurisdiction's total miles or kilometers to compute taxable miles or kilometers.

- R227** IFTA Ballot 12-2001 amended IFTA Articles of Agreement Section R227 to add a state of the United Mexican States to the definition of "Jurisdiction" and was effective January 1, 2003.
- R230** IFTA Ballot 2-1993 was intended to better define the parties responsible for reporting and paying the fuel use taxes in short-term lease situations. The ballot added IFTA Articles of Agreement Sections R230 and R233 to define "Lessor" and "Lessee". The ballot was effective July 1, 1995. See commentary at IFTA Articles of Agreement Section R510 regarding responsible party under lease agreements.
- R233** See commentary at IFTA Articles of Agreement Section R230
- R237** IFTA Ballot 3-2013 amended the IFTA Articles of Agreement to add a definition of Liter and was effective July 1, 2015.
- R239** IFTA Ballot 1-2001 amended IFTA Articles of Agreement Section R239 to embody the core principles identified in the Final Report of the State Legislation and Constitutional Provisions Project conducted by NCSL and was effective July 1, 2003.
- R245** See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.
- R245** See commentary at IFTA Articles of Agreement Section R212 regarding vehicle exemptions.
- R245** IFTA Ballot 19-91 amended IFTA Articles of Agreement Section R245, clarifying the definition of a qualified motor vehicle, with an effective date of December 15, 1992.
- R245** In July 1992, the membership voted to include the Consensus Board Interpretation, Issue 12, as narrative to IFTA Articles of Agreement R245.

ISSUE: North Carolina questions a portion of the definition of a qualified motor vehicle. North Carolina understands that the axles of trailing units have no bearing and that the part of the definition alluding to number of axles applies only to the axles on the power unit, irrespective of any trailing units. If a motor carrier has a power unit having two axles, weighing less than 26,000 pounds, but pulling a trailing unit, and the combination weighs less than 26,000 pounds, would such be a qualified motor vehicle?

BOARD INTERPRETATION:

The Consensus Board Interpretation is that the axles of a trailing unit have no bearing on this definition. The part of the definition alluding to the number of axles applies only to the axles on the power unit, irrespective of any trailing units. The Board agreed that a power unit with two axles, pulling a trailing unit, with a combined gross or registered weight of 26,000 pounds or less is not a qualified motor vehicle. The first and second definitions of a qualified motor vehicle refer only to the power unit. The third definition refers to the combination of the power unit and the trailing unit.

- R245** Ballot 4-1993 amended IFTA Articles of Agreement Section R245 to more accurately reflect the reference to the kilograms. In July 1992, the Audit Committee was assigned the responsibility to research the issue. Ballot 4-1993 resulted and was effective January 1, 1994.

- R247** IFTA Ballot 3-2015 amended the IFTA Articles of Agreement adding the definition of Records and was effective January 1, 2017.
- R254** IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.
- R258** IFTA Ballot 14-2005 amended the IFTA Articles of Agreement to add a definition of Roadside Enforcement and was effective January 1, 2007.
- R263** See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.
- R263** See commentary at IFTA Articles of Agreement Section R224 regarding miles traveled under temporary permit.
- R263** IFTA Ballot 1-92 amended IFTA Articles of Agreement Section R263 to include distance operated under a temporary permit effective January 1, 1993. Also see commentary to R650.
- R263** See commentary at IFTA Articles of Agreement Section R650 regarding issuance of temporary permits in lieu of decals only.
- R263** IFTA Ballot 14-2004 amended the IFTA Articles of Agreement Section R263 to clarify the language to state the temporary permit is a temporary decal permit and was effective January 2006. Also, see commentary to R650.
- R266** IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.]

ARTICLE III

R300

APPLICATION AND RENEWAL

***R305 LICENSING REQUIREMENT**

Any person based in a member jurisdiction operating a qualified motor vehicle(s) in two or more member jurisdictions is required to license under this Agreement, except as indicated in IFTA Articles of Agreement Sections R310 and R500.

If a jurisdiction determines that a person required to become licensed under this Agreement has failed to do so, the jurisdiction is specifically authorized to assess and collect any and all fuel taxes due from such person for all member jurisdictions in accordance with IFTA Articles of Agreement Sections R1100 and R1200.

R310 TRIP PERMITS

In lieu of motor fuel tax licensing under this Agreement, persons may elect to satisfy motor fuels use tax obligations on a trip-by-trip basis.

R315 APPLICATION FOR LICENSE

A person shall file an application for licensing with the base jurisdiction. The fuel tax license application shall have the content specified in the IFTA Procedures Manual Section P100.

***R320 DESIGNATION OF LICENSEE**

Tax licensing under this Agreement shall be in the name of the licensee. IFTA Articles of Agreement Section R500 designates the party responsible for tax reporting and payment of fuel taxes in the case of lessors/lessees, independent contractors, and household goods agents.

***R325 BASE JURISDICTION DETERMINATION**

An applicant not based in a member jurisdiction may make application for licensing to any member jurisdiction in which it operates. The jurisdiction receiving such application may accept or reject it. If licensed pursuant to this section, the licensee shall agree to make operational records available for audit in the base jurisdiction, or pay the reasonable per diem travel expenses for auditors to audit the records located outside of the base jurisdiction, at the discretion of the base jurisdiction. A person licensed under this section shall apply for an IFTA license to the jurisdiction in which it is based immediately upon notification that the jurisdiction has become an IFTA member jurisdiction. The license shall become effective the following license year.

***R330 APPLICATION PROCESSING**

Upon receipt of an IFTA fuel tax license application from a new applicant, the base jurisdiction should check all entries on the application to ensure that they are complete. If the base jurisdiction feels more information is required, the licensee should immediately be contacted requesting the required information. Upon being satisfied that the application is correct and that the applicant is in compliance with the base jurisdiction's laws, the base jurisdiction shall issue the fuel tax credentials for the fleet.

R335 NON-ISSUANCE OF LICENSE

A license will not be issued if the applicant has been previously licensed under this Agreement and that license is still under revocation by any member jurisdiction or the application contains any misrepresentation, misstatement, or omission of information required in the application.

***R340 BOND REQUIREMENT**

The base jurisdiction may require a licensee to post a bond if one of the following conditions exist:

- .100** failure to file tax returns timely or to remit taxes timely;
- .200** when an audit indicates problems severe enough that, in the commissioner's discretion, a bond is required to protect the interests of the member jurisdictions;
or
- .300** the issuance of an IFTA license, when the applicant is seeking the license pursuant to R325.

Requirements for posting of bonds are outlined in IFTA Procedures Manual Section P400.

***R345 LICENSE RENEWAL**

- .100** A renewal license and decals for the following calendar year will be issued upon application if the license is not revoked, suspended or canceled, all tax returns have been filed, and all motor fuels use taxes, penalties and interest due have been paid and the applicant is in compliance with the base jurisdiction's laws.
- .200** In lieu of renewal application, jurisdictions may notify a licensee that meets the requirements of R345.100 that their license will automatically be renewed for the following calendar year.
- .300** Jurisdictions have the right to cancel or deny renewal of an IFTA license to a carrier that does not leave the confines of the borders of the base jurisdiction and reports zero or base jurisdiction distance only for three (3) or more consecutive quarters. The base jurisdiction has the right to require proof of out of jurisdiction travel prior to allowing the carrier to get licensed again under the IFTA agreement. Proof may be in the manner of out of jurisdiction fuel permits purchased and/or amended IFTA returns showing actual distance traveled during a quarter already filed or for those reasons the base jurisdiction deems necessary to reissue the license including but not limited to the list included in R345.100.

***R350 NOTIFICATION TO MEMBER JURISDICTIONS**

The base jurisdiction shall send to each member jurisdiction a listing of new applicants, identifying the license numbers assigned. New applicant information shall be forwarded to each member jurisdiction quarterly.

R355 FEES

The base jurisdiction may collect its statutorily authorized fees for issuance of the license and decals to licensees based in its jurisdiction.

R360 PROVIDING INFORMATION TO LICENSEES

Each jurisdiction shall provide licensees and prospective licensees with all information required to enable them to comply with all the terms of this Agreement. When credentials are issued to a new licensee, information shall be provided to the licensee which completely describes the requirements of the Agreement. This should include, but not be limited to:

- .100** Instructions for display of license or cab card and decals;
- .200** Licensing requirements and cancellation provisions;
- .300** Tax reporting and recordkeeping requirements;
- .400** Audit information;
- .500** Explanation of base jurisdiction determination.

As the Articles of Agreement, Procedures Manual, and Audit Manual are revised, it is the responsibility of each base jurisdiction to notify its licensees of the current requirements.

***R365 EFFECT OF AMENDMENTS TO AGREEMENT**

- .100** If a licensee does not accept a revision to the Agreement as set out in a notice referred to in R360, the licensee must notify the base jurisdiction in writing that it is canceling its IFTA license. The motor carrier shall destroy its IFTA license and remove all decals and copies of the license from its qualified motor vehicles. A statement that this has been done shall be included in the notification to the base jurisdiction.
- .200** Any licensee that notifies a base jurisdiction pursuant to R365.100, but does not destroy its license and remove all decals, is subject to appropriate penalties as imposed by a jurisdiction.

***R370 LICENSEE RIGHT OF APPEAL**

An applicant who has been denied a license or whose license has been revoked may file an appeal in accordance with IFTA Articles of Agreement Section R1400.

Commentary to Article III

R305 In July 1993, the membership voted to include the Consensus Board Interpretation, Issue 31, as narrative to IFTA Articles of Agreement Section R305.

ISSUE: May a carrier with vehicles based in multiple jurisdictions (IFTA and non-IFTA) be allowed to license and report all its vehicles through a non-IFTA jurisdiction?

BOARD INTERPRETATION:

The Consensus Board Interpretation is that Section R310 allows the option of a trip permit. Section R500 allows different requirements for lessors, lessees, independent contractors, and household goods agents.

Assuming the carrier does not qualify for either of these exemptions, has qualified vehicles based in an IFTA jurisdiction and operates in two or more IFTA jurisdictions, the carrier must be licensed for IFTA. Section R212 defines a base jurisdiction.

R305 IFTA Ballot 9-1995 amended IFTA Articles of Agreement R305 to expand the licensing requirement to include a person operating a qualified motor vehicle in a member jurisdiction and a RFTA jurisdiction and was effective July 1, 1997. Also, see Commentary to IFTA Articles of Agreement R1900 regarding and IFTA/RFTA cooperative agreement.

R305 IFTA Ballot 10-2001 amended IFTA Articles of Agreement R305 to remove the expanded language regarding operating in a member jurisdiction and a RFTA jurisdiction which was added by Ballot 9-1995 and was effective January 1, 2002.

R305 IFTA Ballot 3-2014 amended the IFTA Articles of Agreement to add jurisdiction authorization to assess and collect fuel use taxes for a carrier that failed to license when required to. Effective January 1, 2017.

R320 IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.

R325 See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.

R325 IFTA Ballot 7-2004 amended IFTA Articles of Agreement Section R325 to clarify that an IFTA member jurisdiction may license a motor carrier based in a non-member jurisdiction and that such motor carrier must either pay audit expenses or make the records available in the base jurisdiction at the discretion of the base jurisdiction and was effective January 2006. Also, see commentary to R960.

R330 IFTA Ballot 1-2006 amended IFTA Articles of Agreement Section R330 to allow jurisdictions more flexibility with the application process and issuance of credentials and was effective December 5, 2006.

R340 IFTA Ballot 8-2004 and Ballot 15-2005 amended the IFTA Articles of Agreement Section R340 to allow a member jurisdiction to require a bond when licensing a carrier under R325, and to make the language more consistent with all of the IFTA Governing Documents and were effective January 1, 2006. Also, see commentary to R910.

R345.100 IFTA Ballot 2-2006 amended IFTA Articles of Agreement R345 to provide that a jurisdiction will renew an IFTA license if it is not revoked or cancelled, if all returns have been filed, all taxes, penalties and interest have been paid, and the

applicant is in compliance with base jurisdiction laws and was effective December 5, 2006.

R345.100 IFTA Ballot 3-2009 amended the IFTA Articles of Agreement R345 to add suspended to the license statuses for which a licensee will not be issued IFTA renewal credentials.

R345.200 Ballot 9-1996 added IFTA Articles of Agreement Section R345.200 to provide that IFTA licenses may be automatically renewed by member jurisdictions under certain circumstances and was effective July 1, 1998.

R345 [EDITOR'S NOTE: In light of the passage of Ballot 9-1996, effective July 1, 1998, Commentary resulting from the ratification of Issue 9 is no longer valid as of that date because said Commentary is in direct conflict to the language of Ballot 9-1996. The Commentary regarding Issue 9 is for historical reference only.]

In July 1992, the membership voted to include the commentary from Consensus Board Interpretation, Issue 9, as narrative to IFTA Articles of Agreement Section R345.

ISSUE: Can the State of Utah automatically renew its IFTA licenses without requesting a renewal application to be completed?

BOARD INTERPRETATION:

Section R345 of the Agreement states:

A renewal license and decals for the following calendar year will be issued upon application if the license has not been revoked or canceled, all returns have been filed, and all motor fuels use taxes, penalties, and interest due have been paid.

