

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
 HD CARRIERS LLC,) OTA NO. 230312725
)
 APPELLANT.)
)
)

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Tuesday, February 13, 2024

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Proceedings, taken
at 12900 Park Plaza Dr., Suite 300,
Cerritos, California, 90703, commencing
at 1:08 p.m. and concluding at 1:44 p.m.
on Tuesday, February 13, 2024, reported by
Ernaly M. Alonzo, Hearing Reporter, in
and for the State of California.

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APPEARANCES:

Panel Lead: ALJ LAUREN KATAGIHARA

Panel Members: ALJ ANDREW WONG
ALJ JOSHUA LAMBERT

For the Appellant: ERIC BEAUCHAMP

For the Respondent: STATE OF CALIFORNIA
DEPARTMENT OF TAX AND
FEE ADMINISTRATION

COURTNEY DANIELS
CHAD BACCHUS
JASON PARKER

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-2 were previously received at the prehearing conference.)

(Respondent's Exhibits A-B were previously received at the prehearing conference.)

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By Mr. Beauchamp	8
By Ms. Daniels	17

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P A G E

By Mr. Beauchamp	24
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1 Cerritos, California; Tuesday, February 13, 2024

2 1:08 p.m.

3
4 JUDGE KATAGIHARA: We're opening the record in
5 the Appeal of HD Carriers LLC, before the Office of Tax
6 Appeals. This is OTA Case No. 230312725. Today is
7 Tuesday, February 13th, 2024. The time is 1:08 p.m. We're
8 holding this hearing in person in Cerritos, California.

9 I'd like to begin by asking the parties to please
10 identify themselves by stating their name for the record.
11 Let's begin with Appellant.

12 MR. BEAUCHAMP: My name at Eric Beauchamp. I'm
13 the CEO for HD Carriers LLC.

14 JUDGE KATAGIHARA: Thank you. And if you could
15 speak just a little slower, thank you.

16 And who is here for Respondent?

17 MS. DANIELS: Courtney Daniels.

18 MR. BACCHUS: Chad Bacchus.

19 MR. PARKER: Jason Parker.

20 JUDGE KATAGIHARA: Thank you.

21 I'm Judge Lauren Katagihara and the Lead
22 Administrative Law Judge for this case. And with me today
23 are Judges Andrew Wong and Judge Josh Lambert.

24 The parties made no objections to the change in
25 panel, so we are the panel that will be hearing and

1 deciding the case.

2 As we confirmed at the prehearing conference, we
3 are considering one issue today, and that is whether
4 Appellant is entitled to a refund of the use tax it paid
5 in association with its purchase and use of a commercial
6 vehicle. We also discussed at the prehearing conference
7 that the following facts are not in dispute:

8 One, Appellant purchased the vehicle in
9 Sacramento, California, where it was initially registered
10 as a baseline commercial vehicle with the DMV; two, after
11 registering the vehicle in Sacramento, Appellant drove the
12 vehicle to Bakersfield, California, changed the vehicle's
13 registration to one under the International Registration
14 Plan and requested a refund of its payment for the
15 baseline registration and the use tax, but the DMV
16 refunded only the baseline registration fee; and three,
17 Appellant's first functional use of the vehicle was on
18 December 17th, 2021, when Appellant loaded a shipment of
19 goods onto the vehicle in California and transported the
20 shipment to Kansas.

21 During the prehearing conference, CDTFA agreed
22 that today would address Appellant's assertion that the
23 DMV informed Appellant that it would have refunded the use
24 tax to Appellant but for the fact that CDTFA already,
25 quote, "Impounded," unquote, the payment. OTA also

1 notified Appellant in its prehearing conference minutes
2 and orders that OTA does not have jurisdiction in this
3 appeal over its payment of the interstate user diesel fuel
4 tax, as those payments are not part of the appeal before
5 us.

