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Senator Ostalkiewicz, Chairman

IMPACT OF THE INTERNATIONAL FUEL TAX AGREEMENT ON DIESEL FUEL SALES IN FLORIDA

SUMMARY

Compared to other states, Florida has high diesel fuel use taxes, currently ranking 7th among the 48 contiguous states. The adoption of the diesel fuel use tax in 1981 was an attempt by the State of Florida to collect diesel fuel taxes from interstate commercial motor carriers who operate their vehicles on Florida highways without purchasing Florida tax-paid fuel. The purpose of this interim project is to evaluate the effectiveness of the International Fuel Tax Agreement (IFTA) an interstate cooperative agreement for the payment of fuel use taxes and the International Registration Plan (IRP) an interstate cooperative agreement for the collection of fees and the issuance of commercial motor vehicle license plates in leveling the impact of diesel fuel tax differentials among states. Specifically, the report compares IFTA diesel fuel use tax receipts and distributions among Florida and its border states of Georgia and Alabama to determine if the IFTA has had a positive impact on Florida's diesel fuel use tax collections.

BACKGROUND

The Legislature created Chapter 207, the "Florida Special Fuel Use Tax Act of 1980". Chapter 207 enacted a diesel fuel use tax on the operators of commercial motor vehicles for the privilege of operation upon the public highways of the State of Florida. The tax rate is currently equal to the minimum rates provided in parts I, II and IV of chapter 206 on each gallon of diesel fuel and motor fuel used for the propulsion of commercial motor carriers. The diesel fuel use tax is designed to address the problem which occurs when interstate motor vehicle common carriers operate their vehicles within Florida without purchasing Florida tax-paid fuel. The fuel carrying capacity of these interstate carriers allows them to operate from 500 to 1,000 miles without refueling.

The International Fuel Tax Agreement (IFTA) is an interstate cooperative agreement for the payment of fuel use taxes. IFTA started out as a voluntary compact of three states in 1983, and then built on the base-state concept developed in the 1980's by the National Governors' Association into a 20-state system, and is the cousin of the IRP. Congress mandated state participation in both the IFTA and the IRP, and in 1991 a provision in the Intermodal Surface Transportation Efficiency Act (ISTEA) mandated that, by September 30, 1996, the 48 contiguous states must collect motor fuel use taxes in conformity with the IFTA. The IFTA replaced individual state motor fuel and diesel fuel tax provisions on interstate motor carriers with a uniform method of reconciling motor carrier taxation among member jurisdictions. The uniform method simplified motor fuel and diesel fuel reporting by allowing a motor carrier to report and pay motor fuel and diesel fuel taxes owed to the states to a single base jurisdiction, typically their home state. For these qualified motor vehicles, the formula used for the calculation of IFTA taxed gallonage is: 1) total mileage is divided by total fuel usage to determine fleet miles per gallon; and 2) total mileage within each jurisdiction is then divided by fleet miles per gallon to determine taxable gallons for each jurisdiction. Taxable gallons are multiplied by the member tax rates to determine the amount of the tax liability. The amount of the tax is paid to the base jurisdiction. The base state uses a clearinghouse arrangement to forward the portion of motor fuel and diesel fuel taxes owed to other member states. Payments for qualified motor vehicles are made quarterly in all jurisdictions.

The IRP is a cooperative agreement for registering motor carriers engaged in interstate travel. The IFTA is an interstate cooperative agreement for the payment of state fuel use taxes. At first blush, one would assume that the two programs are inter-connected. However, after discussion with representatives of the IRP, Inc., the IFTA, Inc., the Federation of Tax Administrators, the American Trucking Association and the Florida Trucking Association, the only interplay between the

two organizations is the audit function. The miles reported on the IRP annual report should correspond to the IFTA miles reported. The ability to check IFTA miles traveled with IRP miles traveled provides states with a check and balance to determine if motor carriers are reporting and accurately paying fuel use taxes. So important is this interplay, that IFTA, Inc., has scheduled its first ever combined IFTA and IRP audit workshop to be held this winter.

METHODOLOGY

Information for this project was obtained in a number of ways. First, a review of available literature on the IRP and the IFTA was conducted. Second, telephone interviews were made to representatives of the IRP, Inc., the IFTA, Inc., the Federal Tax Administrators, the American Association of Motor Vehicle Administrators, the American Trucking Association, the Florida Trucking Association, the Florida Truck and Fuel Stop Operators Association, and the National Association of Truck Stop Operators to obtain each organizations perspective on the impact of the IRP and the IFTA on the equalization of diesel fuel use tax rates. North Florida truck stop operators were also interviewed. It was the original intent of this project to compare IFTA diesel fuel use tax distributions between states with high diesel fuel tax rates and states with low diesel fuel tax rates. This type of data is not available on a state-wide basis. No single entity, not even the IFTA, Inc., collects such data. As a result, the emphasis was shifted to comparing diesel fuel use tax collections and distributions in Florida with those of its border states - Georgia and Alabama.