Utah complies with all of these procedures except it does not have the carrier file an application. We believe this is clearly not in compliance with the Articles of Agreement. "A renewal license will be issued upon application" The Board also believes Utah should change its procedure to require the carrier to file an application. We hasten to add that this renewal application could be as simple as the card Utah already sends to update decal needs and address changes. Many other states do something similar and appropriately consider that a renewal application.

The Board believes the Articles of Agreement should not be rewritten at this time to allow automatic renewals of licenses without application. While this may seem to be a small change, it would erode our foundation of uniformity. The more states deviate with interpretations of the Agreement, the less viable our organization becomes.

R345 IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.

R345.300 IFTA Ballot 6-2007 amended the IFTA Articles of Agreement to allow a base jurisdiction to deny renewal of a carrier's IFTA license for filing zero or base jurisdiction distance only for three (3) consecutive quarters or more and was effective January 1, 2008.

R350 In July 2001, the membership voted to include Consensus Board Interpretation, Issue 58-01, as narrative to IFTA Articles of Agreement Section R350 and referenced at Sections R410.300, R420.300 and 430.300.

ISSUE: Whether the commentary currently found to R350 and referenced at R410.300, R420.300 and R430.300 conflicts with the provisions found in these sections.

BOARD INTERPRETATION:

Pursuant to R350 and R410.300, new account information, including the license number, and canceled account information shall be forwarded by each jurisdiction to all other member jurisdictions quarterly. There is no requirement that this be a cumulative report.

Pursuant to R420.300 and R430.300, license suspension, revocation and reinstatement information shall be forwarded by each jurisdiction to all other member jurisdictions within ten (10) days of the suspension, revocation or reinstatement. There is no requirement that this information become part of the quarterly report.

The previous commentary to R350 is hereby repealed.

[EDITOR'S NOTE: The commentary to R350 resulting from issue 20-92, and repealed by issue 58-01 remains for historical reference only.]

R350 In July 1992, the membership voted to include Consensus Board Interpretation, issue 20-92, as narrative to IFTA Articles of Agreement Section R350 and Section R410.300, R420.300 and 430.300.

ISSUE: What type of notification should be sent to each jurisdiction and in what manner?

EXAMPLE:

New licenses should be sent out in a quarterly report. Would this report then only be for that quarter and not be cumulative?

On revocations, cancellations, and suspensions, the report is sent within 10 days and is included in a quarterly cumulative report. Is this quarterly necessary?

Cancellations are quarterly generated. Is this a cumulative quarterly report?

BOARD INTERPRETATION:

The Consensus Board Interpretation is that the report be sent on a quarterly basis and information is not cumulative. Based upon the Articles of Agreement, jurisdictions are expected to comply.

Jurisdictions are expected to send within 10 days information on revocations, reinstatements, cancellations, or suspensions. This information becomes part of the quarterly report.

R365 IFTA Ballot 1-2001 added IFTA Articles of Agreement Section R365 to embody the core principles identified in the Final Report of the State Legislation and Constitutional Provisions Project conducted by NCSL and was effective July 1, 2003.

R370 IFTA Ballot 1-2001 added IFTA Articles of Agreement Section R365 to embody the core principles identified in the Final Report of the State Legislation and Constitutional Provisions Project conducted by NCSL and was effective July 1, 2003. The previous Section R365 was renumbered to R370.

ARTICLE IV

R400 CANCELLATION, REVOCATION, AND SUSPENSION

*R410 LICENSE CANCELLATION

- .100 A base jurisdiction may, at the request of a licensee or on its own initiative, cancel a license if the licensee has complied with all applicable provisions of this Agreement, including the satisfaction of all motor fuel use tax obligations for the license period. The base jurisdiction shall instruct its licensees that, upon cancellation, the original IFTA license, all license copies, and all decals shall be destroyed.
- .200 Licenses shall be canceled in accordance with the administrative procedure laws of the base jurisdiction.
- .300 The read only Clearinghouse member jurisdictions shall notify all Clearinghouse member jurisdictions quarterly of all canceled accounts.

*R420 LICENSE SUSPENSION AND REVOCATION

- .100 Failure to comply with all applicable provisions of this Agreement shall be grounds for suspension or revocation of the license issued under this Agreement.
- .200 Licenses shall be suspended or revoked in accordance with the administrative procedure laws of the base jurisdiction.
- .300 The read only Clearinghouse member jurisdictions shall notify all Clearinghouse member jurisdictions within 10 days of all suspensions and revocations.

*R430 LICENSE REINSTATEMENT

- .100 A former licensee whose license has been revoked may have that license reinstated. Before a license may be reinstated, the base jurisdiction may require a reinstatement fee in accordance with the existing jurisdictional laws.
- .200 The base jurisdiction may also require the reinstated licensee to post a fuel tax bond in an amount sufficient to satisfy any potential liability to all member jurisdictions.
- .300 The read only Clearinghouse member jurisdictions shall notify all Clearinghouse member jurisdictions within 10 days of all reinstatements.

Commentary to Article IV

R410.100 IFTA Ballot 4-2004 amended the IFTA Articles of agreement, Section R410 to redefine license cancellation and was effective July 1, 2006. Also, see commentary to R215.

R410.200 In July 1998, it was unanimously ratified by the membership to include Consensus Board Interpretation,

R420.200 Issue 54-98, as narrative to IFTA Articles of Agreement Sections R410.200 and R420.200.

ISSUE: When an IFTA licensee fails to file a quarterly fuel tax report and subsequently fails to respond to the Failure to File Notice and Best Information Available Assessment or fails to respond to an assessment of additional tax, interest and/or penalty within the prescribed 30-day period, does the base jurisdiction:

- 1) issue a revocation notice allowing a 30-day period to file an appeal (Articles of Agreement Section R1410);
- 2) follow its own administrative procedures laws (Articles of Agreement Sections R410.200 and R420.200); or
- 3) issue an immediate revocation (Articles of Agreement Section R1260)?

BOARD INTERPRETATION:

The base jurisdiction would follow its own administrative procedures laws regarding the revocation/suspension of an IFTA license and the appeal of such action. The Articles of Agreement Sections R410.200 and R420.200 control with respect to the revocation/suspension of an IFTA license because it addresses a specific occurrence and provides a specific course of action. The 30-day period prescribed in the Articles of Agreement Section R1410 would be applicable if the base jurisdiction did not have provisions in its administrative procedures laws for revocation/suspension of licenses and appeals of such actions.

R410.300 See commentary at IFTA Articles of Agreement Section R350 regarding notification to members of changes in licensee status

R420.300

R430.300

R400 Ballot 4-2015 amended the Articles of Agreement, Sections A410, A420 and A430 to require Cancellation, Revocation, Suspension and Reinstatement reports to be sent by read only Clearinghouse member jurisdictions.

ARTICLE V

R500 LESSORS/LESSEES AND HOUSEHOLD GOODS CARRIERS

*R510 RENTAL/LEASING

- .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

*R520 HOUSEHOLD GOODS CARRIERS

In the case of a household goods carrier using independent contractors, agents, or service representatives, under intermittent leases, the party liable for motor fuel use tax shall be:

- .100** The lessee (carrier) when the qualified motor vehicle is being operated under the lessee's jurisdictional operating authority. The base jurisdiction for purposes of this Agreement shall be the base jurisdiction of the lessee (carrier), regardless of the jurisdiction in which the qualified motor vehicle is registered for vehicle registration purposes by the lessor or lessee.
- .200** The lessor (independent contractor, agent, or service representative) when the qualified motor vehicle is being operated under the lessor's jurisdictional operating authority. The base jurisdiction for purposes of this Agreement shall be the base jurisdiction of the lessor, regardless of the jurisdiction in which the qualified motor vehicle is registered for vehicle registration purposes.

*R530 INDEPENDENT CONTRACTORS

- .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.

R540 FILING OF LEASES

No member jurisdiction shall require the filing of such leases but such leases shall be made available upon request of any member (see IFTA Procedures Manual, Section P520).

Commentary to Article V

- R510.100** Ballot 2-1993 was intended to better define the parties responsible for reporting and paying the fuel use
- R510.200** taxes in short-term lease situations. The ballot identified the “lessor” as the responsible party, with one exception. The exception is defined in IFTA Articles of Agreement R510.100 and requires two conditions to be met. The exception only applies to lessors who are regularly engaged in the business of leasing, or renting vehicles without drivers and only when BOTH conditions are met. Ballot 2-1993 amended IFTA Articles of Agreement Section R510.100. The ballot was effective July 1, 1995.
- R510.100** See commentary at IFTA Articles of Agreement Sections R230 and R233 regarding definitions of “Lessor” and “Lessee”.
- R510.100** See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.
- R510.200** See commentary at IFTA Articles of Agreement Section R212 regarding licensing of lessors/lessees.
- R520** In July 1990, a special committee was formed to review issues of household goods carriers unique to that group such as intermittent leases. Ballot 90-225-4 amended IFTA Articles of Agreement Section R520, changing the application of the Agreement for household goods carriers and independent contractors.
- R530.200** IFTA Ballot 7-1994 amended IFTA Articles of Agreement Section R530.200 to identify the responsible tax reporting party in a lease situation in the absence of a written agreement or if the written agreement is silent regarding such responsibility and was effective July 1, 1996.
- R530.200** IFTA Ballot 4-1996 amended IFTA Articles of Agreement Section R520.200 to include a lease of 30 days in the provision regarding long-term leases and was effective on October 10, 1996

ARTICLE VI

R600

VEHICLE IDENTIFICATION

***R605 IDENTIFICATION REQUIREMENT**

The base jurisdiction shall issue a license and two decals per vehicle. The license and decals shall qualify the licensee to operate in all member jurisdictions without further licensing or identification requirements in regard to motor fuel use taxes.

R610 LICENSE PERIOD

The license is valid for the current calendar year ending December 31, and shall be reproduced by the licensee and placed in the qualified motor vehicles of the licensee's fleet. The licensee's identification code will remain unchanged from year to year until the license is canceled or revoked. The decals shall be issued annually.

R615 FORM AND CONTENT

The form and content of the license and decal shall be specified in the IFTA Procedures Manual. The decal shall not be so designed as to require vehicle specific data.

***R620 POSSESSION OF LICENSE**

Each licensee shall be issued one IFTA license or cab card. The licensee is required to make legible copies of the license so that one copy shall be carried in each vehicle. A vehicle will not be considered to be operating under this Agreement unless there is a copy of the license in the vehicle.

***R625 DISPLAY OF DECALS**

Each licensee shall be issued a minimum of two vehicle identification decals for each qualified vehicle in its fleet. The decals must be placed on the exterior portion of both sides of the cab. In the case of transporters, manufacturers, dealers, or driveway operations, the decals need not be permanently affixed, but may be temporarily displayed in a visible manner on both sides of the cab.

R630 DISPLAY OF RENEWAL CREDENTIALS

Carriers renewing credentials may operate with the IFTA decals and license two months prior to the effective date shown on the credentials. However, those carriers are responsible for filing a fourth quarter report for the year preceding the effective date of the new credentials, including all operations for that quarter.

***R635 DISPLAY OF MULTIPLE CREDENTIALS**

Qualified motor vehicles to be operated by more than one IFTA licensee during the calendar year may display IFTA decals for each active licensee concurrently.

R640 TRANSFER OF DECALS

Decals shall not be transferred between motor vehicles without authorization from the base jurisdiction.

***R650 TEMPORARY DECAL PERMITS**

The base jurisdiction may provide for the issuance of a 30-day IFTA temporary decal permit valid for all member jurisdictions to a licensee in good standing to carry in lieu of displaying the annual decals. The base jurisdiction may charge an administrative fee to the licensee to cover the cost of issuance. Temporary decal permits must be vehicle specific and show the expiration date. The temporary decal permit need not be displayed but shall be carried in the vehicle.

***R655 GRACE PERIOD**

- .100** Carriers from new member jurisdictions shall be allowed a two-month grace period from the date of the new member's IFTA program implementation to display the IFTA license and decals. However, carriers must maintain the proper credentials for traveling in member jurisdictions until they display the valid IFTA license and decals.
- .200** Carriers renewing their IFTA license and decals have a two-month grace period (January and February) to display the renewal IFTA license and decals. To operate in IFTA jurisdictions during this grace period, carriers must display either valid current or prior year IFTA license and decals from the jurisdiction in which they were operating or a valid single-trip permit from the IFTA jurisdiction in which they are operating.

***R660 NON-COMPLIANCE**

- .100** Failure to possess a copy of the license in the vehicle may subject the vehicle operator to the purchase of a trip permit, a citation, or both.
- .200** Failure to display the identification decals in the required locations or to carry a temporary permit may subject the vehicle operator to the purchase of a trip permit, a citation, or both.
- .300** Improper use of the license or the decals by the licensee may be cause for revocation of the license.