6 With respect to exhibits, Appellant previously
7 proposed Exhibits 1 and 2, and Respondent proposed the
8 same two exhibits as Exhibits A and B. Pursuant to the
9 prehearing conference minutes and orders, the exhibits
10 were admitted into the evidence as Exhibit 1 and 2.

11 Respondent previously confirmed that it does not
12 intend to call any witnesses, and Appellant stated that he
13 would be testifying as a witness today, so I will swear
14 him in now.

15 If you could raise your right hand,
16 Mr. Beauchamp.

17
18 E. BEAUCHAMP,
19 produced as a witness, and having been first duly sworn by
20 the Administrative Law Judge, was examined, and testified
21 as follows:

22
23 JUDGE KATAGIHARA: Thank you. Okay. Appellant,
24 you can proceed with your presentation. You have 10
25 minutes.

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1 plate from was engaged in interstate commerce, and the
2 truck was an IRP vehicle. When you have an IRP vehicle,
3 your plate is yours. When you sell the vehicle, the plate
4 does not stay with the vehicle. The owner takes the plate
5 and puts it on his new vehicle that he's going to buy,
6 should most cases they buy a new vehicle and they put the
7 plate on it.

8 When the gentleman took the plate, he took the
9 hardware. My -- my agent was unable to affix this plate.
10 Being late, drove down to Bakersfield, left the vehicle at
11 the garage for a full evaluation, mechanical diagnoses to
12 make sure we're going to be ready to operate safely,
13 because these vehicles need a diagnostic run over,
14 point-by-point check everything. The gentleman brought
15 the paperwork down, and it was presented to me. And
16 immediately I realized that this was the wrong plate.

17 I immediately got the proper IRP plate, went to
18 DMV and explained the situation. DMV said, "Sir, here's
19 your refund. We're unable to provide you the complete
20 refund because CDTFA has already impounded the rest of the
21 funds. However, here's the appeals form, and this is what
22 you need to do to get your money," and a check was issued
23 shortly thereafter.

24 At the end of the day, the plate was returned
25 unopened. The stickers were returned unopened and unused,

1 never affixed. And, again, this plate was not sought. We
2 did not want this plate, and it does not work with our
3 model. We are required by definition to operate over 50
4 percent of our miles outside of California, and that's
5 what we do. And our records, the last 10 filings show
6 80 percent plus 85, 90 percent of our miles are outside of
7 California. We're not an interstate carrier. The base
8 plate never worked for us. Didn't want it. We never
9 sought it. Once it was discovered this was the wrong
10 plate, it was returned.

11 DMV issued the refund and said, "Here's your
12 appeal, sir. This is how you get your money back from
13 CDTFA."

14 There's at no time did we operate this vehicle
15 commercially with the base plate. The designated use of
16 this vehicle is to transport freight across state lines.
17 We never transported any freight, took any load under a
18 base plate. This is a simple mis -- an error in issuance.
19 And once it was discovered, it was corrected. The
20 presumption is that I provide proof that I drive over
21 50 percent of my miles outside of California. I showed my
22 logs. There's no question there.

23 I pay my taxes quarterly to the International
24 Fuel Tax Agreement that is owned -- that is collected by
25 CDTFA. Every quarter it's based upon how much fuel I buy

1 in which state and how many miles I drive in which state,
2 and I pay quarterly tax. These taxes are assessed based
3 upon mileage and fuel consumption so everybody gets a
4 certain amount of fees for people driving vehicles --
5 heavy vehicles on their streets and roads and for the
6 taxes they pay and for the fuel they purchase. So they
7 pay what they owe. I've paid my taxes to CDTFA under the
8 IFTA, and basically I'm being taxed twice.

