

STATE OF ALABAMA
DEPARTMENT OF REVENUE,

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

§

v.

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DOCKET NO. MV. 89-137

POOLE TRUCK LINE, INC.
P.O. Box 500
Evergreen, AL 36401,

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Taxpayer.

§

FINAL ORDER

The Revenue Department assessed motor vehicle tax against Poole Truck Line, Inc. (Taxpayer) for the period October 1, 1987 through September 30, 1989. The Taxpayer appealed to the Administrative Law Division and a hearing was conducted on November 8, 1990. Lester M. Bridgeman, Esq. and Michael R. Mills, Esq. appeared for the Taxpayer. Assistant counsel Dan Schmaeling represented the Department. This Final Order is based on the evidence presented by the parties.

FINDINGS OF FACT

The Taxpayer is in the interstate trucking business and has its principal place of business in Evergreen, Alabama. The Taxpayer operates primarily in the Eastern United States and maintains terminals at Evergreen, Nashville, Tennessee, and sixteen other locations.

The Taxpayer owned and operated approximately 1,030 - 1,260 tractors and approximately 2,100 trailers during the period in issue. The tractors are assigned to an individual driver and are based at any one of the eighteen terminals operated by the

Taxpayer. However, the trailers are not assigned to any particular driver or terminal, but rather are "free floating" and are used as necessary throughout the Taxpayer's system. Empty trailers are "spotted" at the various terminals or at predesignated customer locations for convenience.

The Taxpayer licensed most of its trailers in Tennessee during the subject period. The Department contends that the trailers should have been licensed in Alabama and consequently entered the assessment in dispute. Both parties agree that the issue turns on where the trailers were "based", as that term is defined by the Multistate Reciprocity Agreement (MRA). The MRA is a reciprocal agreement between Alabama, Tennessee and various other states governing the licensing and operation of interstate motor vehicles.

The Taxpayer opened the Nashville terminal in 1982. The Taxpayer contends that the trailers in issue are based at the Nashville terminal because Nashville is the "hub" of its interstate operations. The Nashville terminal is the Taxpayer's largest and serves as a fueling, maintenance and driver recruiting and basing facility. The Nashville facility has four dispatchers and is the only terminal that dispatches nationwide at night and on weekends. As will be discussed, all other terminals except Evergreen have only one daytime dispatcher. The Nashville facility is the most used in the Taxpayer's system and during the period in question the trailers traveled more miles in Tennessee than in

Alabama or any other state.

The Taxpayer licensed the trailers in Tennessee because Tennessee requires only a single registration that is good for the life of the trailer. Alabama has an annual registration system. Registration is also less expensive in Tennessee than in Alabama. The Department inquired with the State of Tennessee as to whether the trailers were properly licensed in Tennessee and Tennessee responded that they were.

The Department contends that the trailers are based in Evergreen because they are more often dispatched and otherwise controlled from the Evergreen terminal. The Evergreen terminal had sixteen to twenty dispatchers on duty during the period in question. The Evergreen dispatchers service the local Evergreen area, but Evergreen also serves as a central clearinghouse for directing customer calls to the appropriate terminal for handling.

Each driver is also assigned an Evergreen dispatcher that directs the driver to a local terminal for specific dispatching instructions.

CONCLUSIONS OF LAW

The Taxpayer first argues that the Revenue Department does not have jurisdiction to challenge the licensing-of the trailers in Tennessee or to otherwise decide where the trailers should be licensed. Specifically, the Taxpayer contends that the MRA provides an adequate administrative procedure by which the member states must jointly agree as to the base of a vehicle.

The MRA does provide generally that the administrators of the various member states shall agree as to the base of a vehicle. (§III.B.2.). The MRA also creates a "Multistate Reciprocal Committee". (§VIII.). However, the duties of the committee are not specified and there is no evidence that a committee was ever formed or has ever formally convened. Most important, the MRA does not contain a specific procedure by which a license dispute must be heard and resolved among the member states..

Rather, any state may question the registration of a vehicle in another state and the MRA authorizes the administrator in each member state to make the final determination as to whether a vehicle is licensed in his jurisdiction. (§§V.E.1 and V.E.3.) Accordingly, the Department is clearly authorized under the MRA to challenge the registration of the trailers in Tennessee and to determine if the trailers should be properly licensed in Alabama.

"Base" is defined by the MRA as "the place where the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled; . . ." (§III.B.1). The MRA allows an owner to designate the jurisdiction in which the vehicle is based, and that designation is prima facie correct as long as the owner has a place of business and the vehicle is operated within the state. (§III.B.1. and V.E.2.). The presumption can be challenged by any other jurisdiction, but only if the facts disclose. "error, misunderstanding, or fraud in the securing of

such registration". (§V.E.3.).

The relevant facts are conflicting. The Evergreen terminal. has more dispatchers, but the Nashville terminal is the most used and the trailers are more often garaged, maintained, serviced and operated at or out of Nashville than any other location. The Nashville terminal is also the only terminal that dispatches at night and on weekends.

The intent of the MRA is to allow the vehicle owner to choose the state in which vehicle should be licensed., and that election is prima facie correct as long as the owner has a place of business-and operates in the state. In this case,. there is ample evidence to support the presumption that- the trailers were properly licensed in Tennessee. The fact that Evergreen. has more dispatchers is not sufficient to overcome the statutory presumption and the substantial evidence indicating that the trailers are based-in Nashville. Accordingly, the assessment in issue is improper and should be reduced and made final showing no tax due.

Entered this 7th day March, 1991.

BILL THOMPSON
Chief Administrative Law Judge