Commentary to Article VI

- R605** In October 1990, requiring two decals instead of one for vehicle identification was raised as an issue by some of the heavier truck traffic jurisdictions. Some jurisdictions felt that two decals (one on each side) were more appropriate because of the positioning of weigh station and port-of-entry personnel. It was hoped that better visibility of decals would improve the flow of truck traffic. IFTA Ballot 16-91 amended IFTA Articles of Agreement Sections R605 and R625 to require issuance of two decals instead of one, with an effective date of March 16, 1993.
- R620** See commentary at IFTA Articles of Agreement Section R650 regarding issuance of temporary permits in lieu of decals only.
- R625** See commentary at IFTA Articles of Agreement Section R605 regarding issuance of two decals.
- R630** IFTA Ballot 2-2016 amended the IFTA Articles of Agreement to allow renewed credentials to be displayed two months in advance rather than one month, with an effective date of February 10, 2017.
- R635** IFTA Ballot 90-255-4 amended IFTA Articles of Agreement R635 to cover vehicles operated by multiple licensees.
- R650** In July 1991, the Temporary Credential Issuance Subcommittee proposed jurisdictions be permitted to issue 30-day temporary permits, allowing fleet vehicles to be placed in service immediately. IFTA Ballot 1-92 amended IFTA Articles of Agreement Section R650, allowing jurisdictions to issue 30-day temporary permits and was effective January 1, 1993.
- R650** Ballot 2-92 amends IFTA Articles of Agreement, allowing jurisdictions to issue a 30-day temporary authorization to allow a vehicle to be placed in service immediately. Ballot 2-92 was effective January 1, 1993.
- R650** In July 1998, it was unanimously ratified by the membership to include Consensus Board Interpretation, Issue 55-98, as narrative to IFTA Articles of Agreement Section R650.

ISSUE: Whether a temporary permit, as defined in IFTA Articles of Agreement Section R263, can be issued in lieu of IFTA decals and licenses.

BOARD INTERPRETATION:

Section R650 of the IFTA Articles of Agreement does not authorize the issuance of a temporary IFTA license. The temporary permit must be issued in place of decals only. Because the IFTA does not allow the issuance of a temporary permit in lieu of an IFTA license, such a practice by a member jurisdiction subjects its licensees to citations or the purchase of trip permits in other member jurisdictions.

- R650** IFTA Ballot 14-2004 amended the IFTA Articles of Agreement Section R650 to clarify the language to state the temporary permit is a temporary decal permit and was effective January 1, 2006. Also, see commentary to R263.
- R655** In July 1991, it was unanimously ratified by the membership to include Consensus Board Interpretation, Issue 3, as narrative to IFTA Articles of Agreement Section R655.

ISSUE: What is IFTA's policy concerning the grace period for displaying license and decals for new IFTA member carriers and for current IFTA member carriers?

BOARD INTERPRETATION:

The Board consensus on this issue was that the grace period applies to both the license and the display of credentials. It was agreed that the way in which the Agreement language is currently written is potentially confusing. However, based on the discussions in Indianapolis, it was felt that the grace period for the license and display of decals would be honored for this year with the understanding that the Agreement should probably be modified prior to the beginning of 1992.

R655 Ballot 4-92 amends the IFTA Articles of Agreement Section R655 to appropriately clarify the grace period and was effective January 1, 1993.

R655 Ballot 5-92 amends IFTA Articles of Agreement Section R655, clarifying the grace period. Ballot 5-92 was effective December 1, 1992.

R655 In July 1992, the membership voted to include Consensus Board Interpretation, Issue 11, as narrative to IFTA Articles of Agreement Section R655.

ISSUE: Under the Agreement, decals may be displayed one month prior to their effective date, and carriers from new member jurisdictions shall be allowed a 60-day grace period from the new member's program implementation date. Realizing this issue has been brought up before, North Carolina would like clarification that if the carrier travels into an IFTA jurisdiction on December 1, 1991, with a North Carolina IFTA decal, will it be honored?

More importantly, the jurisdiction wants clarification that if a North Carolina carrier does not have a 1992 IFTA decal, will the state honor its 1991 decal or the 1991 North Carolina decal or the North Carolina license plate? If the carrier will become a 1992 North Carolina IFTA carrier but has some of its vehicles plated in another jurisdiction, would its 1991 North Carolina decal be honored?

BOARD INTERPRETATION:

Jurisdictions will not honor a North Carolina, Arkansas, or Kansas IFTA credential in December 1991, since jurisdiction implementation will not occur until January 1992.

North Carolina, Arkansas, and Kansas IFTA motor carriers must display one of the following when operating in another IFTA state during December 1991:

1. A valid 1991 decal and fuel license (when applicable) issued by the IFTA state(s) in which they are operating;
2. A 1991 IFTA decal and fuel license from a state that was a member during 1991; or
3. A temporary or trip permit for the IFTA state in which they are operating.

During January and February of 1992, when operating in another IFTA state, one of the preceding must be displayed or a 1992 North Carolina, Arkansas, or Kansas IFTA decal and fuel license.

R655 Ballot 11-2001 amended IFTA Articles of Agreement Section R655 to add the subsection number .100 and to add .200 to more specifically describe the allowed grace period and the credential display requirements during the grace period and was effective January 1, 2003.

R660 Ballot 17-91 amends IFTA Articles of Agreement Section R660, clarifying the interpretation of decal identification. The effective date of IFTA Ballot 17-91 was March 16, 1993. The enforcement provision contained in this section gives the enforcement officers of the

member jurisdictions discretion regarding the issuance of a citation and the requirement of a trip permit in the event two decals are not displayed on a qualified vehicle.

ARTICLE VII

***R700**

RECORDS REQUIREMENTS

Every licensee shall maintain records to substantiate information reported on the tax returns. Operational records shall be maintained or be made available for audit in the base jurisdiction. Recordkeeping requirements shall be specified in the IFTA Procedures Manual.

Commentary to Article VII

R700 IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.

ARTICLE VIII

***R800 TAXATION OF MOTOR FUELS**

The procedures contained in this Agreement apply to motor fuel use taxes that are imposed by each jurisdiction on the consumption of motor fuel in qualified motor vehicles.

***R810 QUALIFIED MOTOR VEHICLES**

- .100** Tax reporting under this Agreement shall be for qualified motor vehicles as defined in this Agreement.
- .200** No member jurisdiction may require tax reporting or trip permitting for any vehicles based in any other member jurisdiction, other than qualified motor vehicles as defined in IFTA Articles of Agreement R245.

***R820 TAXABLE FUEL USE**

All motor fuel acquired that is normally subject to consumption tax is taxable unless proof to the contrary is provided by the licensee. The licensee must report all fuel placed in the supply tank of a qualified motor vehicle as taxable on the tax return.

***R830 EXEMPT FUEL USE**

- .100** A member jurisdiction may exempt from taxation any use of motor fuel within its jurisdiction.
- .200** Fuel use defined as exempt by a particular jurisdiction must be reported under this Agreement. For reporting tax-exempt miles or kilometers, the licensee is required to obtain the definition of operations that qualify for tax-exempt status from the jurisdictions of the Agreement.
- .300** Licensees must submit claims for refund for tax paid on tax-exempt fuel directly to the respective jurisdiction. (See IFTA Articles of Agreement Sections R1000 and R1100.)

***R840 REPORTING INTRAJURISDICTIONAL TRAVEL**

The licensee may include fuel purchases and travel by qualified motor vehicles operated exclusively within a jurisdiction by obtaining IFTA decals for the intrajurisdictional vehicle(s). Once decaled, the intrajurisdictional vehicle(s) must continue to be reported until such time as the decal becomes expired or the vehicle(s) are no longer under the licensee's authority.

Commentary to Article VIII

- R800** See commentary at IFTA Articles of Agreement Section R212 regarding fuel purchases for use in tax-exempt vehicles.
- R800** IFTA Ballot 1-2001 amended IFTA Articles of Agreement Section R800 to embody the core principles identified in the Final Report of the State Legislation and Constitutional Provisions Project conducted by NCSL and was effective July 1, 2003.
- R810** IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.
- R820**
- R830** See Commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.
- R830.100** See commentary at IFTA Articles of Agreement R224 regarding reporting of exempt/nontaxable miles or kilometers on an IFTA tax return.
- R830.100** IFTA Ballot 1-2001 added IFTA Articles of Agreement Section R830.100 to embody the core principles identified in the Final Report of the State Legislation and Constitutional Provisions Project conducted by NCSL and was effective July 1, 2003. In addition, the previous Subsections R830.100 and R830.200 were renumbered to R800.200 and R830.300 respectively.
- R830.200** Ballot 7-92 added IFTA Agreement Section R830.200 effective January 1, 1994.
- R840** In July 1992, the membership unanimously ratified inclusion of Consensus Board Interpretation, Issue 13, as narrative to IFTA Articles of Agreement Section R840.

ISSUE: Which is to be used on a tax return to determine the average miles per gallon, the all operations figures? North Carolina believes units which operated intrastate only (not interstate) in any state during a reporting period may be excluded in the "everywhere/all operations" figures. What is correct?

BOARD INTERPRETATION:

Under the Agreement it is permissible for the carrier to be allowed to include intrastate qualified vehicle miles and reporting of intrastate operations through the IFTA return or through their own state return. If they are through IFTA, then the IFTA jurisdiction will need to make sure that in the audit the proper amount of taxation is collected and distributed.

If the carrier or registrant is reporting intrastate miles traveled by qualified vehicles on the IFTA tax return, the intrastate miles and fuel must be included in the IFTA calculation for miles per gallon. If the carrier or registrant is not reporting intrastate miles or fuel, they cannot include miles and fuel in the calculation for miles per gallon

- R840** See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.
- R840** IFTA Ballot 5-2000 amended IFTA Articles of Agreement Section R840 to add language concerning obtaining decals for intrajurisdictional vehicles and was effective July 1, 2002
- R840** Correction – IFTA Ballot 5-2000 changed the title of this section from Reporting Interstate Travel to Reporting Intrajurisdictional Travel.

ARTICLE IX

R900

REPORTING

***R910 REPORTING REQUIREMENT**

The licensee shall file a tax return for the tax reporting period with the base jurisdiction and shall pay all taxes due to all member jurisdictions with the remittance payable to the base jurisdiction by the due date. Jurisdictions may only require payment by guaranteed funds for the same reasons a bond may be required under R340.

***R920 FILING WITH BASE JURISDICTION**

The timely filing of the tax return and the payment of taxes due to the base jurisdiction for all member jurisdictions discharges the responsibility of the licensee for filing of tax returns and payment of individual taxes to all member jurisdictions.

***R930 TAX REPORTING PERIOD**

.100 Quarterly Tax Reporting

The tax return shall be for the previous calendar quarter. Tax returns are required even if no operations were conducted or no taxable fuel was used during the tax reporting period.

.200 Annual Tax Reporting

Notwithstanding the quarterly tax reporting requirement, a licensee whose operations total less than 5,000 miles or 8,000 kilometers (based on previous filing history) in all member jurisdictions other than the base jurisdiction during 12 consecutive months may request to report on an annual basis. Should a licensee wish to report annually, the licensee must obtain approval from the base jurisdiction.

***R940 TAX RETURN FORMAT**

.100 Forms

Tax return forms shall be furnished at no charge to each licensee at least 30 days prior to the due date of the tax return. All tax rates shown on the tax return will be the current jurisdiction tax rate provided notification of a change in tax rates is disseminated by a jurisdiction within the time limits prescribed by P1120. Failure to receive the authorized form does not relieve the licensee from the obligation to submit a tax return.

.200 Non Standard Returns

A base jurisdiction may authorize a licensee to submit a written or computer-generated tax return in lieu of the standard tax return if the return includes all the information required by this Agreement and is in a form acceptable to the base jurisdiction.

.300 Electronic Return

A base jurisdiction may authorize a licensee to submit a tax return electronically, in lieu of the standard tax return, if the return includes all the information required by this Agreement and is in a form acceptable to the base jurisdiction.

R950 REQUIRED INFORMATION

Each jurisdiction shall utilize a standard tax return form that contains, but is not limited to, all elements specified in the IFTA Procedures Manual P720.

***R960 DUE DATE**

.100 The tax return and full payment of taxes shall be due on the last day of the month following the close of the reporting period for which the tax return is due. If a licensee has been granted permission to file tax returns annually, the annual tax return shall be due January 31 following the close of the annual tax reporting period. If the last day of the month falls on a Saturday, Sunday, or legal holiday, the next business day shall be considered the due date.

.200 Delivery by National Postal Service or National Delivery Service

.005 Tax returns shall be considered received and filed on the date shown on the cancellation mark stamped by the national postal service of the Dominion of Canada, the United Mexican States, or the United States of America, or a national delivery service equivalent, on the envelope that contains the tax return; or the date the envelope was mailed, if proof satisfactory to the base jurisdiction is available to establish the date of mailing. To qualify under this provision, the envelope must be properly addressed to the department designated by the base jurisdiction to receive fuel tax returns and have adequate postage affixed.

.010 Tax payments shall be considered received on the date shown on the cancellation mark stamped by the national postal service of the Dominion of Canada, the United Mexican States, or the United States of America, or a national delivery service equivalent, on the envelope that contains the payment; or the date the envelope was mailed, if proof satisfactory to the base jurisdiction is available to establish the date of mailing. To qualify under this provision, the envelope must be addressed to the department designated by the base jurisdiction to receive fuel tax payments and have adequate postage affixed.