FINDINGS

Florida has been a member of the IRP since 1985 and a member of the IFTA since 1994. What the IRP has provided commercial motor carriers is a one-stop registration shop. One total registration fee is paid to the base jurisdiction and apportioned to various jurisdictions in which the motor carrier operates, and only one license plate and one cab card is issued for each motor vehicle. This has simplified the process considerably for motor carriers. Under the IRP, each state is required to audit the records of 15% of the carriers based in the state, over a five-year period, to determine if the carriers have accurately reported their mileage and paid the appropriate fees.

Prior to the adoption of the IFTA, a commercial motor carrier had to apply for a fuel use permit, file individual

reports and remit tax payments to every state in which it operated. Now, the commercial motor carrier makes a single filing and payment, or application for refund, to the appropriate agency in its home state. When the motor carrier files its tax return each quarter, the state processes it and apportions the payment to other states according to the carrier's reported miles. Like the IRP, the IFTA compact requires that 15% of the base jurisdictions's carriers must be audited every five years.

The primary relationship between the IRP and the IFTA can be found in the audit process. On the average, 3 percent of all motor carriers are audited annually under the IRP and the IFTA. Of the 3 percent IFTA audits, IFTA requires that at least 25 percent involve high-distance accounts (25 percent of the previous year's licensees who had the highest number of miles reported in all member jurisdictions) and at least 15 percent involve low-distance accounts (25 percent of the previous year's licensees who had the lowest number of miles reported in all member jurisdictions). Considered as one account in the 3 percent annual audit coverage, are trucking companies with large fleets of trucks. When inadequate records are discovered, the auditor decreases the truckers MPG and recalculates taxes due. A 10 percent penalty and 1 percent monthly interest is imposed on the net taxes due. When no records exist, the auditor estimates taxable miles, applies MPG and imposes penalty and interest. States are required to furnish all represented jurisdictions with the results of their audits on a monthly basis. It is in the audit process where states can compare miles reported traveled for the purpose of the IRP to miles reported traveled for the purpose of the IFTA. For Florida, this translates into a better tool for enforcement of both the IRP and the IFTA. Prior to the IFTA, Florida had to send an audit team into other states in order to audit fuel use tax returns. This was a costly process. The Department of Highway Safety and Motor Vehicles, Division of Motor Carriers, is currently working on a computer program which will compare reported IFTA miles to reported IRP miles. This tool will enable the Division to jointly audit IFTA and IRP returns and to follow-up on motor carriers where discrepancies exist.

The IFTA, Inc. was created in 1991 to conduct the business of the IFTA. In 1997, IFTA, Inc. received federal funding from the Federal Highway Administration to contract with the National Conference of State Legislatures (NCSL) to conduct a State

Legislation and Constitutional Provisions Project to review issues raised by the IFTA and enabling statutes of the various member jurisdictions. The goal of the project is to improve state legislation and the fuel tax agreement and is scheduled to be completed in 1999.

Of the 48 contiguous states, Florida has the 7th highest diesel fuel use tax rate at 27.07 cents per gallon. The border state of Alabama ranks 41st with a diesel fuel use tax rate of 17 cents per gallon and the border state of Georgia ranks 47th with a diesel fuel use tax rate of 10.09 cents per gallon.

The IFTA has had a major impact on fuel use tax receipts in Florida. Florida joined the IFTA in January, 1994. At that time, 38 jurisdictions were members of the IFTA. As membership in the IFTA grew, so did Florida's IFTA receipts from other states. By the end of 1995, the IFTA membership had grown by fifteen jurisdictions and by September 30, 1996, the remaining five contiguous states had joined the IFTA for a total of 48 states. Both Alabama and Georgia joined the IFTA effective January 1, 1996. The percentage of Florida's IFTA receipts from other states has grown from 8 percent in fiscal year 1993-94 to 79 percent in fiscal year 1997-98. For Florida, the IFTA has been a boom. Total motor fuel use tax receipts have increased from \$10.8 million in 1992-93 (pre IFTA) to \$33.9 million in 1997-98, a 200 percent increase.