9 I was taxed in November for this plate, and in
10 December I paid taxes on the same vehicle. And the only
11 reason why I pay taxes was because this was an error in
12 issue. Now, the other side they're going to argue that,
13 oh, I made my first load out of California, and I took
14 deliverance of this vehicle in California and, therefore,
15 I don't qualify. That's not how the law reads, and that's
16 a very narrow reading of the law. And Regulations present
17 this, if that law they're going to cite right now is so
18 rigid and so narrow, no one would purchase a truck in
19 California. Nobody. Want to know why? Because they took
20 deliverance of that truck in California. That would mean
21 everybody pays.

22 People are purchasing trucks, thousands of them,
23 every week in California. The only difference is they
24 purchase a vehicle, and they get the proper plate, the IRP
25 plate. And because the proper IRP plate is issued with

1 the title and the bill of sale, no tax is -- use taxes are
2 paid. And so what we have here is an agent getting --
3 given a base plate erroneously when he sought an IRP
4 plate. And then once it was discovered, we go to take it
5 back. We get money back from DMV, but the other side
6 doesn't want to give the -- the CDTFA doesn't want to give
7 the use tax back.

8 And at the end of the day, being taxed twice,
9 being subjected to IRP tax and use tax for an interstate
10 carrier that never sought a base plate, I'm basically
11 being penalized \$4,000 for the fact that an agent of the
12 DMV provided the wrong plate. Because here's the bottom
13 line gentlemen -- excuse me -- Ma'am, Your Honor, and
14 Honorable Justices here, had an IRP plate been issued, no
15 impound would have ever been collected. My base plate fee
16 would have been about \$2,500, and I pay quarterly. That's
17 the end of the day. And every carrier in California that
18 buys a truck in California and who gets the proper IRP
19 plate issued, they don't pay that use tax.

20 The presumption of who I am, I'm an interstate
21 carrier. The presumption of what I got, what I desired
22 was I wanted the IRP plate. My DOT Authority is
23 interstate right there. It's never deviated. It's never
24 been an intrastate. With that being said, none of this is
25 rational in that, oh, I went and it says that I registered

1 the vehicle -- or rather claimant registered the vehicle.
2 Yeah, I did register the vehicle and was issued a base
3 plate. But I did not want to register the vehicle as a
4 base plate. I wanted an IRP plate. So how the facts were
5 presented, yeah, claimant registered the vehicle as a base
6 plate, but he believed he left DMV with an IRP plate.

7 And, I mean, moving forward is how do we look at
8 this? It's like you go to the market, and you buy
9 something at the meat counter. The butcher wraps up the
10 meat and you take it home, and then you realize, oh, you
11 got a pork loin instead of a beef loin, and you go back to
12 the butcher. They go, oh, here you go. My apologies.
13 And you get a different cut of meat, and you take it home.

14 Well, I simply -- I mean, it's a fair argument
15 here. I'm an interstate carrier. I sought an IRP plate.
16 At the end of the day, I was mistakenly issued the wrong
17 plate. I took immediate measures to correct it. I never
18 operated this commercial vehicle under a base plate for
19 commercial purposes. I immediately sought correction and
20 got it. And I was -- I sought resolution from the DMV,
21 and they gave me the refund they could, and they gave me
22 direction on how to get the remaining balance due.

23 I'm not asking for anything more than fair
24 consideration in that this is a simple error. I paid too
25 much money for a plate that I didn't want, and I

1 immediately took corrective action. I didn't operate
2 underneath it. I met the presumption. I'm an interstate
3 carrier. Over 50 percent of my miles are out of state,
4 and I pay my taxes quarterly to CDTFA.

5 With that being said, I submit to the Counsel. I
6 submit to the Panel.

7 JUDGE KATAGIHARA: Thank you.

8 Respondent, would you like to proceed with the
9 cross-examination of the witness?

10 MS. DANIELS: We don't have any questions. Thank
11 you.

12 JUDGE KATAGIHARA: Mr. Beauchamp, when you
13 indicate that you requested the IRP registration from the
14 DMV but got a baseline registration instead, is that a
15 form you have to provide? How did it end up being that
16 you got a baseline when you really were asking for an IRP
17 registration?