.015 When a tax return is hand delivered, the tax return shall be considered received and filed on the date that the tax return is delivered and receipted for by an employee of the department designated by the base jurisdiction to receive tax returns.

.020 When a tax payment is hand delivered, the payment shall be considered received on the date that the payment is delivered and receipted for by an employee of the department designated by the base jurisdiction to receive fuel tax payments.

.300 Delivery by Electronic Means

- .005 Tax returns delivered electronically shall be considered to have been received and filed on the date determined in accordance with the laws of the base jurisdiction.
- .010 Tax payments may be made by any method of electronic transfer approved by the base jurisdiction.
- .015 Electronic tax payments shall be considered to have been received on the date determined in accordance with the laws of the base jurisdiction.

***R970 LATE FILING**

Tax returns not filed or full payment of taxes not made by the due date shall be considered late and any taxes due considered delinquent.

Commentary to Article IX

- R910** IFTA Ballot 17-2002 amended IFTA Articles of Agreement Section R910 to remove the requirement of payment by check and was effective January 1, 2004.
- R910** IFTA Ballot 4-2003 amended IFTA Articles of Agreement Section R910 to remove the requirement to file a calendar quarterly return, to add a requirement to file a return for the reporting period and to add a requirement that the remittance be made payable to the base jurisdiction by the due date and was effective January 1, 2005.
- R910** IFTA Ballot 8-2004 and Ballot 15-2005 amended the IFTA Articles of Agreement Section R910 to allow a member jurisdiction to require a bond when licensing a carrier under R325, and to make the language more consistent with all of the IFTA Governing Documents and were effective January 1, 2006. Also, see commentary to R340.
- R910** IFTA Ballot 4-2006 amended IFTA Articles of Agreement Section R910 to separate the requirement for payment by guaranteed funds from the requirement to post a bond and was effective November 21, 2006.
- R920** IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.
- R930** IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.
- R930.200** See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.
- R930.200** See commentary at IFTA Articles of Agreement Section R203 regarding amendments to annual reporting provisions.
- R930.200** IFTA Ballot 5-2006 amended the IFTA Articles of Agreement to eliminate the requirement for the base jurisdiction to request permission of other jurisdictions to allow a licensee to report on an annual basis. This does not change the criteria for a licensee to qualify for annual filing status and was effective November 21, 2006.
- R940.100** IFTA Ballot 7-2003 amended IFTA Articles of Agreement Section 940.100 to provide that a jurisdiction may reference the IFTA, Inc. or its own web site for purposes of providing the tax rates, so long as they are the correct rates and was effective October 10, 2003.
- R940** IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.
- R940** IFTA Ballot 6-2006 amended the IFTA Articles of Agreement to allow jurisdictions discretion to accept tax return information on a non-prescribed form and was effective November 21, 2006.
- R940.300** IFTA Ballot 10-2005 amended the IFTA Articles of Agreement, Section R940 to add subsection .400 and was effective December 31, 2005.
{Editor's Note: IFTA Ballot 6-2006 deleted what was previously numbered R940.200. As a result, the commentary above is to the current R940.300.}

- R960** IFTA Ballot 1-1994 amended IFTA Articles of Agreement Sections R960, R970 and R1220 to provide that full payment of taxes due is a requirement for timely filing and to provide a due date for annual tax returns and was effective July 1, 1996.
- R960** IFTA Ballot 7-2004 amended IFTA Articles of Agreement Section R960 to clarify that the use of a national postmark can determine the timely filing of a tax return and was effective January 1, 2006.
- R960.100** See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.
- R960.100** IFTA Ballot 4-2003 amended IFTA Articles of Agreement Subsections R960.100 and R960.200 to
- R960.200** indicate when a remittance, in addition to the return, will be considered filed and received and was effective January 1, 2005.
- R960.300** IFTA Ballot 10-2005 amended the IFTA Articles of Agreement, Section R960 to add subsection .300 and was effective December 31, 2005.
- R970** See commentary at IFTA Articles of Agreement Section R960 regarding amendments to clarify timely filing and annual tax return provisions.
- R970** IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.

ARTICLE X

*R1000

TAX PAID PURCHASES

- .100 To obtain credit for tax paid purchases, the licensee must retain a receipt, invoice, credit card receipt, or automated vendor generated invoice or transaction listing, showing evidence of such purchases and taxes paid. These records may be kept on microfilm, microfiche or other computerized or condensed record storage system which meets the legal requirement of the base jurisdiction. Licensees are not required to submit proof of tax paid purchases with their tax returns.
- .200 Receipts that have been altered or indicate erasures are not accepted for tax-paid credits unless the licensee can demonstrate the receipt is valid.

*R1010 RETAIL FUEL PURCHASES

- .100 A licensee may claim a tax-paid credit on the IFTA tax return for fuel purchased at retail only when the fuel is placed into the fuel tank of a qualified motor vehicle and the purchase price includes fuel tax paid to a member jurisdiction.
- .200 The receipt must show evidence of tax paid directly to the applicable jurisdiction or at the pump. Specific requirements for these receipts are outlined in the IFTA Procedures Manual Section P550. No member jurisdiction shall require evidence of such purchases beyond what is specified in the Procedures Manual.
- .300 In the case of a lessee/lessor agreement, receipts for tax-paid purchases may be in the name of either the lessee or the lessor provided a legal connection can be made to the tax reporting party.

*R1020 BULK FUEL PURCHASES

- .100 Storage fuel is normally delivered into fuel storage facilities by the licensee, and fuel tax may or may not be paid at the time of delivery.
- .200 A licensee may claim a tax-paid credit on the IFTA tax return for fuel withdrawn from bulk storage only when the fuel is placed into the fuel tank of a qualified motor vehicle; the bulk storage tank is owned, leased, or controlled by the licensee; and either the purchase price of the fuel includes fuel tax paid to the member jurisdiction where the bulk fuel storage tank is located or the licensee has paid fuel tax to the member jurisdiction where the bulk fuel storage tank is located.
- .300 The licensee's records must identify the quantity of fuel taken from the licensee's own bulk storage and placed in its qualified motor vehicles. Recordkeeping requirements for tax paid bulk fuel purchases are provided in IFTA Procedures Manual Section P550.

Commentary to Article X

- R1000** See commentary at IFTA Articles of Agreement Section R212 regarding fuel purchases for use in tax-exempt vehicles.
- R1000** In July 1992, the IFTA Audit Committee was assigned to study the IFTA requirements for an invoice for credit for tax-paid fuel. In August, 1992, the Tax Paid Fuel and Computerized Billing Services Subcommittee was formed to study the issue, and its findings were presented at the 1993 IFTA Audit Workshop. As a result of these efforts, Ballot 3-1993 amended IFTA Articles of Agreement Section R1000, effective January 1, 1994, to allow that automated vendor generated invoices and transaction listings be retained by the licensees as evidence of tax paid purchases.
- R1000** IFTA Ballot 11-95 amended IFTA Articles of Agreement Section R1000 to provide that altered receipts are not accepted for tax-paid credits unless a licensee can demonstrate that the receipt is valid and was effective January 1, 1996. Ballot 11-95 reinserted language that was inadvertently deleted by Ballot 3-1993.
- R1010** IFTA Ballot 9-2004 and Ballot 15-2005 amended the IFTA Articles of Agreement Section R1010 to provide clarity that tax paid credit may only be taken only for tax paid fuel purchased in member jurisdictions and to make the language more consistent with all of the IFTA Governing Documents and were effective January 1, 2006.
- R1010.200** IFTA Ballot 3-2014 corrected the reference to the Procedures Manual to P550.
- R1020.200** IFTA Ballot 9-2004 amended the IFTA Articles of Agreement Section R1020.200 to provide clarity that tax paid credit may only be taken only for tax paid fuel purchased in member jurisdictions and was effective January 1, 2006.
- R1020.300** IFTA Ballot 3-2014 corrected the reference to the Procedures Manual to P550.

ARTICLE XI

R1100

CREDITS AND REFUNDS

A licensee shall receive full credit or refund for tax-paid fuel used outside the jurisdiction where the fuel was purchased. The base jurisdiction shall allow credits and issue refunds for all of its licensees on behalf of all member jurisdictions. Refunds to licensees will be made only when all tax liability, including audit assessments, have been satisfied to all member jurisdictions.

***R1110 REFUNDS**

The licensee shall receive, on request, a refund of any accumulated credits. The manner in which the refund is issued shall be in accordance with the laws of the base jurisdiction. All requests for refunds of credit balances must be filed in writing unless the base jurisdiction has an automatic refund policy.

***R1120 APPLICATION OF CREDITS**

.100 Such credits, when not refunded, shall be carried over to offset liabilities of the licensee in future tax reporting periods until:

.005 The credit is fully offset; or

.010 Eight calendar quarters shall have passed from the end of the calendar quarter in which the credit accrued,

whichever occurs sooner.

.200 When filing a tax return, a licensee may apply the overpayment generated in one jurisdiction to the taxes owed to another jurisdiction and remit the net tax owed to the base jurisdiction.

R1130 AUTHORIZATION TO WITHHOLD REFUNDS

As a condition to issuance of a motor fuel tax license under this Agreement, an applicant will authorize on the application that refunds may be withheld if the licensee is delinquent on fuel use taxes due to any member jurisdiction.

***R1140 CONDITIONS FOR ISSUANCE OF REFUNDS**

.100 Refunds need not be made for an overpayment for which records are no longer required under this Agreement. A request for refund shall extend the records requirement date until the refund is made or denied.

.200 Credited amounts may be refunded to the licensee only if all motor fuels taxes, penalty, and interest governed by this Agreement due every other member jurisdiction have been paid, unless the unpaid amount is under appeal in accordance with IFTA Articles of Agreement Section R1400.

***R1150 INTEREST ON REFUNDS**

Refunds determined to be properly due shall be paid within 90 days after receipt of a request for payment from a licensee. If not so paid, interest shall accrue at the rate specified in IFTA Articles of Agreement Section R1230. Interest shall be calculated from the date the refund was due for each month or fraction thereof until paid.

Commentary to Article XI

R1110 IFTA Ballot 8-2006 amended the IFTA Articles of Agreement to eliminate the requirement that licensees make requests for refunds in writing if the base jurisdiction has an automatic refund policy and eliminates the requirement that refunds be issued in cash and was effective November 21, 2006.

R1120 IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.

R1140.200 In July 1992, the membership voted to include the commentary from Consensus Board Interpretation, Issue 18-92, as narrative to IFTA Articles of Agreement Section R1140.200.

ISSUE: If a taxpayer has a prior period credit and files a delinquent return for the current period, how is the credit applied? Is interest calculated before or after the application of the credit?

BOARD INTERPRETATION:

When the taxpayer has a prior period credit and files a delinquent return for the current period, we believe interest must be calculated before the application of the credit. This is necessary because the base jurisdiction is actually holding the money, while the tax is due other jurisdictions. It would not be fair to apply the base state's credit against another state's liability. The other state must receive interest. While this may seem unfair to the carrier, the carrier is not required to carry a credit on the account and may request a refund, and the problem is avoided if the carrier files on time.

R1150 See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.

ARTICLE XII

R1200

ASSESSMENT AND COLLECTION

***R1210 ASSESSMENT**

- .100** In the event that any licensee

 - .005 fails, neglects, or refuses to file a tax return when due;
 - .010 fails to make records available upon written request by the base jurisdiction;
or
 - .015 fails to maintain records from which the licensee's true liability may be determined,

the base jurisdiction shall proceed in accordance with .200 and .300.

- .200** On the basis of the best information available to it, the base jurisdiction shall:

 - .005 determine the tax liability of the licensee for each jurisdiction and/or
 - .010 revoke or suspend the license of any licensee who fails, neglects or refuses to file a tax report with full payment of tax when due, in accordance with the base jurisdiction's laws.

Both .200.005 and .200.010 may be utilized by the base jurisdiction. For purposes of assessment pursuant to .100.010 or .100.015, the base jurisdiction must issue a written request for records giving the licensee thirty (30) days to provide the records or to issue a notice of insufficient records.

- .300** The base jurisdiction shall, after adding the appropriate penalties and interest, serve an assessment issued pursuant to .200.005 upon the licensee in the same manner as an audit assessment or in accordance with the laws of the base jurisdiction. The assessment made by a base jurisdiction pursuant to this procedure shall be presumed to be correct and, in any case where the validity of the assessment is questioned, the burden shall be on the licensee to establish by a fair preponderance of evidence that the assessment is erroneous or excessive.

***R1220 PENALTIES**

- .100** The base jurisdiction may assess the licensee a penalty of \$50.00 or 10 percent of delinquent taxes, whichever is greater, for failing to file a tax return, filing a late tax return, underpaying taxes due.
- .200** Penalties paid by the licensee shall be retained by the base jurisdiction.
- .300** Nothing in the Agreement limits the authority of a base jurisdiction to impose any other penalties provided by the laws of the base jurisdiction.

***R1230 INTEREST**

The base jurisdiction, for itself and on behalf of the other jurisdictions, shall assess interest on all delinquent taxes due each jurisdiction except taxes collected directly by other jurisdictions in accordance with IFTA Procedures Manual Sections P1000 and P1120.300.