There is a significant difference in diesel fuel use tax rates between Florida (27.07 cents) and the border states of Alabama (17 cents) and Georgia (10.09 cents). If the IFTA is doing its job, the difference between diesel fuel use tax rates should have little effect on Florida's fuel use tax receipts. A comparison was made of total IFTA payments made to other jurisdictions by Florida, Alabama and Georgia and IFTA payments made to the three states. Florida returned less than one percent of IFTA collections to Georgia and only nine percent to Alabama in 1997-98, while both Georgia and Alabama returned 20 percent of their IFTA collections to Florida.

Florida truck stop operators have long complained about the negative effect Florida's high diesel fuel tax rates have on their business. Since the fuel carrying capacity of interstate motor carriers allows them to operate from 500 to 1,000 miles without refueling, truck stop operators, especially those located in North Florida, claim that many motor carriers do not purchase diesel fuel in Florida because of our high diesel fuel tax rate. A North Florida truck stop operator reports that a trucker might purchase just enough diesel fuel from his truck

stop to make it to Georgia where he can fill up for 17 cents less per gallon. Under the IFTA, such a trucker would have to pay fuel use tax on the miles traveled in Florida as reported on his or her quarterly return. It would appear that some truckers would rather pay fuel use taxes on a quarterly basis than pay Florida's diesel fuel tax at the pump, suggesting that it may be a matter of cash flow for some truckers. Truck stop operators have also questioned whether the fuel use tax is enforceable. They do not believe that all truckers are accurately reporting miles traveled in Florida, due to our high diesel fuel use tax rate. This is most likely true in some instances since there will probably be some taxpayers who will under report their taxable miles. The audit program developed by IFTA, Inc. was designed to identify and penalize such taxpayers. The DHSMV's audit department audits 3 percent of all trucking companies registered under the IFTA and the IRP in Florida. In addition, all states must also audit 3 percent of their trucking companies and share their audit findings with all represented jurisdictions. Audited commercial motor carriers that are found to have inadequate record or lack documentation are assessed taxes, penalty and interest. The system is not fool proof but is designed to discourage under reporting of miles traveled..

During the 1997-98 Legislative Session, the Florida Truck and Fuel Stop Operators Association supported legislation to provide an exemption from sales tax on the renting or leasing of travel center/truck stop facilities. "Travel center/truck stop facility" for the purpose of the bill was defined as "any facility that has declared its primary business activity as the sale of diesel fuel at retail, which facility operates a minimum of 6 diesel fuel dispensers". The estimated fiscal impact of the bill was an annualized \$500,000 loss to the General Revenue Fund. The legislation was designed to offer some financial relief to truck stop operators, especially North Florida truck stop operators, who are losing fuel tax sales to Georgia and Alabama. Senate Bill 1590 by Senator Holzendorf and House Bill 3613 by Representative Fuller died in the Appropriation Committees. The Florida Truck and Fuel Stop Operators Association plans to re-submit this legislation next year.

RECOMMENDATIONS

Florida's diesel fuel use tax was adapted to address the problem of interstate motor carriers that operate their vehicles within Florida without purchasing Florida tax-paid fuel. The IFTA was created to replace individual state fuel tax provisions with a uniform method of reconciling motor carrier taxation among member states. Since joining the IFTA, Florida's total diesel fuel use tax collections have increased 200 %.

Florida's current diesel fuel tax rate is 27.07 cents per gallon. The border states of Alabama and Georgia have diesel fuel tax rates of 17 cents and 10.09 cents respectively. Comparing Florida's diesel fuel use tax and IFTA receipts with those of Alabama and Georgia, it is apparent that Florida's high diesel fuel tax rate does not effect its diesel fuel use tax receipts.

North Florida truck stop operators have long complained about the negative effect Florida's high diesel fuel tax rates have on their business. The audit process is designed to discover and penalize truckers that under report taxable miles. Short of lowering Florida's diesel fuel tax rate, the Legislature could provide some financial relief for such truck stops. Legislation similar to that filed in 1998 to offer a sales tax exemption on the renting or leasing of certain travel center/truck stop facilities could be introduced in the 1999 Legislative session.

The primary relationship found between the IRP and the IFTA is in the audit process. The trend that states are taking, including Florida, is to conduct joint IRP and IFTA audits. A high priority should be given by the DHSMV to the completion of the computer program comparing reported IFTA miles to reported IRP miles.

Florida should follow up on the "State Legislation and Constitutional Provisions Project" being conducted by the NCSL for IFTA, Inc. Recommendations to improve state legislation and fuel tax agreements should be considered.

COMMITTEE(S) INVOLVED IN REPORT *(Contact first committee for more information.)*

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MEMBER OVERSIGHT

Senators Holzendorf and Thomas