EAGLE MOTOR FREIGHT, INC. P.O. BOX 9215 MONTGOMERY, AL 36108,	§ §	STATE OF ALABAMA DEPARTMENT OF REVENUE ADMINISTRATIVE LAW DIVISION
Taxpayer,	§	DOCKET NO. MV. 12-1107
v.	§	
STATE OF ALABAMA DEPARTMENT OF REVENUE.	§	

FINAL ORDER

The Revenue Department assessed Eagle Motor Freight, Inc. ("Taxpayer") for IRP/Registration tax for the fiscal years ending 9/30/2010, 9/30/2011, and 9/30/2012. The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on December 18, 2012. Will Webster and Mike White represented the Taxpayer. Assistant Counsel Keith Maddox represented the Department.

FACTS

The Taxpayer is an Alabama corporation that is headquartered in Montgomery, Alabama. It conducts an over-the-road trucking business throughout the United States, including the State of Maine. It does not, however, own property or have employees based in Maine.

It is undisputed that the Taxpayer's motorized vehicles, i.e., truck tractors, were based in Alabama in the subject years, and that the Taxpayer properly registered and paid the applicable Alabama license taxes/registration fees on those vehicles in those years. The dispute involves where the Taxpayer should have registered its non-motorized trailers.

The Taxpayer registered and licensed its trailers in Maine in the subject years. The director of Maine's Bureau of Motor Vehicles verified and confirmed in a September 24,

2012 letter "[t]hat (the Taxpayer) has properly registered trailers during this period (October 1, 2009 – September 30, 2012) in full compliance with the laws of the State of Maine."

The Department determined that the Taxpayer's trailers were based in Alabama in the subject years, and consequently should have been registered in Alabama in those years pursuant to Code of Ala. 1975, §40-12-252. It assessed the Taxpayer accordingly.

Alabama is a member of two motor vehicle registration/reciprocity agreements that are relevant in this case – the Multistate Reciprocity Agreement ("MRA"), which Alabama and 14 other states entered into in 1962, and the International Registration Plan ("IRP"), which has been adopted by the lower 48 states and the provinces of Canada, and which Alabama joined effective 1980. Both agreements were in effect in Alabama during the years in issue, although as discussed below, the IRP controls and preempts the MRA "concerning matters within the (IRP) Plan." IRP §115.

The MRA provides, in substance, that if a vehicle, including a trailer, is properly registered in one of the 15 participating MRA jurisdictions, then it is exempt from registering and paying fees in the other participating jurisdictions. The jurisdiction where the vehicle is registered subsequently distributes the fees among the various jurisdictions based on the miles traveled in each jurisdiction. The MRA also provides that "vehicles must be registered in their base state, which is where the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled;. . . ." MRA, III B.1. The MRA base state registration requirement applies to both powered vehicles and non-powered trailers.

In 1978, the Alabama Legislature enacted Acts 1978, No. 848, now codified at Code of Ala. 1975, §32-6-56. That statute authorized the Commissioner of Revenue to promulgate, adopt, and enforce the provisions of the IRP and any similar type agreement involving the uniform registration of motor vehicles. The statute further provided that if Alabama entered into the IRP, and if any IRP provision is different or conflicts with Alabama law "then the (IRP) agreement provision shall prevail." The Commissioner of Revenue subsequently joined the IRP, effective in October 1980. See, Department Reg. 810-5-1-.438.

Section 105 of the IRP states that its "fundamental principle . . . is to promote and encourage the fullest possible use of the highway system by authorizing apportioned registration of Fleets of Apportionable Vehicles. . . ." An "apportionable vehicle" is defined as "any Power Unit. . . ." IRP p. 12. A "Power Unit" is defined as "a Motor Vehicle . . . as distinguished from a trailer. . . ." IRP, p. 20. Finally, a "trailer" is defined as "a vehicle without motor power, ..." IRP, p. 25. The IRP thus clearly distinguishes between motorized vehicles and non-motorized trailers.

Like the MRA, the IRP also requires that an apportionable vehicle, i.e., a motorized vehicle, must be registered in its base jurisdiction. IRP §§305 and 500. The parties agree that the IRP does not specify where trailers must be registered under the Plan. "The IRP does not specifically address what is proper registration for trailers, because each jurisdiction's registration laws differ." Department's Post-Hearing Brief at 3.

The IRP provision in dispute in this case is §515, which is entitled "Reciprocity For Trailing Equipment." That provision reads as follows:

> (a) A Trailers, Semi-Trailer, or Auxiliary Axle properly registered in any Jurisdiction shall be granted full and free Reciprocity. This Reciprocity shall be deemed registration under the Plan, and shall apply to both InterJurisdictional Movement and IntraJurisdictional Movement or operation, provided that appropriate regulatory authority is held, if required.
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> (b) When registration fees are paid for the registration of an Apportionable Vehicle, full and free Reciprocity shall be granted to all Trailers, Semi-Trailers, and Auxiliary Axles used in a combination with the Apportionable Vehicle.
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> (c) No Member Jurisdiction shall require a Registrant of Power Units to register a number of Trailers, Semi-Trailers, or Auxiliary Axles in any proportion to the Registrant's apportioned Fleet of Power Units.

The Department contends that because the IRP does not specify where trailers must be registered, then the MRA controls and trailers must be registered in their base state. The Department thus asserts that because the Taxpayer's trailers were based in Alabama in the subject years, and thus required to be registered in Alabama, they were not "properly registered" in Maine in those years for purposes of the IRP §515 reciprocity provision. "However, nothing in the International Registration Plan altered the requirements that (Taxpayer) is required to registers its Alabama-based trailers in Alabama." Department's Post-Hearing Brief at 4.

