



EVERETT TRANSTRENDS

THE TRANSLAW GROUP, INC.

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IF YOU WISH TO END YOUR SUBSCRIPTION TO TRANSTRENDS, SIMPLY SEND AN EMAIL REQUESTING A CANCELLATION TO JBURNS@TRANSREGS.COM

IFTA AUDITS ARE ON THE RISE

Every state is looking for any opportunity to increase revenue and there is no question that IFTA audits can produce the sought after extra revenue. What can you expect if you are subjected to an audit?

The IFTA rules and regulations allow for an audit of your tax records for a 12-quarter period. Any discrepancies such as gap mile (miles reported versus miles recorded through tracking odometer/hubometer readings), over-reporting/under-reporting of miles, poor fuel purchase records, missing receipts, and fuel purchased without tax such as at an Indian reservation will have an effect on the bottom line.

All of the above will result in the assessing of tax, penalty and interest. I have never seen a carrier receive a refund at audit time, never! Another area of concern for fleet operators is with the use of owner/operators. Often the records that owner/operators produce are lacking meaningful information and you will be responsible in the end.

Make sure your records are in order. Trip sheets must be complete and accurate showing major routes of travel, receipts must be maintained, and it is generally a good idea to have your driver logs available in the event that you need to "re-create" missing trip sheets.

IFTA rules and regulations state that you must maintain "all supporting records" that document a trip for the period of the audit. The log is one of those records. Best bet is to hold on to the logs even after the US DOT six-month period has passed.

If you would like a complimentary copy of our Audit Guide, simply email or call the office.

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SERVICE DEGRADATION ALERT

We recently received an e-mail from XM Satellite Radio with the subject titled "Service Degradation Alert." The e-mail went on to read, "You may be experiencing temporary degraded performance with your XM reception at the present time." This e-mail came to the office days after experiencing absolutely no signal strength on our satellite radio. Talk about degraded performance.

This laughable sugarcoating on a failure to provide services promised is something other companies should look to use. Trucking and shipping companies can simply issue a Service Degradation Alert to their clients if shipments do not arrive. The e-mail can read, "You may be experiencing temporary degraded performance with your shipments at the present time." That should take care of the missing shipments and make the client feel the company actually cares about their client.

TANKER FIRE COLLAPSES HIGHWAY

Investigators say it appears a tanker truck driver was exceeding the 50 mph speed limit when his rig crashed and exploded into flames on an approach to the Bay Bridge in Oakland, CA.



The resulting fire – fueled by 8,600 gallons of gasoline – caused an overhead ramp to collapse and cut off access from the bridge to eastbound Interstate 580. 51 year old, James Mosqueda of Woodland, CA, was driving for Sabek Transportation of San Francisco. He suffered second-degree burns on his face, neck and hands. Mosqueda managed to walk a mile and a half and hail a taxi to take him to a hospital after the incident occurred.

SWIFT SHAREHOLDERS OK MOYES BUYOUT

Jerry Moyes, who helped start Swift Transportation 41 years ago, is poised to take over the company once again.

Moyes was the chief executive of Swift until 2005, when he left amid federal allegations of insider trading. Moyes maintained his innocence but paid more than \$1 million to the Securities and

Exchange Commission to settle the case. Shareholders for the Phoenix-based company approved a \$2.74-billion buyout offer from Jerry Moyes. The buyout is expected to be completed within a few weeks, according to a Swift press release.

TRUCKING COMPANY OWNER FORGED NOTES TO BANK

John F. Brandt, 62, the owner of a Pennsylvania trucking firm Brandt Trucking Co. Inc. was sentenced to one year in federal prison and ordered to pay \$604,041 for bank fraud

Brandt pleaded guilty in November to submitting to the bank accounts receivable documents that he had altered, according to court documents. The bank had agreed to buy the accounts receivables at a discount so Brandt could get immediate cash.

WHAT IS THE BEST PRICE

Every quarter we receive the same question from clients, "does it matter where I buy fuel"? The old joke goes, "it doesn't matter to me" but the simple answer is yes and no.

With respect to fuel tax obligations, it doesn't matter where you buy your fuel since under IFTA you will only pay the tax that is due. If you buy fuel and pay more fuel tax than is necessary than what you actually owe for the miles that to travel you will receive a refund.

But that is only part of the whole equation to reduce your cost of fuel. You should always buy fuel that is lowest in product price, in other words, the cost of a gallon of fuel, exclusive of tax.

Question: Which state has the fuel that is the cheapest? Some might say New Jersey, but the truth is the price is all the same.

STATE	COST OF PRODUCT	STATE TAX	PUMP PRICE
CT	3.20	.26	3.46
MA	3.20	.21	3.41
ME	3.20	.2790	3.4790
NH	3.20	.18	3.38
NJ	3.20	.1750	3.3750
NY	3.20	.3685	3.5685
RI	3.20	.30	3.50
VT	3.20	.26	3.46

Let's assume that the price of the product is different in each state.