.100 U.S. Jurisdiction Interest Rate

For a fleet based in a U.S. jurisdiction, interest shall be set at an annual rate of two (2) percentage points above the underpayment rate established under Section 6621(a)(2) of the Internal Revenue Code, adjusted on an annual basis on January 1 of each year. Interest shall accrue monthly at 1/12 this annual rate. The Repository shall notify Jurisdictions of the new rate by December 1.

.200 Canadian Jurisdiction Interest Rate

For a fleet based in a Canadian jurisdiction, interest shall accrue at a rate equal to the Canadian Federal Treasury Bill rate plus two percent and adjusted every calendar quarter.

.300 Computation of Interest

.005 Tax Returns

Interest due from a tax return shall be calculated separately for each jurisdiction from the date tax was due for each month or fraction thereof until paid. A full month's interest shall accrue for any portion of a month on which tax owed remains unpaid.

.010 Audits

Audit interest shall be calculated separately for each jurisdiction. Audit interest shall accrue monthly on the cumulative net tax balance owed to a jurisdiction until paid. A cumulative net tax balance is the amount of additional tax owed or tax overpayment made to a jurisdiction immediately following the due date of any tax reporting period taking into account all prior additional tax owed or overpayments made to a jurisdiction during the audit period. The cumulative net tax balance shall be adjusted immediately following the due date of any subsequent tax reporting period to reflect tax owed or overpayment made for that tax reporting period. A full month's interest shall accrue for any portion of a month on which tax owed remains unpaid. An overpayment for one jurisdiction shall have no effect on the interest calculation for any other jurisdiction.

.400 Remittance

All interest collected shall be remitted to the appropriate jurisdictions in accordance with IFTA Procedures Manual Section P1000.

***R1240 COLLECTION PROCEDURES**

.100 The collection of tax, penalty and interest owed to all member jurisdictions is the responsibility of the base jurisdiction, except as noted in IFTA Procedures Manual Sections P1000 and P1120.300.

.200 Methods of collection will be governed by the laws of the base jurisdiction and by this Agreement.

.300 In accordance with the jurisdiction's law, a base jurisdiction may use lien provisions to collect on taxes delinquent for a period of over 30 days. Such provisions shall include appropriate notice and due process requirements.

***R1250 RESPONSIBILITIES IN BANKRUPTCY PROCEEDINGS**

- .100** If the base jurisdiction receives official notice or otherwise obtains knowledge of the filing of a bankruptcy case or similar insolvency, liquidation, or reorganization proceeding by or against a licensee, the base jurisdiction shall be responsible for determining and taking such action as it deems reasonable and proper with respect to the need to:

 - .005 Prepare and file a proof of claim;
 - .010 Prepare and file requests for payment of post-petition liabilities; and
 - .015 Prosecuting and defending proofs and requests.
- .200** If the base jurisdiction is named respondent or defendant in a contested matter or adversary proceeding in which a member jurisdiction has an interest, and the base jurisdiction determines that it will not pursue the IFTA claim, then the base jurisdiction shall promptly notify such jurisdiction so it may seek to intervene.
- .300** Upon request from a member jurisdiction, the base jurisdiction must promptly provide such information and documentation in its possession as is necessary for the member jurisdiction to defend any contested matters or adversary proceedings involving fuel use taxes administered under IFTA.

***R1260 WAIVER OF PENALTIES AND INTEREST**

- .100** The base jurisdiction commissioner may waive penalties authorized by this Article for reasonable cause. If a licensee can demonstrate a tax return was filed late because of misinformation given to the carrier by the base jurisdiction, the interest may be waived for the base jurisdiction if the jurisdiction's statutes allow such a waiver. To waive interest for another jurisdiction, the base jurisdiction must receive written approval from the other jurisdiction.
- .200** Licensees against whom a penalty has been levied may file an appeal pursuant to Article R1400.

***R1270 REVOCATION OF LICENSE**

If a tax delinquency has not been satisfied, or the licensee has not filed a written appeal within a 30-day period from the notification of delinquency, a notice of revocation will be sent in accordance with the base jurisdiction's statutes for such notices advising the licensee of the immediate revocation of the fuel tax license.

Commentary to Article XII

- R1210** Ballot 9-1998 amended IFTA Articles of Agreement Section R1210 to allow jurisdictions to either issue an estimated assessment or revoke or suspend a license and was effective July 1, 2000.
- R1220** Ballot 20-91 amended IFTA Articles of Agreement Sections R1220 and R1230 to allow Canadian provinces to set interest and penalty rates at levels satisfactory for Canadian-based carriers effective December 15, 1992.
- R1220** See commentary at IFTA Articles of Agreement Section R960 regarding amendments to clarify timely filing and annual tax return provisions.
- R1220** IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.
- R1230** IFTA ballot 11-1996 amended IFTA Articles of Agreement Section R1230 to specifically state that interest is collected by the base jurisdiction for itself and on behalf of all member jurisdictions and was effective July 1, 1998.
- R1230** See commentary at IFTA Articles of Agreement Section R130 regarding amendments to accommodate jurisdictions outside of the United States.
- R1230** See commentary at IFTA Articles of Agreement Section R1220 regarding setting of penalties and interest rates for the Canadian carriers.
- R1230** In July 1991, the membership unanimously ratified inclusion of Consensus Board Interpretation, Issue 2, as narrative to IFTA Articles of Agreement Section R1230.
- ISSUE: What is IFTA's policy concerning the way in which jurisdictions should be charging interest after January 1, 1991? Is interest charged by date received or is it based upon the time period for which the carrier is filing?

BOARD INTERPRETATION:

The Board consensus on this topic was that fourth quarter returns should be charged at the new interest rate of one percent. The interest rate should apply to the return due date. This means that multiple interest rates must be applied if tax is unpaid during periods when the tax rate changes. Multiple interest rates will apply for both returns and audit assessments.

- R1230** In July 1992, the membership unanimously ratified inclusion of Consensus Board Interpretation, Issue 16-92, as narrative to IFTA Articles of Agreement Section R1230.

ISSUE: The IFTA Articles of Agreement Section R1230 state, "The base jurisdiction shall assess interest on all delinquent taxes due each jurisdiction..." Is interest assessed for "each jurisdiction" at the jurisdiction level or is it assessed at the fuel type level?

BOARD INTERPRETATION:

A survey was done which indicated nearly all the jurisdictions assess interest for each fuel type. Because some jurisdictions provide a separate return for each fuel type, netting the tax due before assessing interest would be difficult. (Contact repository for survey.)

- R1230** **[EDITOR'S NOTE: In light of the passage of Ballot 11-1996, effective July 1, 1998, Commentary resulting from the ratification of Issue 44-95 is no longer valid as of that**

date because said Commentary is in direct conflict to the language of Ballot 11-1996. Provisions regarding calculation of audit interest can now be found at IFTA Articles of Agreement Section R1230.300.010. The Commentary regarding Issue 44-95 is for historical reference only.}

R1230 In July 1995, the membership unanimously ratified inclusion of Consensus Board Interpretation 44-95, as narrative to IFTA Articles of Agreement Section R1230.

ISSUE: What is the appropriate method of interest calculation for an audit? At the 1994 IFTA Annual Meeting, a discussion was held about the “majority” vs. “minority” method of computing interest on an audit. Basically, the majority method interest is calculated on amounts due through the end of the audit period and then credits are applied. In the minority method, credits are applied based on the due date of the period of the credit, and interest is due only on the net tax.

BOARD INTERPRETATION:

The IFTA Articles of Agreement do not require a specific method of interest calculation on an audit. Both the “majority” method and “minority” method are acceptable

R1230.100 IFTA Ballot 2-2010 amended the IFTA Articles of Agreement, Section R1230.100 to change the way in which U.S. interest is calculated effective July 1, 2013.

R1230.300 IFTA Ballot 5-1998 amended IFTA Articles of Agreement Section R1230.300 to clarify how audit interest must be calculated and was effective October 23, 1998.

R1230.300 IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.

R1230.300 IFTA Ballot 6-2004 amended the IFTA Articles of Agreement Section R1230.300.005 to clearly define how interest is calculated and was effective July 1, 2006. responsibilities in bankruptcy proceedings and was effective July 1, 2000.

R1240.300 IFTA Ballot 11-1996 amended IFTA Articles of Agreement Section R1240.300 to specifically state how audit interest must be calculated effective July 1, 1998.

R1240.300 See commentary at IFTA Articles of Agreement Section R1230 regarding collection of interest for all jurisdictions.

R1250 Ballot 2-1998 amended IFTA Articles of Agreement Section R1250 to add provisions concerning a jurisdiction’s responsibilities in bankruptcy proceedings and was effective July 1, 2000.

R1260 IFTA Ballot 12-92 amended IFTA Articles of Agreement Section R1250 to allow jurisdictions to waive interest if statutory authority is present, effective January 1, 1993.

R1260 Prior to July 2000, IFTA Articles of Agreement Section R1260 was Section R1250.

R1260 IFTA Ballot 15-2004 amended the IFTA Articles of Agreement to provide greater clarity and make the language more consistent with all of the IFTA Governing Documents and was effective January 1, 2006.

- R1270** See commentary at IFTA Articles of Agreement Sections R410.200 and R420.200 regarding the applicability of a base jurisdiction's own administrative procedures laws.
- R1270** Prior to July 2000, IFTA Articles of Agreement Section R1270 was Section R1260.
- R1270** IFTA Ballot 5-2005 amended the IFTA Articles of Agreement to provide that notices regarding license revocation shall be sent in accordance with jurisdiction law and was effective January 1, 2007.

ARTICLE XIII

R1300

AUDITS

R1310 LICENSEE AUDITS

The base jurisdiction shall audit its licensees on behalf of all member jurisdictions. This shall not preclude another jurisdiction from also auditing a licensee. In that event, that jurisdiction shall pay all its audit expenses.

R1320 AUDIT REQUIREMENTS

Audits conducted by member jurisdictions under this Article shall comply with all the requirements contained in the Agreement, Procedures Manual and Audit Manual.

*R1330 AUDIT MANUAL

The Audit Manual shall contain rules for the performance of audits conducted under this Agreement, and for the maintenance by member jurisdictions of an audit staff sufficient to perform such audits.

R1340 REVIEW / REVISION OF AUDIT REQUIREMENTS

- .100 The Audit Committee shall review the audit requirements of this Agreement at least once every three years.
- .200 Proposed changes shall be subject to approval by the member jurisdictions in accordance with IFTA Articles of Agreement Section R1600.
- .300 Changes to the Audit Manual shall not be effective with less than a one-year notification, unless unanimously approved for an earlier date.

R1350 JOINT AUDITS

An audit of a licensee may be conducted jointly by the base jurisdiction and one or more other member jurisdictions. In such cases, the base jurisdiction shall direct the conduct of the audit. Non-base jurisdictions are responsible for their own audit expenses. Each member jurisdiction that participates in a joint audit shall receive full credit under A250 for the performance of an audit.

*R1360 RE-AUDIT AND RE-EXAMINATION

- .100 A member jurisdiction may re-examine a base jurisdiction's audit findings if the member jurisdiction reviews the audit work papers and, within 45 days of receipt of the Interjurisdictional Audit Report by the member jurisdiction, notifies the base jurisdiction of any errors found during such review and of its intention to conduct the re-examination. Such re-examination by a member jurisdiction must be based exclusively on the audit sample period utilized by the base jurisdiction in conducting its audit.
- .200 A member jurisdiction may re-audit a licensee if said member jurisdiction notifies the base jurisdiction and the licensee of reasonable cause for the re-audit.
- .300 The re-audit or re-examination by a member jurisdiction must be performed in cooperation with the base jurisdiction. An adjustment to original audit findings as

a result of such re-audit or re-examination must be reconciled with the original audit findings issued by the base jurisdiction. New audit findings shall be issued by the base jurisdiction. A member jurisdiction conducting a re-audit or re-examination shall pay its own expenses.

R1370 AUDIT REPORTS

- .100** In accordance with A460, upon the completion of an audit, the base jurisdiction shall provide an audit report to the licensee and to all member jurisdictions in which the licensee reported or should have reported distance or fuel during the period covered by the audit. The time periods specified in Sections R1360 and R1390 shall begin on the date on which the base jurisdiction provides the final audit report to the licensee.
- .200** The base jurisdiction shall, on request, furnish copies of audit reports and audit work papers to another member jurisdiction. A copy of the audit report, work papers, supporting documentation and any pertinent post-audit communications must be maintained by the base jurisdiction as part of the audit file for the period set forth in P910.
- .300** Any schedules and worksheets used to support the audit findings must be made available to the licensee if requested.

R1380 COMMUNICATION OF AUDIT FINDINGS

Fuel tax adjustments resulting from audit findings will be documented and included on monthly transmittals.

In the event that the results of an audit indicate funds owed to affected member jurisdictions and the licensee remits payment in full on or before the due date established by the base jurisdiction, such funds shall be remitted by the base jurisdiction to affected member jurisdictions in the manner and at the time prescribed by P1040.

In the event the base jurisdiction sends or causes to be sent a transmittal to a member jurisdiction which shows money owing to the base jurisdiction, the jurisdiction being billed shall remit payment to the base jurisdiction as prescribed by P1040.

