JURISDICTION: **OKLAHOMA TAX COMMISSION DECISION**
CITE: **2006-01-05-02 / NOT PRECEDENTIAL**
ID: **MV-97-001**
DATE: **JANUARY 5, 2006**
DISPOSITION: **SETTLEMENT**
TAX TYPE: **IFTA**
APPEAL: **NO APPEAL TAKEN**

The above matter comes on for entry of a final order of disposition by the Oklahoma Tax Commission. Having reviewed the files and record herein, the Commission hereby finds as follows:

1. Protestant is a registrant under the International Fuel Tax Agreement (IFTA) based in the jurisdiction of the State of Oklahoma.

2. An IFTA diesel fuel tax audit was conducted for calendar year 1995. By letter dated January 7, 1997, Protestant was assessed the amount of $1,367,484.73.

3. By letter dated February 6, 1997, Protestant filed a timely protest and requested a hearing. Included in the letter of protest was a statement agreeing to a portion of the assessment and payment relating thereto.

4. After submission of additional documentation and adjustments, the assessment was revised by letter dated April 27, 2000. As of that date, the amount of tax remaining at issue was $370,110.31, exclusive of penalty and interest.

5. On May 18, 2000, a hearing was held at which time testimony and documentary evidence was admitted.

6. In Findings, Conclusions and Recommendations ("Findings") issued December 16, 2003, the Administrative Law Judge recommended that the protest be denied.

7. On December 30, 2003, Protestant filed an Application for En Banc Hearing, a Motion to Dismiss with Prejudice, and a Motion for Waiver of Penalty and Interest. Following the filing of a response by the Motor Vehicle Division ("Division") and a reply by Protestant, the case was submitted to the Commission.

8. Subsequently, at the request of Protestant, a review of the documentation presented at the hearing and in post hearing filings was conducted by Division counsel and the IFTA audit administrator, neither of which were involved prior to the issuance of the Findings.

9. This review resulted in a revision of the assessment amount as indicated on Exhibit "A" attached hereto and made hereof.

10. Protestant has reviewed the revision and, for purposes of resolving this matter and without conceding liability, is in agreement therewith.

THEREFORE, IT IS ORDERED BY THE COMMISSION, that the amounts set forth on Exhibit "A" are the liability of Protestant for calendar year 1995 and are now due and owing. The Commission further orders that, based on the delays experienced by Protestant during the pendency of this proceeding and the risks of further litigation, the liability shall be reduced by $95,303.16, which is the amount of tax, interest and penalty attributable to the jurisdiction of Oklahoma. Provided the remaining balance of $303,424.22 is paid within thirty day of this order, no additional interest shall accrue.

INTERNATIONAL FUEL TAX AGREEMENT (IFTA) AUDIT BILLING

Carrier: PROTESTANT
ADDRESS
CITY, AZ ZIP CODE

Bill Date: 05/12/01

Audit Date: 02/01/1997

Carrier Rep.