STATE	COST OF PRODUCT	STATE TAX	PUMP PRICE
CT	3.23	.26	3.49
MA	3.16	.21	3.37

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ME	3.26	.279	3.539
NH	3.22	.18	3.40
NJ	3.31	.175	3.485
NY	3.08	.3685	3.4485
RI	3.47	.30	3.77
VT	3.14	.26	3.40

Question: Which state has the fuel that is the cheapest? Again, some might say New Jersey, but you have to look at the cost of the product exclusive of the fuel tax. The cheapest fuel in this scenario would be New York.

If you buy fuel in a state where the tax is higher than your base of operations, but the fuel is cheaper product wise, you will always get your excess tax back in the form of a refund. When planning on-the-road purchases, always look at the cost of product exclusive of the state fuel tax. By doing this you will be paying the lowest price possible for the fuel and letting the fuel tax issue resolve on its own.

You may think you have saved fuel dollars but remember you will always have to pay the tax whether at the pump or on your IFTA return. You will always pay tax to the states that you generated miles. That figure doesn't change but the cost of the product can fluctuate dramatically from one state to another.

There are many sites on the web that will give you pump price information daily and there is software available to track fuel prices on a daily basis. Might be worth some research!

ARE YOU READY FOR AN IFTA AUDIT?

The various state tax agencies are very active conducting IFTA audits. How often have you thought what would happen if your company was selected for an audit and what are the chances of being selected for that dubious distinction?

The Translaw Group, contrary to popular belief, cannot perform miracles at audit time. Each carrier must make sure that all miles are accounted for and that all fuel can be identified as to which vehicle(s) it went into.

The following guidelines should be reviewed and any changes that you deem necessary for your operations should be made particularly in view of the beginning of the New Year. Please feel free to call the office with your questions and comments concerning the following guidelines.

IFTA AUDITING STANDARDS

WHAT ARE YOUR CHANCES OF BEING SUBJECTED TO AN AUDIT?

Base jurisdictions will be held accountable for audits and will be required to complete audits of an average of 3 percent per year of the IFTA accounts reported by that jurisdiction on the annual

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reports filed pursuant to the IFTA Procedures for each year of the program compliance review period.

Such audits may cover the corresponding quarters of the three registration years with a minimum of one registration year. This does not preclude audits of individual licensees several times during the three-year period. However, it would be unusual to be audited more than once during a 3 year period.

SELECTION OF AUDITS

The following guidelines are being used in selecting audits to fulfill the IFTA auditing requirements:

LOW-DISTANCE/HIGH-DISTANCE ACCOUNTS EQUIPMENT

At least 15 percent of each member jurisdiction's audit requirement shall involve low-distance accounts. (Low-distance accounts are considered to be the 25 percent of the previous year's licensees who had the lowest number of miles/kilometers reported in all member jurisdictions).

At least 25 percent of each member jurisdiction's audit requirement shall involve high-distance accounts. High-distance accounts are considered to be the 25 percent of the previous year's licensees who had the highest number of miles/kilometers reported in all member jurisdictions.)

SAMPLING

Unless a specific situation dictates, all audits will be conducted on a sampling basis. Sample period(s) must be representative of the licensee's operations. Sample period(s) may be different for member jurisdictions due to seasonal operations. The licensee should be allowed input into sample selection if legitimate reasons exist. An agreement that the sampling methodology is appropriate should be signed by the licensee and the auditor.

Make sure you mention any unusual circumstances that you are aware of that would make the sampling period improper. Such things would include seasonal operations. Lost or damaged records for a specific period, computer crashes and so forth. Such information will assist you and the auditor to make sure a good sampling period is selected.

TAX PAID FUEL CREDITS

When tax paid fuel documentation is unavailable, all claims for tax paid fuel will be disallowed. This frequently happens and it is important that the registrant keep accurate records and be able to show which vehicles actually had fuel delivered into the fuel tanks.

HOW TO AVOID THE BIG BUCKS ASSESSMENTS

Make sure you keep the following records without fail.

DRIVER LOGS

Although the US DOT regulations state you only need to keep the logs for six months, it is suggested that the taxpayer keep all driver logs for fuel tax auditing purposes. The log will document where the vehicles traveled and can be compared to the trip sheets for verification of the miles reported.

DISPATCH SHEETS/RECORDS

These documents should be kept and provided to the auditor for use in the audit review. If your records are kept with integrity these documents will only assist you and the auditor in concluding the audit quickly and smoothly. The dispatch sheets should coincide with the driver logs and the trip sheets.