18 MR. BEAUCHAMP: And -- and that's a great
19 question, and here's -- here's what my agent told me. He
20 went to DMV Sacramento, stood in line, repeatedly went to
21 the window. It was back and forth, back and forth, back
22 and forth. The agent that, according to him, that he had
23 was new, and she kept going to the supervisor going and
24 asking for assistance, went back and forth. Yes, there is
25 a form and he had to obviously fill out, you know, with

1 the bill of sale. He has to present the bill of sale and
2 request registration. And he went there, and he provided
3 the form, and he sought the IRP plate. And when he left,
4 he was told this is the plate you want. This is the IRP
5 plate.

6 JUDGE KATAGIHARA: Thank you.

7 Judge Wong, do you have any questions for the
8 witness?

9 JUDGE WONG: I do have a few. I was just
10 wondering. Is this the first vehicle you've --

11 MR. BEAUCHAMP: Yes.

12 JUDGE WONG: -- purchased?

13 MR. BEAUCHAMP: Yes. I was a new carrier. The
14 authority was granted, and this was our first vehicle,
15 sir.

16 JUDGE WONG: Okay.

17 MR. BEAUCHAMP: Your Honor.

18 JUDGE WONG: I just had a question about a
19 statement in your reply brief. You mention that tens of
20 thousands -- and you also alluded to it during this
21 hearing. You said tens of thousands of commercial
22 vehicles are bought and sold for interstate use and
23 delivery taken within the State of California each year,
24 none of which pay any use tax to CDTFA. I'm just
25 wondering what the basis of that statement is. What's

1 your knowledge, or do you have some sort of source?

2 MR. BEAUCHAMP: Based upon vehicle sales that I
3 looked at and talking to people at Arrow Sales and other
4 people, Pride, and asking them what happens when people
5 buy a vehicle. And in the market at this time, it was a
6 very hot market, and thousands of vehicles were being sold
7 in California. And at the end of the day, these people --
8 I asked them, are people paying a use tax to them? No.
9 And IRP plate is affixed, and no use tax is paid. They
10 have an IRP plate.

11 JUDGE WONG: Thank you. I don't have any other
12 questions at this time.

13 JUDGE KATAGIHARA: Judge Lambert, do you have any
14 questions for the Appellant?

15 JUDGE LAMBERT: Hi. I have no questions.
16 Thanks.

17 JUDGE KATAGIHARA: Thank you.

18 Thank you, Appellant, for your presentation and
19 testimony.

20 Respondent, you will have an opportunity to
21 provide your presentation, but I would like you to address
22 whether Appellant's purchase of the vehicle would have
23 been subject to use tax had the vehicle been registered
24 under the IRP from the outset and not been provided a
25 baseline registration.

1 Thank you. You have 15 minutes.

2 MS. DANIELS: Thank you. Yes, we plan to address
3 that in our presentation.

4

5 PRESENTATION

6 MS. DANIELS: So, good afternoon.

7 The issue in this case is whether Appellant has
8 established that it is entitled to a refund of the tax
9 paid with respect to the purchase of a vehicle on
10 November 26th, 2021.

11 Appellant operates a motor carrier business in El
12 Monte, California, and it purchased the vehicle, a 2013
13 Kenworth with a VIN ending in 67612, for \$38,000 from an
14 individual seller named Tajinder Pal Singh and took
15 delivery of this vehicle in California, in Sacramento
16 specifically. And there's evidence of that at
17 Exhibit A-1.