Should a licensee fail to remit payment in full on or before the due date established by the base jurisdiction, the base jurisdiction may choose one of the following options in remitting audit funds to affected member jurisdictions:

Option 1

The base jurisdiction may remit any additional money owed by a licensee to affected member jurisdictions when payment is received. Upon receipt of a partial payment, the base jurisdiction must remit the payment on a pro-rata basis to affected member jurisdictions by the last day of the month following the month in which payment is received from the licensee. Credits due the licensee from one or more affected member jurisdictions shall be considered a payment made by the licensee. Total credits due the licensee and actual payments made by the licensee shall be allocated to each affected member jurisdiction owed based on the following formula:

$$\frac{\text{Net Amount Due a Jurisdiction}}{\text{Total Amount Due all Jurisdictions}} \times \text{Credits and/or Payments Available to allocate}$$

Any audit liability identified by the base jurisdiction but not previously remitted by the base jurisdiction to the affected member jurisdictions, and which is deemed to be uncollectible for one or more of the reasons stated in the IFTA Procedures Manual Section P1060.200.010, must be reported to the affected member jurisdictions as such within 60 days of the after the uncollectible determination.

Option 2

The base jurisdiction may make payment of an audit liability in full to each affected member jurisdiction. If all or a portion of the funds originally remitted to the affected member jurisdictions is subsequently deemed uncollectible for one or more of the reasons stated in the IFTA Procedures Manual Section P1060.200.010, the base jurisdiction will be entitled to a refund of money previously remitted. If a portion of the money previously remitted is deemed to be uncollectible, the amount of the refund due from each affected member jurisdiction shall be calculated on a pro-rata basis applying the same formula set forth in Option1. Such refund shall be made by an adjustment to a future monthly transmittal. Adjustments made to previously remitted audit results deemed to be uncollectible must be indicated as such on the transmittal.

R1390 AUDIT APPEALS

The base jurisdiction shall provide a licensee at least 30 calendar days from the date the licensee is notified of the findings of an audit or a re-examination to file a written appeal of the audit or reexamination with the base jurisdiction. Such an appeal shall proceed in accordance with the administrative and appellate procedures of the base jurisdiction. Upon the conclusion of the appeal process, the base jurisdiction shall notify all affected member jurisdictions of the results of the appeal.

Commentary to Article XIII

R1300 IFTA Ballot 3-2014 amended several sections under R1300: R1320, R1330, R1340, R1350, and R1370. R1380 and R1390 was new language. R1310 and R1360 remained unchanged. Effective date was January 1, 2017.

R1330 See commentary at IFTA Audit Manual A310 and A320 regarding computation of a jurisdiction's high and low distance audit accountability.

R1330 See commentary at IFTA Audit Manual A660.100 regarding required licensee audit report content.

R1360 At the IFTA annual business meeting in Denver, Colorado, in July 1990, southern states expressed concerns regarding audit policies and procedures. Ballot 90-316-1 became effective January 14, 1992, replacing IFTA Articles of Agreement Section R1360 and modifying procedures for re-audit of a licensee.

R1360.100 IFTA Ballot 6-1997 amended the IFTA Articles of Agreement Section R1360.100 by replacing the term "audit findings" with "Interjurisdictional Audit Report" and was effective July 1, 1999.

ARTICLE XIV

***R1400**

APPEAL PROCEDURES

The appeal process shall be conducted in accordance with the procedures established by the base jurisdiction. R1410, R1420, and R1430 only apply where a base jurisdiction does not have provisions in its administrative procedures laws for appeals of actions or audit findings.

***R1410 REQUEST FOR HEARING**

A licensee or applicant may appeal an action or audit finding issued by the commissioner of any member base jurisdiction by making a written request for a hearing within 30 days after the service of notice of the original action or finding. If the hearing is not requested in writing within 30 days, the original finding or action is final.

R1420 NOTICE OF HEARING

The hearing shall be held expeditiously, but may be continued for reasonable cause being shown by either party. The base jurisdiction shall give at least 20 days' written notice of the time and place of the hearing.

R1430 PROCEDURES FOR HEARING

- .100** The appellant may appear in person and/or be represented by counsel at the hearing and is entitled to produce witnesses, documents, or other pertinent material to substantiate the appeal.
- .200** If the licensee appeals an assessment for one or more jurisdictions, it will be the responsibility of the base jurisdiction to participate in the appeal process on behalf of the other jurisdictions.

R1440 NOTICE OF FINDINGS

The base jurisdiction will notify the appellant of the findings of fact and the ruling on the appeal.

R1450 FURTHER REQUESTS FOR APPEAL

- .100** Further appeal of any jurisdiction's finding will proceed in accordance with that jurisdiction's laws.
- .200** In the case of an audit, if the licensee is still in disagreement with the original finding, the licensee may request any or every jurisdiction to audit the licensee's records. Each jurisdiction to whom a request is made may elect to accept or deny the request. Each jurisdiction electing to audit the licensee's records will audit only for its own portion of the licensee's operations. The licensee shall make records available at the office of the jurisdiction or at a place designated by the jurisdiction or pay reasonable per diem and travel expenses associated with conducting an audit at the licensee's place of business.

Commentary to Article XIV

R1400 IFTA Ballot 2-2002 amended IFTA Articles of Agreement R1400 to add the language that R1410, R1420 and R1430 only apply if no jurisdiction laws for appeals exist and was effective January 1, 2004.

R1410 See commentary at IFTA Articles of Agreement Sections R410.200 and R420.200 regarding the applicability of a base jurisdiction's own administrative procedures laws.

ARTICLE XV

R1500

MEMBERSHIP

*R1505 APPLICATION FOR MEMBERSHIP

Any jurisdiction may apply for entry into the Agreement by submitting the prescribed adopting resolution and attachments to the repository for balloting by member jurisdictions. Entry into the Agreement constitutes membership in the International Fuel Tax Association, Inc. which administers the Agreement.

*R1510 CONDITIONS FOR MEMBERSHIP

The applicant shall agree to abide by all terms, conditions, and requirements of the Articles of Agreement, Procedures Manual, Audit Manual and the Bylaws of the Association and to:

- .100 Comply with all audit policies and procedures, including employment of a sufficient number of auditors to assure that audit of IFTA licensees are completed as prescribed in section A310 of the IFTA Audit Manual.
- .200 Submit to a program compliance review to determine compliance with the Agreement. Such review shall be performed after one year of implementation and once every five years thereafter unless a review is ordered as prescribed by his Agreement; and
- .300 Submit an annual report to the repository as specified in the Procedures Manual.

*R1515 ADOPTING RESOLUTION

The adopting resolution shall contain statements relating to the conditions for membership into the Agreement and shall include the following:

- .100 A copy of the enabling statute authorizing the jurisdiction to enter into and abide by the obligations of the Agreement;
- .200 A statement of taxable fuels and tax rates for these fuels; and
- .300 A statement as to the number of:
 - .005 Prospective licensees based in the jurisdiction;
 - .010 Audit personnel who will be dedicated to auditing under this Agreement; and
 - .015 Supervisory and clerical personnel who will be dedicated to receipting, processing, and disbursing funds received under the provisions of the Agreement.

R1520 APPROVAL OF ADOPTING RESOLUTION

Ballots shall be mailed by the repository to all member jurisdictions via certified mail, return receipt requested. Entry shall be granted to the applicant unless more than one negative vote is received. Failure of a jurisdiction to submit its vote on the ballot within 120 days of receipt shall be considered a vote for approval of the application.

R1525 MEMBERSHIP EFFECTIVE DATE

Membership shall become effective upon approval by the member jurisdictions and the payment of the required membership fees.

***R1530 IMPLEMENTATION EFFECTIVE DATE**

- .100** The effective date for implementation of the Agreement by a new member shall be January 1 or July 1 following two complete calendar quarters after the membership effective date; or
- .200** An alternate implementation date stated in the adopting resolution and agreed to by all member jurisdictions.

R1535 IMPLEMENTING LICENSING IN THE NEW JURISDICTION

- .100** The new member jurisdiction shall forward to each member jurisdiction a complete printout of all member jurisdiction carriers who are presently fuel tax licensees and who operate in the new member jurisdiction.
- .200** Each member jurisdiction shall forward to the new member jurisdiction a complete printout of all accounts in the new jurisdiction that presently hold a member jurisdiction fuel tax license.
- .300** The new member jurisdiction shall issue IFTA credentials to their carriers, canceling any existing fuel tax accounts.
- .400** Upon receipt of the IFTA applications for the new member jurisdiction, the member jurisdiction shall cancel the fuel tax accounts of those carriers based in the new member jurisdiction.

R1540 FAILURE TO IMPLEMENT

If the Agreement is not implemented on the implementation effective date, the applicant shall be required to re-apply.

***R1545 ACTIVE MEMBERSHIP STATUS**

To retain active membership status, the jurisdiction must:

- .100** Collect and transfer fees for other jurisdictions in a timely manner;
- .200** Pay membership fees in a timely manner; and
- .300** Comply with all other provisions of the Agreement.

Voting privileges are granted only to members holding active status.

R1550 MEMBERSHIP CANCELLATION

A member may withdraw from the Agreement by giving at least two full calendar quarters' written notification to all member jurisdictions. Each member jurisdiction shall notify each of its licensees of the cancellation at least one full calendar quarter prior to the cancellation date. However, cancellation by one jurisdiction shall not affect this Agreement between other jurisdictions. All evidence of motor fuels licensing issued under the Agreement by the canceling jurisdiction shall be valid until the effective date of the cancellation.

***R1555 COMPLIANCE MATTERS**

.100 Dispute Resolution Process

Disputes concerning issues of compliance with the International Fuel Tax Agreement may be resolved pursuant to the IFTA Dispute Resolution Process. The IFTA Dispute Resolution Process may be utilized to resolve only:

- .005 Compliance disputes between member jurisdictions;
- .010 Compliance disputes between member jurisdictions and IFTA licensees in those matters where no administrative remedy to the IFTA licensee is available within the member jurisdiction involved in the dispute. Compliance disputes subject to this section shall not include disputes between member jurisdictions and IFTA licensees over matters of substantive jurisdiction law, including but not limited to, laws governing the imposition, assessment, and collection of jurisdiction motor fuel use taxes collected pursuant to the International Fuel Tax Agreement; and
- .015 Compliance matters where (i) the Program Compliance Review Process, including follow-up and/or reassessment, has been completed; (ii) a Final Determination Finding of Non-Compliance has been issued by the Program Compliance Review Committee related to Sections R970, R1210, R1230, R1260, R1270, R1370, R1380, P1040, A250 or A260, and (iii) a recommendation for initiation of a dispute from the Program Compliance Review Committee has been approved by the member jurisdictions as defined in Article R1555.300.

.200 Submission of a Final Determination Finding of Non-Compliance to the Membership

A Final Determination Finding of Non-Compliance issued by the Program Compliance Review Committee related to Sections R970, R1210, R1230, R1260, R1270, R1370, R1380, P1040, A250, or A260, shall be submitted to the membership to determine whether a dispute will be initiated.

.300 Initiation of a Dispute Based on a Final Determination Finding of Non-Compliance

- .005 Member jurisdictions will have thirty (30) days to vote on the initiation of a dispute based on a Final Determination Finding of Non-Compliance.
- .010 Votes on the initiation of a dispute based on a Final Determination Finding of Non-Compliance must be cast by the IFTA commissioner or a delegate named in writing by the commissioner.
- .015 For purposes of this section, a vote submitted electronically through a mechanism provided by the International Fuel Tax Association, Inc. is deemed a vote in writing.
- .020 An affirmative vote in writing of at least two-thirds of the total written votes cast is required to initiate a dispute based on a Final Determination Finding of Non-Compliance.
- .025 If the member jurisdictions approve the initiation of a dispute based on a Final Determination Finding of Non-Compliance, the Program Compliance Review

Committee shall forward the Final Determination Finding of Non-Compliance to the IFTA Dispute Resolution Committee to initiate a dispute.

.400 Expulsion Process

- .005 The IFTA, Inc. Board of Trustees shall request a resolution to expel a member jurisdiction which has failed to bring its IFTA program into compliance one year following its loss of voting power under the penalty provisions of the IFTA Dispute Resolution Process.
- .010 The Board shall issue a resolution of expulsion to the IFTA membership for approval. A ballot by which a member jurisdiction may vote on the resolution will be attached to the resolution. A copy of the resolution will be sent to the jurisdiction which is the subject of the resolution, but said jurisdiction will not be allowed to vote on the resolution.
- .015 A resolution expelling a member jurisdiction from the Agreement shall require the affirmative vote in writing of three-fourths of the total member jurisdictions, excluding the jurisdiction which is the subject of the resolution.
- .020 Member jurisdictions will have sixty (60) days from the date of issuance of the resolution to vote on the resolution of expulsion. Failure of a member jurisdiction to submit its vote shall be deemed a vote against the resolution of expulsion.
- .025 If the member jurisdictions approve the resolution for expulsion, the Board of Trustees will notify the subject jurisdiction of its expulsion from the Agreement. A copy of the resolution will be forwarded to the Governor of the subject United States jurisdiction or the Premier of the subject Canadian Province and to the Secretary of Transportation of the United States.