TOLL RECEIPTS

Whether you keep individual receipts or have charge accounts/transponders make sure these records are made available to the auditor. This is particularly true during a New York Highway Use Tax audit.

FUEL RECEIPTS

Make sure you keep and maintain all fuel purchase receipts. This includes individual receipts, as well as the computer generated accounting that you may receive from credit card companies and fuel purchase management companies. Often, the auditor will take these receipts and verify the integrity of your trip sheets, driver log and the miles generated.

TRIP SHEETS

This one document will assist you in keeping and maintaining proper records of miles traveled and fuel used.

There are many trip sheet styles in use and some are better than others. However, if you do not use a trip sheet or want an opinion on the integrity of your trip sheet simply ask this office to review your current record without obligation.

<i>The basic trip sheet should include...</i>	<i>Description</i>
The beginning and ending hub reading	This will set the pace for the total and accurate number of miles to be accounted.
Miles generated in each state	The driver must compute the actual number of miles for each

	state and insert it on the trip sheet.
Fuel purchases in each state	The driver should list the fuel purchase on the trip sheet on the appropriate line indicating the state the fuel was purchased. The receipt should be stapled to the trip sheet or kept in a safe place for future audit purposes.
Routes of travel in general terms	The actual routes traveled by the driver should be listed on the trip sheet. This information gives the auditor a means by which to determine if the total miles reported were actually generated by the route of travel of the vehicle.
Toll and non toll mile accounting	This information will verify any deductions taken for the Massachusetts turn pike and will also verify your New York Thruway travel.
Loaded and unloaded miles for New York state	This information is important to those carriers that report under the loaded and unloaded method.
Origin, destination and all intermediate stops	The listing of the origin, destination and intermediate stops will assist the auditor in verifying the exact travel route and the total miles to be attributed to each state.
Dead head miles	All dead head miles must be accounted for and tax must be paid on such miles. Make sure that all drivers are aware of this fact in order to avoid the "gap mile" assessment. Failure to account for these miles will result in tax, penalty and interest.

GAP MILES

Auditors love to assess gap miles which are described as miles that cannot be accounted for or that do not fall into sequence with the beginning and ending hub readings and are not accounted for.

ESTIMATED MILES

Do not take a chance on estimating miles. Use this procedure only when you have no other way to determine mileage. Such an incident would include computer crashes, lost records and such. Most auditors will not be very tolerant of estimated miles.

In the absence of good fuel/mileage records the auditor may look at the following items.

- Prior experience
- Licensees with similar operations
- Industry averages
- Other independent records the carrier may have

If the auditor cannot find some basis to start from you may be given a 4.00 miles per gallon factor which is very low and will cost you more tax dollars.

FILE RETURNS ON TIME

A late filed return will result in a 10% penalty. The penalty goes against the entire tax bill for the quarter and not just on the portion that you owe. For example, if you're total bill was \$25,000.00 for the quarter and you had already paid \$18,500.00 the assessment would be 10% of \$25,000.00 or \$2,500.00. Avoid this situation.

REPORT YOUR TRIP SHEETS ON TIME

Make sure you include every trip sheet for all travel during the quarter in the quarter that the travel was generated. This will ensure that each quarter contains all travel that actually took place. You should avoid reporting trips from one quarter in the next quarter. Reporting trips from one quarter into the next quarter will occur from time to time; however, that practice should be avoided when possible.

DECAL ACCOUNTING

The various jurisdictions are now assessing tax, penalty and interest against carriers who do not keep accurate records with respect to decal management. You must keep an accurate record of the decals ordered and to which vehicles the decals are assigned. If a unit leaves the fleet due to an owner operator lease cancellation you must formally notify the owner operator and demand return of the decal. If possible, you should remove such decals and return them to the base jurisdiction under certified return receipt mail.

If a vehicle is in an accident and you repaint a door you must salvage the old decal and return it to the base jurisdiction. Jurisdictions that find decal mismanagement will assess tax, penalty and interest commensurate with the error rate for each decal that can not be accounted. Such penalties can mount very quickly. If you order an excessive amount of decals please make sure you know where the decals are at all times.

PROPER MEASURE OF DAMAGES FOR INCLUSION ON A FREIGHT CLAIM

QUESTION: What is the proper measure of damages that should be included in a freight claim? Specifically, how do you deal with the issue of "profit" when a shipment is lost or totally destroyed and a replacement shipment has been made?

ANSWER: The proper measure of damages when goods are sold to a customer and such goods are lost or destroyed in transit would be the replacement costs and not the manufacturer's costs.

It would not matter if the shipper replaced the destroyed or lost goods and billed the consignee for the full value of the shipment. The issue of replacing the goods and billing your customer for a second shipment is immaterial.

In fact, replacement costs could reasonably be more than the cost of the original shipment and therefore a claim for the damaged or destroyed goods could exceed the cost of the original destroyed or lost shipment.