18 JUDGE KATAGIHARA: I'm sorry. Respondent, one
19 second.

20 Ms. Alonzo, do you need the spelling of the name?

21 THE STENOGRAPHER: Judge, if the name is in the
22 exhibits, I don't need it spelled out at this time.

23 JUDGE KATAGIHARA: Is that within the exhibit,
24 Respondent?

25 MS. DANIELS: It is. It is within the decision.

1 JUDGE KATAGIHARA: Thank you.

2 MS. DANIELS: Absolutely.

3 So on November 29th, 2021, Appellant registered
4 the vehicle with the DMV as a baseline commercial vehicle,
5 a truck, and paid \$6,260, which was comprised of use tax
6 in the amount of \$3,800 and fees in the amount of \$2,460.
7 And that's Exhibit A-2. On December 7th, 2021, Appellant
8 changed the registration status of the vehicle from the
9 baseline obtaining an apportioned license under the DMV's
10 International Registration Plan for the purpose of
11 operating the vehicle in interstate commerce and
12 subsequently applied to the DMV for a refund of the \$6,260
13 it paid in taxes and fees. On January 31st, 2022, the DMV
14 refunded fees in the amount of \$2,445 to Appellant and
15 informed Appellant that it would have to seek a refund of
16 the remainder from the Department directly. The
17 Department denied the refund and the Appellant filed the
18 appeal here at issue today.

19 In this matter, sales tax does not apply to the
20 sale because the vehicle at issue is subject to
21 identification under Division 16.5 of the Vehicle Code,
22 and the seller was not required to hold a seller's permit.
23 So when sales tax does not apply, use tax is imposed on
24 the storage, use, or other consumption in the state
25 measured by the sales price, unless that use is

1 specifically exempted or excluded by statute. And that's
2 Tax Code section 6201.

3 So when a right to an exemption from tax is
4 involved, a taxpayer has the burden of proving its right
5 to that exemption. And that's *Honeywell, Inc, v. State*
6 *Board of Equalization*, 128 Cal.App.3d 739 at 744 and 745.
7 Any taxpayer seeking exemption from the tax must establish
8 that right by the evidence specified by the relevant
9 regulation. A mere allegation that the sales are exempt
10 is not sufficient. And that's *Paine v. State Board of*
11 *Equalization*, 137 Cal.App.3d 48 -- 438 at 442.

12 So in this matter, Appellant purchased and took
13 possession of the vehicle in California. It then
14 subsequently used the vehicle in California on
15 December 17th, 2021, when it picked up a shipment of goods
16 and transported the shipment out of state. Because sales
17 tax does not apply to the sale of the vehicle, Appellant
18 owes use tax on its use of the vehicle in California,
19 unless Appellant can prove that its use of the vehicle in
20 California is exempt. Tax Code section 6201.

21 Appellant has alleged that it purchased the
22 vehicle for use in interstate commerce and thus, any use
23 of the vehicle in California is exempt from use tax under
24 Regulation 1620. However, while subdivision (b) (2) (B) (1)
25 provides an exception to the general application of use

1 tax, it requires that the vehicle be purchased for use and
2 used in interstate or foreign commerce outside of the
3 state first before entry into the state. Specifically,
4 subsection (b) (2) (B) (1) provides, quote, "Use tax does not
5 apply to the use of property purchased for use and used in
6 interstate or foreign commerce prior to its entry into
7 this state and thereafter, used continuously in interstate
8 or foreign commerce, both within and without California
9 and not exclusively in California," end quote.

10 Appellant's purchase of the vehicle does not fall
11 within this exception for two reasons. First, the vehicle
12 was purchased in California and, therefore, was not
13 brought into the state. Second, its first use after the
14 purchase was within California and, therefore, it was not
15 used in interstate or foreign commerce prior to its entry
16 into the state. Based on the foregoing, Appellant's
17 vehicle purchase does not fall within the subsection's
18 exemption -- exception. Excuse me.

19 To the extent that Appellant argues that the
20 vehicle should be exempt under 1620(b) (5) (C), this
21 subsection is not applicable for the same reasons.
22 Subsection (b) (5) provides guidance for how to determine
23 if a vehicle purchased outside of California was, in fact,
24 purchased for use in California. Subsection (b) (5) (A)
25 outlined situations when it is rebuttably presumed that a

1 vehicle purchased outside California and subsequently
2 brought into California within 12 months of purchase, was
3 purchased for use in California.