Commentary to Article XV

R1505 Ballot 90-312-1 amended the Articles of Agreement to provide for the establishment of the International Fuel Tax

R1510 Association, Inc., effective February 25, 1991. The Articles of Agreement sections affected by ballot were R1510.100, R1510.200, R1510.300, R1515, R1545, R1810.100, R1810.200, R1810.300, R1810.400, R1810.600, R1820.100, and R1820.200.

R1510.100 See commentary at IFTA Audit Manual A660.100 regarding required licensee audit report content.

R1510.100 {EDITOR'S NOTE: In light of the passage of Ballot 14-1995 effective July 1, 1997, Commentary resulting from the ratification of Issue 8, Question 1 is for historical reference only. Language regarding the implementation of the IFTA audit requirements can now be found at IFTA Audit Manual Section A310.]

R1510.100 In July 1991, the membership unanimously ratified inclusion of Consensus Board Interpretation, Issue 8, questions 1 and 2, as narrative to IFTA Articles of Agreement Section R1510.100.

QUESTION 1: Most states do not begin their IFTA audit program until at least one year's worth of returns are filed. Does the five-year audit requirement begin on the date the state's audit program begins, on the date the state's membership became effective, on the date the state became approved for membership, or on the date that the first three-year audit can be conducted (three years after the first IFTA return was filed)?

BOARD INTERPRETATION:

The Board consensus was that a jurisdiction should begin its IFTA audit program on its implementation date. The beginning of an IFTA audit program should include, but not be limited to, the hiring of sufficient audit personnel to meet the audit requirements and development and implementation of an auditor training program. Audits will not be performed until one year from the jurisdiction's implementation date.

QUESTION 2: Effective January 14, 1992, the IFTA audit requirement will change due to Ballot 90-316-2 which changes the percentage from "25 percent every three years to "15 percent every five years". Is the change retroactive or do states have to provide 25 percent coverage up to the effective date and then 15 percent thereafter?

BOARD INTERPRETATION:

The Board consensus was that the change in percentage of audits from 25 percent every three years to 15 percent every three [sic] years is retroactive to the date of the jurisdiction's implementation.

R1510.100 Ballot 90-316-2 amended IFTA Articles of Agreement Section R1510.100, modifying the minimum percentage of audits to be performed in a five-year period. The effective date of Ballot 90-316-2 was January 14, 1992.

R1510.100 In July 1996, the membership unanimously ratified inclusion of Consensus Board Interpretation, Issue 49-96, as narrative to the IFTA Articles of Agreement Section R1510.100.

ISSUE: For jurisdictions implementing on dates other than January 1, can the required 5-year/15% audit requirement be proportionally reduced to equate to the number of months the jurisdiction is in IFTA that year?

BOARD INTERPRETATION:

For a jurisdiction implementing on a date other than January 1, an average of 3% per year to equate to the required audits of 15% of a jurisdiction's licensees in a 5-year period, will be proportionally reduced to equate to the number of months in IFTA that year. The requirement will be based on the full calendar year for each year after implementation.

- R1510.100** IFTA Ballot 4-2001 amended IFTA Articles of Agreement Section R1510.100 to state that a sufficient number of auditors must be employed to complete audits as prescribed in the IFTA Audit Manual and was effective November 26, 2001.
- R1510.100** IFTA Ballot 2-2009 amended IFTA Articles of Agreement Section R1510.100 to change the IFTA program compliance review cycle from four (4) to five (5) years and was effective January 1, 2011.
- R1510.200** IFTA Ballot 4-1995 amended IFTA Articles of Agreement Section R1510.200 to change terminology from “operations” review to “program compliance review” and to make other changes consistent with a long-range program compliance package ratified by the membership at the 1995 Annual Business Meeting and was effective January 1, 1996.
- R1515** See commentary at IFTA Articles of Agreement Section R1505 regarding the establishment of the International Fuel Tax Association.
- R1530.100** IFTA Ballot 3-92 amended the IFTA Articles of Agreement Section R1530 to state that new jurisdictions must begin implementation on January 1 or July 1, effective January 1, 1993.
- R1545** See commentary at IFTA Articles of Agreement R1505 regarding the establishment of the International Fuel Tax Association.
- R1555** IFTA Ballot 7-1995 amended IFTA Articles of Agreement R1555 to add a provision to allow a dispute resolution process pursuant to which member jurisdictions may resolve disputes among each other and to allow restrictive use of the process by IFTA licensees. The expulsion provisions of this Article were also amended. Ballot 7-1995 was effective July 1, 1997.
- R1555** IFTA Ballot 1-2009 amended the IFTA Articles of Agreement to amend the IFTA Articles of Agreement to require the PCRC to recommend to the membership that a dispute be initiated against a member jurisdiction that: has been found non-compliant on the subject articles of the governing documents following completion of the Program Compliance Review process, including a follow-up and/or reassessment; and 2) has been issued a Final Determination Finding of Non-Compliance by the PCRC and was effective January 1, 2010.
- R1555** IFTA Ballot 6-2015 amended the IFTA Articles of Agreement, Section R1555 to require the PCRC to recommend to the membership that a dispute be initiated against a member jurisdiction that has been found non-compliant on the subject of Licensee Audits by not auditing on behalf of all member jurisdictions (Section R1310). Ballot 6-2015 was effective upon passage, March 25, 2016.

R1555 IFTA Ballot 3-2014 amended the IFTA Articles of Agreement correcting Section number in .100.015 and .200 and was effective January 1, 2017.

ARTICLE XVI

***R1600**

AMENDMENT

Proposals for amendment of the Agreement, Procedures Manual, or Audit Manual may be made by any member jurisdiction, the Audit Committee, the Agreement Procedures Committee, the Clearinghouse Advisory Committee, the Law Enforcement Committee, the Program Compliance Review Committee or the Board of Trustees of the Association.

***R1605 SUBMISSION OF PROPOSALS FOR COMMENT**

- .100** A proposed amendment is to be submitted to the repository. The repository will circulate the proposed amendment as a Full Track Preliminary Ballot Proposal ("Full Track proposal") to all member jurisdictions and the standing committees of the Association for a 45-day preliminary comment period.
- .200** At the end of the comment period, the Full Track proposal is to be submitted to the repository for consideration at the next meeting of the member jurisdictions. The comment period must be completed and notification given to the repository at least 45 days before the next meeting of the member jurisdictions.
- .300** The repository will notify the member jurisdictions of Full Track proposals that have qualified for consideration at the next meeting of the member jurisdictions and provide the text of the proposals and any comments received.

R1610 SUBMISSION OF PROPOSALS WITHOUT PRELIMINARY COMMENT

A proposed amendment may also be submitted to the repository for consideration as a Short Track Preliminary Ballot Proposal ("Short Track" Proposal). The preliminary comment period requirement may be waived if:

- .100** A proposed amendment is submitted to the repository at least 45 days before the next meeting of the member jurisdictions for consideration at that meeting; and
- .200** At the next meeting of the member jurisdictions, the proposed amendment receives the affirmative vote of at least three-fourths of the total member jurisdictions of the Agreement.

R1615 OPEN MEETING DISCUSSION

No amendment will be adopted without a discussion of the amendment at an open meeting of the commissioners. All Full Track and Short Track proposals will be discussed in an open meeting of the commissioners.

R1620 "SHORT TRACK" VOTING

- .100** In the open meeting, the sponsor may request the member jurisdictions to vote for or against placing a Full Track proposal on the Short Track ballot process described in IFTA Articles of Agreement Section R1625. An affirmative vote of at least three-fourths of the total member jurisdictions is required to place a ballot on the Short Track ballot process.
- .200** In the open meeting, a vote must be made by the member jurisdictions for or against continuing each Short Track proposal on the Short Track ballot process described in IFTA Articles of Agreement Section R1625. An affirmative vote of at

least three-fourths of the total member jurisdictions is required for continuation of a ballot on the Short Track ballot process.

R1625 "SHORT TRACK" 30-DAY BALLOT PROCEDURES

Proposals that receive the required three-fourths vote at the open meeting of the commissioners may proceed as follows:

- .100** Within 30 days of the open meeting, the sponsoring jurisdiction or committee must submit its proposal to the repository for circulation as a preliminary ballot proposal.
- .200** The repository will circulate the preliminary ballot proposal to the member jurisdictions and the standing committees of the Association for a 30-day comment period.
- .300** At the end of the 30-day comment period, the preliminary ballot proposal is submitted to the repository as a final ballot proposal and circulated, together with all comments received, to the member jurisdictions. Jurisdictions have 30 days in which to vote on final ballot proposals submitted under this section.

***R1630 "FULL TRACK" BALLOT PROCEDURES**

Full Track proposals that are not voted on at the open meeting or do not receive the three-fourths affirmative vote may still proceed as follows:

- .100** Within 45 days of the open meeting, the sponsoring jurisdiction or committee must submit its proposal to the repository for circulation as a preliminary ballot proposal.
- .200** The repository will circulate the preliminary ballot proposal to the member jurisdictions and the standing committees of the Association for a 45-day comment period.
- .300** At the end of the 45-day comment period, the preliminary ballot proposal is submitted to the repository as a final ballot proposal and circulated, together with all comments received, to the member jurisdictions. Jurisdictions have 60 days in which to vote on final ballot proposals submitted under this section.

R1635 VOIDED "SHORT TRACK" PROPOSALS

Short Track proposals that do not receive the three-fourths affirmative vote are void. Sponsoring jurisdictions or committees may again submit the proposal through the process outlined in IFTA Articles of Agreement Section R1605. However, the proposal is ineligible for the expedited processes outlined in Sections R1610 or R1620.

***R1640 AMENDMENTS TO PRELIMINARY BALLOTS**

A preliminary ballot proposal may be amended to incorporate comments received in the comment period or to make technical or grammatical changes prior to circulation as a final ballot proposal. If the changes made to a preliminary ballot proposal are substantive, it must be resubmitted as a new preliminary ballot proposal for an additional 45-day comment period. The sponsoring jurisdiction or committee has discretion to determine whether changes are substantive or non-substantive. However, if two or more jurisdictions indicate in writing to the repository that they consider a change substantive, it must be resubmitted for an additional 45-day comment period.

R1645 FINAL BALLOT PROPOSAL REQUIREMENTS

Final Ballot proposals must contain the following:

- .100** The precise language to be considered;
- .200** The language originally contained in the preliminary ballot proposal;
- .300** All comments received during the comment period;
- .400** The date by which voting must be completed; and
- .500** The effective date of the amendment.

***R1650 ACCEPTANCE OF AMENDMENTS**

- .100** Votes on amendments or interpretations must be cast by the commissioner or a delegate named in writing by the commissioner.
- .200** An affirmative vote in writing of three-fourths of the total member jurisdictions is required to amend the Agreement, Procedures Manual, or Audit Manual. For purposes of this section, a vote submitted electronically through a mechanism provided by the International Fuel Tax Association, Inc. is deemed a vote in writing.
- .300** Jurisdictions may abstain from voting, but a final ballot proposal may still not be adopted without the affirmative vote of three-fourths of the total member jurisdictions.
- .400** Jurisdictions that do not vote on an amendment within the required time limits are considered to have voted in the negative, except as provided in IFTA Articles of Agreement Section R1655.

***R1655 EFFECTIVE DATE OF AMENDMENTS**

The effective date of all amendments, unless otherwise specified, is the first day of January or July, whichever occurs first, following the completion of 12 complete months following the close of the voting period. An alternate effective date may be allowed if it receives the support of three-fourths of the total member jurisdictions. If an alternate effective date is requested, it must be voted separately from the amendment. Jurisdictions that do not vote on an alternate effective date within the required time limits are considered to have voted in the negative.

R1660 WITHDRAWAL OF AMENDMENT PROPOSALS

An amendment proposal may be withdrawn by the sponsoring jurisdiction or committee at any time during the amendment process.

Commentary to Article XVI

- R1600** The current ballot process was determined to be cumbersome and too lengthy. Ballot 90-312-2 became effective January 7, 1992, amending IFTA Articles of Agreement Section R1600 and streamlining the ballot process.
- R1600** IFTA Ballot 9-2000 amended IFTA Articles of Agreement R1600 to authorize the Law Enforcement Committee and the Program Compliance Review Committee to submit proposals for amendment to the IFTA governing and was effective October 24, 2000.
- R1600** IFTA Ballot 4-2009 amended IFTA Articles of Agreement R1600 to create the Clearinghouse Advisory Committee as a standing committee of the International Fuel Tax Agreement and to authorize the committee to propose ballots and was effective January 1, 2010.
- R1605.100** IFTA Ballot 2-2003 Amended IFTA Articles of Agreement Subsection R1605.100 to reduce the preliminary comment period for full track ballot proposals from 90 days to 45 days and was effective January 1, 2005.
- R1630** IFTA Ballot 2-2001 amended IFTA Articles of Agreement R1630 to change the sponsor revision period and the second comment period from 90 to 45 days and was effective November 26, 2001.
- 1630.300** IFTA Ballot 2-2003 amended IFTA Articles of Agreement Subsection R1630.300 to reduce from 90 days to 60 days the time within which jurisdictions may vote on full track final ballot proposals and was effective January 1, 2005.
- R1640** IFTA Ballot 2-2001 amended IFTA Articles of Agreement R1640 to change the additional comment period from 90 to 45 days and was effective November 26, 2001.
- R1650.200** IFTA Ballot 2-2001 amended IFTA Articles of Agreement R1650.200 to state that a vote submitted electronically is considered a vote in writing and was effective November 26, 2001.
- R1655** IFTA Ballot 5-2004 amended the IFTA Articles of Agreement, Section R1655 to change the requirements of R1655 to be consistent with R1650 and was effective July 1, 2006.

