

THE FUEL TAX ACT

LEASED OPERATIONS UNDER INTERNATIONAL FUEL TAX AGREEMENT (IFTA)

Special IFTA licensing provisions apply to motor carriers who conduct operations subject to lease agreements. The purpose of these provisions is to allow industry the flexibility it needs, while providing the IFTA jurisdictions with the necessary assurance that reports will be filed and tax paid on all taxable fuel.

These special provisions cover the following categories:

- Leasing and rental companies,
- Leases of 29 days or less, and
- Carriers leasing from independent contractors under leases of 30 days or more,
- Household goods agents operating under intermittent leases.

IFTA specifies that a member jurisdiction may not require leases to be filed, but the Agreement also specifies that equipment leases must be made available upon request of any member jurisdiction.

Leasing and Rental Companies

IFTA specifies that a company that is regularly engaged in leasing or renting motor vehicles without drivers, to licensees or other lessees for compensation, may elect to become licensed under IFTA to report and pay tax on operations subject to such lease or rental agreements, even when the lessee is an IFTA licensee.

However, in the case of a short term motor vehicle rental (29 days or less), the agreement **requires** that the lessor report and pay fuel taxes unless the following two conditions are met:

- The lessor has a written rental contract which designates the lessee as the party responsible for reporting and paying fuel tax; and
- The lessor has a copy of the lessee's IFTA fuel tax licence which is valid for the term of the rental.

Short-Term Leases

IFTA specifies that in the case of a carrier using independent contractors under short term leases of 29 days or less, the trip lessor will report and pay all fuel taxes.

Long-Term

- Where a carrier uses independent contractors under lease for terms of 30

Note: Revisions to the previous Bulletin (July 1999) have been identified by shading ().

Leases with Independent Contractors

days or more, the parties to the lease may designate which of them will become licensed under IFTA and report and pay tax on the operations of a vehicle subject to the lease. If the lessee (carrier) assumes the responsibility for reporting and paying the tax, through a written agreement or contract, the base jurisdiction of the vehicle for operations subject to the lease - that is, the jurisdiction whose IFTA credentials must be displayed - is the jurisdiction of the lessee, regardless of where the vehicle is base plated.

- If the lessor (contractor) assumes the tax responsibility, the vehicle must display the IFTA credentials of the lessor's base jurisdiction.
- Effective July 1, 1996, if there is no written agreement or contract, or if the document is silent regarding responsibility for reporting and paying fuel taxes, the lessee (carrier) will be responsible.

Household Goods Carrier Intermittent Leases

The seasonal nature of the household goods moving business has made it necessary for carriers in this segment of the industry to develop what are referred to as "intermittent leases", entered into between van lines and their agents. Under such a lease, equipment belonging to a mover's agent will sometimes be operated under its authority and sometimes under the authority of the van line.

In practice, the situation is made somewhat simpler by the fact that many, if not most, mover's agents do not have their own interjurisdictional operating authority. Thus, most equipment subject to intermittent leases operates interjurisdictionally only under the authority of a van line, and only the van line would incur fuel use tax liability with respect to these operations. However, these same vehicles may be base-plated in the jurisdiction of the agent rather than that of the van line.

Where both the van line and the agent have interjurisdictional authority and at different times operate the same qualified motor vehicle in two or more IFTA jurisdictions, the parties must each licence under IFTA and report and pay tax on the vehicle while it travels under their own operating authority. In such circumstances, the base jurisdiction for IFTA purposes is that of the party under whose operating authority the vehicle is actually being operated, and it is this jurisdiction whose IFTA credentials the vehicle must display at this time. Clearly, as with a long-term lease of an owner-operator, some vehicles will concurrently display the credentials for two IFTA licensees - one set for the agent/lessor, one for the van line/lessee.

Additional Information

Please contact us at the offices below if you need additional information concerning your operations under IFTA.

Winnipeg Office

Manitoba Finance
Taxation Division
101 - 401 York Avenue
Winnipeg, Manitoba R3C 0P8
Telephone (204) 945-3194
Manitoba Toll Free 1-800-564-9789
Fax (204) 948-2087
Email: belinda.mackinnon@gov.mb.ca
Web Site: www.gov.mb.ca/finance/taxation
Office Hours: 8:00 a.m. to 4:30 p.m.

Westman Regional Office

Manitoba Finance
Taxation Division
349, 340 - 9th Street
Brandon, Manitoba R7A 6C2
Telephone (204) 726-6153
Manitoba Toll Free 1-800-275-9290
Fax (204) 726-6763
Office Hours: 8:30 a.m. to 4:30 p.m.

ONLINE SERVICES

Our website at manitoba.ca/finance/taxation provides tax forms and publications about taxes administered by Taxation Division, and a link to Manitoba's laws and regulations. Forms and publications can also be obtained by contacting the Taxation Division.

Our online service at manitoba.ca/TAXcess provides a simple, secure way to apply for, and to file, pay and view your Taxation Division tax accounts.