4 Subsection (b) (5) (C) (1) provides, quote, "If the
5 property is a vehicle, use tax will not apply if one half
6 or more of the miles traveled by the vehicle during the
7 six-month period immediately following its entry into this
8 state are commercial miles traveled in interstate or
9 foreign commerce," end quote. Here, the facts do not come
10 within subsection (b) (5) 's exemption. The vehicle was
11 purchased in Sacramento. It was not purchased outside of
12 the state and subsequently brought into the state as
13 contemplated by subsections (b) (5) (A) and (b) (5) (C) (1) .

14 The Department has consistently handled similar
15 cases the same way as evidence by our annotation number
16 325.1727 which states that, quote, "Regardless of what
17 purposes the vehicles, vessels, or air crafts were
18 designed for, the first functional use of such items will
19 be in California if they are not brought into California
20 under their own power, and they have not otherwise been
21 functionally used outside of California," end quote.
22 Appellant's purchase of the vehicle also fails to meet the
23 requirements of exemption under Tax Code sections 6388,
24 6388.5, and Regulation 1620.1(b) (2) .

25 Regulation 1620.1 provides that tax does not

1 apply to the sale, storage, or use of a vehicle purchased
2 for use in out-of-state or foreign commerce where the
3 purchaser one, purchased the vehicle from a dealer outside
4 of the state; two, removed the vehicle from California
5 within 30 days and after the date of delivery; and three,
6 provided a valid affidavit to the manufacturer or
7 re-manufacturer.

8 Again, the facts here do not fall within the
9 exemption because Appellant did not purchase the vehicle
10 from an out-of-state dealer. This vehicle was purchased
11 in Sacramento and thus, is not exempt under Regulation
12 1620.1. Because Appellant has not provided a valid basis
13 for exemption under the law, use tax applies.

14 So finally, you asked us to address circumstances
15 around Appellant's registration of the vehicle with the
16 DMV, and whether the initial registration of the vehicle
17 as a baseline commercial truck has any bearing on whether
18 use tax would apply here. The DMV collects use tax from
19 registrants on behalf of CDTFA. Once these funds are
20 collected, the DMV no longer has jurisdiction over them.
21 As such, refunds of collected use tax fall under the
22 Department's purview.

23 If the vehicles are registered under the
24 International Registration Plan, referred to as IRP, in
25 many instances, the DMV does not collect use tax at the

1 time of the initial registration. However, the
2 information regarding the purchase is then provided to the
3 Department. The Department then sends a contact letter to
4 the registrant notifying them to file a tax return for the
5 purchase, and providing an opportunity to present
6 documentation regarding an applicable exemption.

7 So, even if the vehicle had initially been
8 registered under the DMV's IRP, unless Appellant could
9 have shown that its use of the vehicle was exempt from
10 tax, Appellant would still have been liable for the use
11 tax. The only difference is that the tax would have been
12 subsequently billed to Appellant instead of being
13 collected by the DMV. In either instance, the use tax
14 would have applied.

15 In conclusion, Appellant has not provided a valid
16 basis for an exemption under the law and, accordingly, has
17 not met the burden of establishing that its use of the
18 vehicle in California is not subject to use tax. As such,
19 we ask that you deny this appeal.

20 Thank you.

21 JUDGE KATAGIHARA: Thank you, Respondent. Just
22 to be clear, is there any dispute that Appellant is a
23 business that run an interstate commerce?

24 MS. DANIELS: Not to our knowledge. I mean, I
25 don't have an intricate knowledge of his business.

1 JUDGE KATAGIHARA: But there's no dispute that --

2 MS. DANIELS: No.

3 JUDGE KATAGIHARA: Okay. Thank you.

4 Judge Wong, do you have any questions?

5 JUDGE WONG: I just have one question. Can you
6 specifically address Appellant's argument that it's being
7 double taxed, like, the use tax on his vehicle and
8 apparently the use of international use tax on fuel?