ARTICLE XVII

***R1700 ISSUE PAPERS AND CONSENSUS BOARD INTERPRETATIONS**

R1710 ISSUE PAPERS

Requests for clarification/interpretation of IFTA requirements stated in the Articles of Agreement, Procedures Manual, or Audit Manual may be submitted to IFTA, Inc. by any member jurisdiction, established committee, or Board of Trustees of the Association.

***R1720 CONSENSUS BOARD INTERPRETATIONS**

- .100** The Board of Trustees of the Association shall issue Consensus Board Interpretations in response to requests for clarification or notify the requesting party why a Consensus Board Interpretation will not be issued. Consensus Board Interpretations will be presented for consideration at the annual business meeting and require an affirmative vote of three-fourths of the member jurisdictions for ratification and inclusion as commentary in the IFTA governing documents.
- .200** An included commentary is binding on the member jurisdictions, unless the section to which the commentary refers is subsequently amended as provided in this in this agreement.
- .300** Interpretations which fail to receive sufficient votes for ratification may be balloted according to the process outlined in R1600.

Commentary to Article XVII

- R1700** Ballot 15-1995 amended IFTA Articles of Agreement to add R1700 to formalize the process by which the Board of Trustees of the Association interprets the governing documents and offer such interpretations for ratification by the membership and was effective July 1, 1997.
- R1720** IFTA Ballot 3-2001 amended IFTA Articles of Agreement Section R1710 to require that the IFTA, Inc. Board of Trustees either issue an interpretation or notify the requesting party why such an interpretation will not be issued and was effective July 1, 2003.
- R1720.200** IFTA Ballot 3-2001 added IFTA Articles of Agreement Subsection R1720.200 which makes added commentary binding on the member jurisdictions unless the section to which the commentary applies is subsequently changed by ballot and was effective July 1, 2003. In addition, the previous Subsection R1720.200 was renumbered to R1720.300.

ARTICLE XVIII

R1800

ADMINISTRATION

*R1810 INTERNATIONAL FUEL TAX ASSOCIATION, INC.

There is established the International Fuel Tax Association, Inc. (hereinafter referred to as "the Association") which is responsible for administering the Agreement. Entry into the Agreement constitutes membership in the Association.

.100 Association Bylaws

The Bylaws of the Association shall outline and govern the establishment, selection, and responsibilities of the Board of Trustees and officers. The Bylaws shall also govern the membership of the Audit Committee, the Agreement Procedures Committee, and the Industry Advisory Committee, and govern the creation and membership of other standing and special committees. Member jurisdictions agree to abide by the Bylaws as a condition for participation in the Agreement.

.200 Committees

.010 Procedures Committee

There is established an Agreement Procedures Committee which is responsible for the review and maintenance of the IFTA Procedures Manual.

.020 Audit Committee

There is established an Audit Committee which is responsible for the review and maintenance of the IFTA Audit Manual.

.030 Industry Advisory Committee

There is established an Industry Advisory Committee to advise and assist both the Agreement Procedures Committee and the Audit Committee.

.040 Program Compliance Review Committee

There is established a Program Compliance Review Committee which shall be selected as outlined in the IFTA Program Compliance Review Guide and shall perform such functions and duties delineated in that Guide. The Program Compliance Review Committee shall also perform the functions and duties as otherwise provided in these Articles of Agreement.

.050 Law Enforcement Committee

There is established a Law Enforcement Committee to advise the IFTA membership concerning enforcement matters through reports to the IFTA, Inc. Board of Trustees. Committee members will be representatives of law enforcement agencies of member jurisdictions having the responsibility to enforce laws affecting motor carriers, including IFTA. Issues will be assigned to the Law Enforcement Committee by the Board.

.060 Dispute Resolution Committee

There is established a Dispute Resolution Committee to hear disputes filed pursuant to Section R1555 herein. Members of the Committee will be selected pursuant to the Committee Charter and will perform the functions as outlined in the Dispute Resolution Process.

.070 Clearinghouse Advisory Committee

There is established a Clearinghouse Advisory Committee which has the responsibility of advising the Board and the Executive Director of IFTA, Inc. of business rules for the operation of the Clearinghouse, ensuring the Clearinghouse operates within the IFTA requirements, suggesting enhancements to the Clearinghouse, proposing ballots, and serving as a technical resource for membership.

.300 Membership Fees

To cover administrative costs, a membership fee shall be levied on every member jurisdiction. The fee shall be paid annually and be based upon a budget adopted by majority vote at the annual IFTA meeting. The fee shall be equally prorated among current members. The fees will be based upon a fiscal year of July 1 through June 30.

.400 New Member Fees

A new member being admitted to the Agreement will be assessed a membership fee as follows:

The annual amount assessed each current member, divided by 12, and multiplied by the number of full months remaining in the fiscal year from date of receipt of the necessary ballots approving membership.

Fees will not be refunded to a jurisdiction failing to implement the Agreement.

.500 Annual Meeting

The member jurisdictions shall convene an annual IFTA meeting for the purpose of administering the Agreement.

***R1820 REPOSITORY**

.100 Selection

A repository shall be selected by majority vote of the member jurisdictions.

.200 Duties

The repository shall perform duties as specified in the Agreement, the Association Bylaws, and the contract with the Association.

.005 All agendas, meeting notices, rate increases, and other IFTA information shall be mailed from the repository.

.010 The Repository is responsible for revising and maintaining the Agreement, the Procedures Manual, and the Audit Manual.

Commentary to Article XVIII

- R1810.100** See commentary at IFTA Articles of Agreement Section R1510 regarding establishment of the International Fuel Tax Association
- R1810.200**
R1810.300
R1810.400
- R1810.200** IFTA Ballot 2-2005 amended IFTA Articles of Agreement Section R1810 by renaming R1810.200 and renumbering thereafter to add subsections regarding the IFTA Standing Committees. In addition, the Dispute Resolution Committee was added as a Standing Committee. All changes were effective January 1, 2007.
- R1800.200** IFTA Ballot 4-2009 amended IFTA Articles of Agreement R1800 to create the Clearinghouse Advisory Committee as a standing committee of the International Fuel Tax Agreement and to authorize the committee to propose ballots and was effective January 1, 2010.
- R1810.500** IFTA Ballot 5-1995 amended IFTA Articles of Agreement Section R1810.500 to create the Program Compliance Review Committee as a standing committee and was effective January 1, 1997.
- R1810.600** IFTA Ballot 2-1994 added IFTA Articles of Agreement R1810.600 to create the Law Enforcement Committee as a standing committee and was effective July 1, 1996.
- R1810.700** See commentary at IFTA Articles of Agreement Section R1510 regarding the establishment of the International Fuel Tax Association.
- {Editor's Note: The references to R1810.500, R1810.600 and R1810.700 above are to R1810.200.040, R1810.050 and R1810.300 as of January 1, 2007. See Commentary to R1810.200 above.}**
- R1820** See commentary at IFTA Articles of Agreement Section R1510 regarding the establishment of the International Fuel Tax Association.
- 1992** Ballot 27-91 modified the IFTA Articles of Agreement for typographical, spelling and consistency error.

ARTICLE XIX

***R1900 COOPERATION WITH REGIONAL FUEL TAX AGREEMENT**

Commentary

R1900 IFTA Ballot 9-1995 amended IFTA Articles of Agreement to add R1900 to provide for a cooperative agreement between the members of the International Fuel Tax Agreement (IFTA) and the Regional Fuel Tax Agreement (RFTA). The cooperative agreement would allow motor carriers to operate in and among the IFTA and RFTA jurisdictions with one set of credentials, either IFTA or RFTA. Ballot 9-1995 was effective July 1, 1997.

R1900 IFTA Ballot 10-2001 amended IFTA Articles of Agreement to delete R1900 and was effective January 1, 2002.

ARTICLE XX

***R2000 ADOPTION OF RECODIFICATION OF IFTA MANUALS**

R2010 ADOPTION

- .100** The January 1996 Recodification of the IFTA Articles of Agreement, the IFTA Procedures Manual and the IFTA Audit Manual are adopted as the governing documents of the International Fuel Tax Agreement effective July 1, 1998, replacing the IFTA Articles of Agreement, the IFTA Procedures Manual and the IFTA Audit Manual, dated February 1993 as revised.
- .200** Any amendment to the IFTA Articles of Agreement, the IFTA Procedures Manual or the IFTA Audit Manual (dated February 1993 as revised) passed during 1996 and 1997 shall, to the extent the amendment conflicts with said Recodification, be deemed to amend such Recodification. R2010.200 expires January 1, 1999.

Commentary to Article XX

R2000 IFTA Ballot 1-1996 added IFTA Articles of Agreement Section R2000 to adopt, as the IFTA governing documents, the January 1996 draft of the Recodification of the IFTA Articles of Agreement, the IFTA Procedures Manual, and the IFTA Audit Manual effective July 1, 1998.

ARTICLE XXI

***R2100 INTERNATIONAL FUEL TAX ASSOCIATION, INC. ("IFTA, INC.") CLEARINGHOUSE**

***R2110 IFTA, INC. CLEARINGHOUSE**

There is established the IFTA, Inc. Clearinghouse (hereafter referred to as the "clearinghouse") which is responsible for the maintenance and administration of licensee demographic and transmittal data transmitted by participating members. The clearinghouse is also responsible for providing a mechanism for the exchange of Interjurisdictional Audit Reports. The participating members may electronically view and retrieve the clearinghouse data.

- .100** "Participating members" are those jurisdictions that have entered into an agreement with IFTA, Inc. to access the clearinghouse and that have submitted licensee demographic or transmittal data to the clearinghouse.
- .200** Licensee demographic data includes licensee name, address, IFTA license number, license status and other information identified in the IFTA, Inc. Clearinghouse Access Agreement.
- .300** Transmittal data includes the information required in the IFTA Procedures Manual Section P1040.
- .400** Interjurisdictional Audit Reports include the information required in the IFTA Audit Manual Section A660.200.

***R2120 REQUIRED EXCHANGE OF LICENSEE DEMOGRAPHIC AND TRANSMITTAL DATA AND INTERJURISDICTIONAL AUDIT REPORTS**

.100 Licensee Demographic Data

When the exchange of licensee demographic data is required of the participating members by the IFTA Articles of Agreement and the IFTA Procedures Manual, such requirements shall be deemed satisfied by the successful and timely transmission of the full demographic data as defined in R2110.200 to the clearinghouse each business day.

IFTA, Inc. shall be responsible for providing the data from the participating members to all other member jurisdictions.

.200 Transmittal Data

When the exchange of a transmittal data listing is required among the participating members by the IFTA Articles of Agreement and the IFTA Procedures Manual, such requirements shall be deemed satisfied by the successful and timely transmission of the data to the clearinghouse.

The participating members shall be required to provide a transmittal data listing to all other member jurisdictions as required by the IFTA Procedures Manual Section P1040.

.300 Interjurisdictional Audit Reports

When the exchange of Interjurisdictional Audit Reports is required among the participating members by the IFTA Audit Manual, such requirements shall be deemed satisfied by the successful and timely upload of the reports to the clearinghouse for those jurisdictions that participate in the clearinghouse.

The participating members shall be required to provide Interjurisdictional Audit Reports to all other member jurisdictions as required by the IFTA Audit Manual Section A690.200.

Commentary to Article XXI

- R2100** IFTA Ballot 11-1998 amended IFTA Articles of Agreement to add R2100 to establish an IFTA, Inc. information clearinghouse and provisions concerning the exchange of data among member jurisdictions. Ballot 11-1998 was effective October 23, 1998
- R2110** IFTA Ballot 2-2000 amended IFTA Articles of Agreement Section 2110 to remove references to Memoranda of Understanding and to include references to the IFTA, Inc. Clearinghouse Access Agreement and was effective October 24, 2000.
- R2110** IFTA Ballot 15-2006 amended IFTA Articles of Agreement to ensure that by the distribution of Interjurisdictional Audit Reports to participating jurisdictions via the IFTA, Inc. Clearinghouse, a jurisdiction is in compliance with the applicable provisions of the IFTA Audit Manual and was effective November 21, 2006.
- R2120** IFTA Ballot 2-2018 amended the IFTA Articles of Agreement Section R2120.200 to clarify that the upload done on a daily basis for each business day is an upload of the full demographic data and was effective December 1, 2018.
- R2120** IFTA Ballot 15-2006 amended IFTA Articles of Agreement to add R2120.300 to ensure that by the distribution of Interjurisdictional Audit Reports to participating jurisdictions via the IFTA, Inc. Clearinghouse, a jurisdiction is in compliance with the applicable provisions of the IFTA Audit Manual and was effective November 21, 2006.