Payment Due Date: 2002-01-01

Telephone: XXX-XXX-XXXX

License No. OK86-XXXXXXX

Audit Period: 1ST THRU 4TH QTR 1995

JURISDICTION	TAX REPORTED	TAX AUDITED	DIFFERENCE	PENALTY	INTEREST	TOTAL
ALBERTA	-$4,770.89	-$9,416.98	($4,646.09)		$0.00	($4,646.09)
ALABAMA	$189.71	$0.00	($189.71)		$0.00	($189.71)
ARKANSAS	-$63,069.13	-$54,165.60	$8,903.53		$5,833.27	$14,736.80
ARIZONA	-$284,072.77	-$237,803.10	$46,269.67		$43,422.08	$89,691.75
BRITISH COLUMB	$27.31	$0.00	($27.31)		$0.00	($27.31)
CALIFORNIA	$2,527.14	$0.00	($2,527.14)		$0.00	($2,527.14)
COLORADO	-$69,932.93	-$74,896.96	($4,964.03)		$0.00	($4,964.03)
CONNECTICUT	$23.87	$0.00	($23.87)		$0.00	($23.87)
FLORIDA	$52,506.55	$48,000.28	($4,506.27)		$0.00	($4,506.27)
GEORGIA	$155.08	$0.00	($155.08)		$0.00	($155.08)
IOWA	$6,096.69	-$15,554.94	($21,651.63)		$0.00	($21,651.63)
IDAHO	$28,128.22	$16,424.31	($11,703.91)		$0.00	($11,703.91)
ILLINOIS	$297,533.04	$293,739.88	($3,793.16)		$0.00	($3,793.16)
INDIANA	$33,463.35	$75,420.00	$41,956.65		$43,609.17	$85,565.82
KANSAS	$137,080.54	$143,781.20	$6,700.66		$5,939.12	$12,639.78
LOUISIANA	$79,707.57	$75,298.60	($4,408.97)		$0.00	($4,408.97)
MASSACHUSETTS	$17.85	$0.00	($17.85)		$0.00	($17.85)
MANITOBA	-$1,825.48	-$2,005.25	($179.77)		$0.00	($179.77)
MARYLAND	$80.01	$0.00	($80.01)		$0.00	($80.01)
MICHIGAN	$41.08	$0.00	($41.08)		$0.00	($41.08)
MINNESOTA	$22,852.39	24,823.00	$1,970.61		$1,573.15	$3,543.76
MISSOURI	-$100,845.42	-$103,817.10	($2,971.68)		$1,409.24	($1,562.44)
MISSISSIPPI	$52,587.89	$54,109.44	$1,521.55		$2,152.68	$3,674.23
MONTANA	$6,171.67	-$12,093.73	($18,265.40)		$0.00	($18,265.40)
NEW BRUNSWICK	$1.82	$0.00	($1.82)		$0.00	($1.82)
NORTH CAROLINA	-$20,619.41	$18,982.07	$39,601.48		$33,519.38	$73,120.86
NORTH DAKOTA	-$5,506.18	$6,566.22	$12,072.40		$9,686.33	21,758.73
NEBRASKA	$165,877.38	$125,335.18	($40,542.20)		$0.00	($40,542.20)
NEW MEXICO	$157,856.86	$191,511.90	$33,655.04		$28,448.98	$62,104.02
NOVA SCOTIA	$1.70	$0.00	($1.70)		$0.00	($1.70)
NEVADA	$337,737.47	$344,746.53	$7,009.06		$57,977.41	$64,986.47
NEW YORK	$269.84	$0.00	($269.84)		$0.00	($269.84)
OHIO	$13,221.96	$11,489.27	($1,732.69)		$4,936.26	$3,203.57
OKLAHOMA	-$123,917.07	-$100,845.16	$23,071.91		$21,534.66	$44,606.57
PENNSYLVANIA	$472.23	$0.00	($472.23)		$0.00	($472.23)
QUEBEC	$7.52	$0.00	($7.52)		$0.00	($7.52)
SOUTH CAROLINA	$157.87	$0.00	($157.87)		$0.00	($157.87)
SOUTH DAKOTA	$3,102.65	$1,655.28	($1,447.37)		$0.00	($1,447.37)
SASKATCHEWAN	$6,193.29	$5,632.41	($560.88)		$0.00	($560.88)
TENNESSEE	$109,071.73	$113,698.38	$4,626.65		$3,460.50	$8,087.15
TEXAS	-$23,445.46	-$6,143.00	$17,302.46		$16,476.38	$33,778.84
UTAH	$377,887.20	$349,835.22	($28,051.98)		$0.00	($28,051.98)
VIRGINIA	$419.74	$0.00	($419.74)		$0.00	($419.74)
WASHINGTON	$251,911.85	$239,437.82	($12,474.03)		$0.00	($12,474.03)
WISCONSIN	$38,078.88	$40,685.66	$2,606.78		$2,669.16	$5,275.94
WEST VIRGINIA	$200.68	$0.00	($200.68)		$0.00	($200.68)
WYOMING	$27,905.60	$12,513.68	($15,391.92)		$0.00	($15,391.92)
TOTALS	$1,511,561.49	$1,576,944.51	$65,383.02	$50,696.59	$282,647.77	$348,030.79

PAYMENT OF $107,547.00 MADE IN JUNE 1999 IS CREDITED. NEVADA PAYMENT ON BULK FUEL IN THE AMOUNT OF $334,035.90 IS INCLUDED.

GRAND TOTAL $398,727.38

EXHIBIT A