9 MS. DANIELS: Well, based on our understanding
10 they're completely different taxes. One is based on fuel
11 and interstate commerce, and the other one is based on his
12 use of the vehicle here. They're not the same tax.

13 JUDGE WONG: Thank you. No further questions.

14 JUDGE KATAGIHARA: Judge Lambert, do you have any
15 questions for Respondent?

16 JUDGE LAMBERT: I have no questions. Thanks.

17 JUDGE KATAGIHARA: Thank you.

18 Appellant, you can proceed with your rebuttal and
19 closing remarks. You have five minutes.

20

21 CLOSING STATEMENT

22 MR. BEAUCHAMP: Thank you so much.

23 To address the Counselor, this vehicle did leave
24 the State of California within 30 days. Mr. Tajinder
25 Singh who we did purchase this vehicle from was an

1 interstate. Just for the purposes of understanding this
2 vehicle, this vehicle goes around the United States.
3 Number one, he brought the vehicle into Sacramento, which
4 was the closest place for us to pick the vehicle up. The
5 purchase was made. We gave \$10,000 down and then paid the
6 other \$28,000, and we were able to go pick it up at the
7 closest point that made sense for him.

8 At the end of the day, the vehicle came into
9 California, and it did not operate commercially. To hear
10 the Counselor reply to the question presented by the
11 Panel, it was I'm going to say a little bit equivocal in
12 that she didn't simply say if there would not -- if
13 this -- if this vehicle was registered under IRP, no use
14 tax -- no use tax would be assessed.

15 These are the facts. My subsequent purchase of
16 the vehicle. Boom. IRP, same account. Boom. We're --
17 we're rolling. Have a plate issued. \$2,400. Pay
18 quarterly.

19 Regarding Justice Wong, you asked her to address
20 the difference between base tax and IFTA tax. It's really
21 clear, sir. She should be able go through this and tell
22 you. Base tax is this. Your plate allows you to run up
23 and down California as many miles as you can within the
24 year and then you pay the registration again. Your
25 taxes -- your use taxes are paid within that sum because

1 they want to get you for your use on their highways.
2 Okay. You don't pay based upon how many miles or how much
3 fuel you purchase in the state.

4 The IFTA Accord -- International Fuel Treaty
5 Agreement is among 50 states -- excuse me -- 49 -- Oregon
6 is excluded -- Mexico and Canada. And this is simple. I
7 can buy fuel in Arizona. The fuel tax in Arizona is
8 basically about 28 cents a gallon. In California it's
9 like \$1.05 a gallon. A lot of people will fuel in Arizona
10 as to avoid paying the tax in California. However,
11 California protects themselves by these kinds of fuelings
12 by having the IFTA Accord. And it's based upon your MPG,
13 your miles per gallon.

14 So, let's just say my miles per gallon quarterly
15 is six gallons a mile, and I didn't buy any fuel in
16 California. Is what they do is say, okay, Eric. You
17 drove this many miles in California divided by six, you
18 should have bought this many gallons of fuel in
19 California. And then they assess -- I think it's \$1.05 --
20 for each gallon that I should have bought but didn't, and
21 that's part of my bill. And this is how they get their
22 money quarterly.

23 And at the end of the day, I'm getting taxed
24 twice because, again, I'm an interstate authority. Number
25 two, the presumption has been met. Over 50 percent of my

1 miles have been outside of California, which qualifies me
2 for the IRP plate, and I do have to give money to them
3 every 90 days. I have to file quarterly taxes with them
4 regarding my fuel consumption, miles driven in every
5 state. And it goes to them, and they distribute the money
6 based upon how many miles I drove where, where I fueled.
7 So everybody gets a fair share of the pie, and I'm willing
8 to pay my fair share, but the \$3,815 that was impounded
9 because I was issued an erroneous plate?