Raw materials to produce the item(s) needed to be replaced may have gone up dramatically thereby causing the replacement cost to be more than the "original" replacement costs at the invoice price of the destroyed or missing goods.

Shippers and consignees must always mitigate their losses and that fact cannot be discounted.

When preparing a claim always use the replacement costs. Motor carriers always ask for the claim to be reduced to the manufacturer's costs but that should not deter the claimant from filing for the actual loss.

Should you have any further questions, please do not hesitate to contact this office.

→ *Below is the most recent Unified Carrier Registration update for 2007. In this article, you will find information about the transition into the new UCR policy, along with things your company should do to ensure that you will be up to date.*

UCR UPDATE

Important information for carriers

The 2005 federal highway bill (SAFETEA-LU) eliminated the SSRS/EXEMPT programs (effective January 1, 2007) and created a Unified Carrier Registration System.

What is the Unified Carrier Registration System?

The Unified Carrier Registration System will be a streamlined federal registration system for interstate for-hire regulated motor carriers, for-hire exempt motor carriers, private motor carriers, freight forwarders, leasing companies and brokers.

When will the UCR program begin?

The start date is not yet known. It is possible Congress will extend the SSRS program for another year, but this does not include for-hire exempt motor carriers. All carriers will be required to register in their Base State.

If the UCRA is not operational, can States require registration and/or collect fees from interstate exempt carriers before or after January 1, 2007, for calendar year 2007?

No, States will not be able to register or collect fees from interstate exempt carriers for the 2007 year.

What do I need to do in the meantime?

- Through December 31, 2006, maintain a valid 2006 EXEMPT stamp in each vehicle that hauls exempt products with the Interstate Exempt Registration Program.
- Through December 31, 2006, continue to keep a valid Form E on file with the LPSC.
- Ensure your MCS-150 data on www.safersys.org is accurate. Update your information at www.fmcsa.dot.gov if needed.

Will my driver get a ticket for not carrying 2007 Identification (Bingo) Stamps?

They should not. Until the UCR program is implemented, there are no 2007 Identification (Bingo) Stamps for your drivers to carry.

Does the UCR program affect IRP, IFTA or other motor vehicle or motor carrier requirements?

The IFTA and IRP programs are not affected by this federal law nor are other tax laws.

Please note that any applicable special permits (such as hazardous waste, deleterious substance, truck yard wash pit, and harvest permit) are still required.

HOW FAR WILL THEY GO?

Almost everyone has experienced fines on the road at some point in their lives, but what's the most that you've ever paid? \$500, \$1,000? What about \$400,000? We didn't think so.

If you've ever thought about putting off your overdue motoring fines, think again. One woman in California found herself being charged \$400,000 by the Orange County Transportation Authority for not paying her initial \$2,000 fine.

After the Transportation Authority would only agree to settle for \$200,000, the woman decided to file a lawsuit against the authority. Sixteen similar cases came forward filing separate claims seeking class-action status.

Electronic transponders have been blamed for these fines in many of the cases against the Transportation Authority. Plaintiffs claim that credit card problems and information are the reasons why their fines have been piling up.

During the course of the investigations by attorneys and their clients, the Transportation Authority's business practices have been called into question. The agency is at fault for assessing \$500 per violation when motorists call about the fines. Someone can also travel through the booths with numerous violations without even knowing about the \$100 fine each time they pass.

Penalties must be paid and are not dischargeable in bankruptcy; so many people are facing lifelong financial burdens unless they get these penalties fixed.

CVSA ROADCHECK

The largest annual enforcement for commercial vehicles is back and scheduled for June 5, 6, and 7. The 10,000 state, provincial, and federal officers involved must conduct inspections at checkpoints and through roadside stops. Be prepared with all the necessary information.

HALLIBURTON ANNOUNCES MOVE

The famous Halliburton, based out of Houston, has announced their plans to move the corporate headquarters to the Arab nation of Dubai. The company currently operates in 120 countries working in construction and oil projects. The move will save the company hundreds of millions of dollars in taxes by the U.S. government.

BUSH SUPPORTS PRIVATIZATION

Transportation Secretary Mary Peters and the Bush administration have continued to support privatization of highways by outside investors. The president's nominee to be chief general counsel for the DOT comes as no surprise, to be a chief figure in the privatization of the U.S. highways.

David J. Gribbin currently is working for Macquarie Holdings, an Australian company which paid \$3.85 billion in 2006 in order to control the Indiana Toll Road for the next 75 years.

Gribbin is under scrutiny by select senators who believe that privatization is responsible for the deteriorating system. The transportation system is thought to be collapsing under the stress and increased congestion from passenger and freight demands.

Gribbin is awaiting committee approval and Senate confirmation.

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