10 And, again, I don't think the answer she provided
11 was -- it was -- I'm not going to say deceptive. And I
12 please want to be respectful here. It was not clear and
13 forthcoming. It was -- look, how do we register vehicles
14 in California? If you have the base plate, you pay it.
15 If you have the IRP plate, you don't pay the use tax. We
16 get it every quarter from you based upon your miles driven
17 and how much fuel you got.

18 Yes, I did take delivery of this vehicle. This
19 vehicle is an interstate vehicle that Mr. Tajinder Singh
20 brought into Sacramento. Closest place we could pick it
21 up. Again, interstate vehicle, IRP plate. He took his
22 plate. We went to put an IRP plate on there. We didn't
23 get the right plate. Once we discovered it was the wrong
24 issuance, we got it corrected. Our IRP account is in full
25 honor. Our CDTFA quarterly filings are in full honor, and

1 I'm simply asking, are we to be penalized for basically
2 getting the wrong plate, taking that truck from Sacramento
3 to Bakersfield and parking it and getting things figured
4 out. And a couple weeks later we go out of state within
5 30 days of taking issuance and run across the United
6 States our first quarter.

7 I mean, we'd all -- and by the way, we did pay
8 the taxes for the drives through California and paid our
9 IFTA taxes to them for our passage on their highways and
10 my -- this is just a simple submission. Am I to be
11 penalized basically \$4,000 for the fact we were issued the
12 wrong plate, number one. Number two, I will make the
13 argument that IRP plates are not subject to that use tax,
14 and she will tell you the same. And she said, however, we
15 have to. And you know what my proof is? The presumption
16 is this. Are over 50 percent of my miles out of
17 California? Yes, they are.

18 And with that being said, I've proven that. My
19 last 10 filings have proven that. And my taxes are paid,
20 and I'm in honor. And I simply ask in all humility -- and
21 I appreciate the colleague's argument. Hey, they want to
22 keep the money. I mean, that's what it is. That's what
23 the agency wants. They want to keep the money. I
24 understand that. Okay. What do we do here? This person
25 that's creating the revenue that's filling the tax

1 coffers, do we penalize him? What did he do wrong? He
2 got the wrong plate, and he sought to correct it.

3 Is this the American way? Is this how we do
4 business in California? We penalize honest hard-working
5 people for trying to do the right thing, for filing their
6 taxes, and for asking for readdress when they believe
7 something was wrong? That's not the California way.
8 That's not the American way, and I just want to submit.

9 Thank you.

10 JUDGE KATAGIHARA: Thank you, Mr. Beauchamp.

11 Do my Co-Panelists have any questions?

12 Judge Lambert?

13 JUDGE LAMBERT: No.

14 JUDGE KATAGIHARA: Judge Wong?

15 JUDGE WONG: No questions. Thank you.

16 JUDGE KATAGIHARA: Thank you.

17 This concludes the hearing. I want to thank the
18 parties for their presentations today. This appeal will
19 be decided based on the evidence and testimony presented.
20 The record is now close, and the case will be submitted
21 today. So, we will send both parties our written decision
22 no later than 100 days from today.

23 And we will take a brief recess before the next
24 hearing, which is scheduled to begin in approximately 15
25 minutes.

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Thank you.

(Proceedings adjourned at 1:44 p.m.)

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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for
the State of California, do hereby certify:

That the foregoing transcript of proceedings was
taken before me at the time and place set forth, that the
testimony and proceedings were reported stenographically
by me and later transcribed by computer-aided
transcription under my direction and supervision, that the
foregoing is a true record of the testimony and
proceedings taken at that time.

I further certify that I am in no way interested
in the outcome of said action.

I have hereunto subscribed my name this 23rd day
of February, 2024.

ERNALYN M. ALONZO
HEARING REPORTER