The Taxpayer argues that the plain language of §515 must control. It contends that the §515 phrase – "properly registered in any Jurisdiction" – can only refer to a trailer that is properly registered under the laws of any IRP member jurisdiction. It asserts that because its trailers were properly registered under the laws of Maine in the subject years, Alabama must abide by the §515 reciprocity agreement.

> As applicable here, the drafters of the IRP provided that a trailer "properly registered in <u>any</u> Jurisdiction shall be granted full and free reciprocity." IRP § 515(a) (emphasis added). "Any Jurisdiction" means exactly what it says –

> any Jurisdiction (i.e., a state or province that has adopted the IRP). The IRP's drafters did not require trailers to be "properly registered in the Base Jurisdiction," as they easily could have, had they intended that trailers must be registered in the same way as the registration of the "Fleet." See IRP 305. Furthermore, they did not say that trailers "must be registered in any proper jurisdiction." Instead, the word "properly" in the context of § 515(a) is an adverb modifying the word "registration," identifying how or in what manner the registration is to be done; it is not an adjective modifying the word "jurisdiction," and it therefore does not qualify the adjective "any." Thus, if the trailers' registration is properly accomplished in compliance with the laws of "any jurisdiction," other states must accord that registration with "full and free reciprocity."

Taxpayer's Reply Brief at 5.

The Taxpayer cites *Behnke, Inc. v. State of Michigan*, 748 N.W.2d 253 (2008), in support of its position. Michigan is also an IRP state, and Michigan law also requires that motor vehicles used on Michigan's roads must be registered in Michigan. Various trucking companies that operated in Michigan registered their trailers in IRP states other than Michigan. The State of Michigan cited those companies for not registering the trailers in Michigan.

The trucking companies argued on appeal that §404 of the IRP (now §515) granted them reciprocity because their trailers were properly registered in other IRP jurisdictions. The Michigan Court of Appeals agreed, citing the applicable rules of statutory construction that a statute should be construed to give effect to the intent of the legislature, and that the unambiguous language in a statute must be given its plain meaning.

> The plain language of § 404 states that trailers properly registered in any member jurisdiction shall be granted full and free reciprocity and that such reciprocity shall be deemed registration under the plan. Section 404 clearly gives an interstate carrier the ability to register its trailers in any jurisdiction it choses as long as registration fees are paid on its apportionable truck. Because the plain and ordinary meaning of this statutory language is clear, judicial construction is neither necessary nor permitted. *Cherry Growers, Inc.*

> *v. Mich. Processing Apple Frowers, Inc.*, 240 Mich App 153, 166; 610 NW2d 613 (2000). Accordingly, Michigan must grant full and free reciprocity to trailers properly registered in any member jurisdiction under § 404.

Behnke, 748 N.W.2d at 257, 258.

The Court also noted that Michigan's IRP manager had recommended to the IRP governing body that §404 (now §515) should be changed so that trailers must be registered where they meet the Plan's residency or base jurisdiction requirements. "This change in language was recommended because the Section (515) as currently worded 'gives registrants the ability to register in any jurisdiction they chose. It is direct in permitting trailers to be registered in any jurisdiction. . . .'" *Behnke*, 748 N.W.2d at 258, n. 7.

The Department argues that *Behnke* should not be followed because "a decision from a Michigan state court should have little persuasive authority in Alabama state courts, especially in light of the fact that our state appellate court has ruled on the same issue." Department's Post-Hearing Brief at 6. The Alabama case referred to is *State of Alabama v. Wiley Sanders Truck Lines, Inc.*, 628 So.2d 635 (Ala. Civ. App. 1993).

In *Wiley Sanders*, an Alabama-based trucking company had registered its trailers in Maine. During the years in issue, October 1987 through September 1989, Maine was not a participating member of either the MRA or the IRP. A 1956 agreement between Alabama and Maine was in effect, however, and per that agreement Alabama gave "reciprocity on motor vehicle registration fees to citizens of Maine operating into and through this State in Interstate Commerce, properly registered in the State of Maine," if Maine granted Alabama citizens the same privilege. *Wiley Sanders*, 628 So.2d at 637.

Sanders argued that the 1956 reciprocity agreement relieved it from registering the trailers in Alabama because they were properly registered in Maine. The Court never addressed whether the trailers were properly registered in Maine. Rather, it held that the agreement did not apply because Wiley Sanders was not a citizen on Maine.

Wiley Sanders is not relevant in this case because it was decided solely on the controlling 1956 agreement between Alabama and Maine. But that agreement is no longer valid. Rather, the IRP now controls, unless it does not address a matter or issue, in which case the MRA controls.

The Court held in *Wiley Sanders* that "[t]he (1956) agreement was not meant to exempt the contracting state's residents from compliance with the state's own internal laws." *Wiley Sanders*, 628 So.2d at 638. That statement was correct concerning the 1956 Maine/Alabama agreement in issue in *Wiley Sanders*. It is not correct, however, concerning the IRP.

The primary purpose for the IRP is to provide reciprocity among the participating jurisdictions for trucks and trailers properly registered in a participating jurisdiction. It is presumed that every participating IRP jurisdiction has internal laws requiring that vehicles operating within the jurisdiction must register with the jurisdiction. Pursuant to §515 of the IRP, if a trailer is properly registered in one participating jurisdiction, then the trailer is not required to be registered in any other jurisdiction, despite the fact that those jurisdictions, including Alabama, otherwise have laws requiring registration. That is, the IRP §515 reciprocity provision trumps those internal registration requirements.

The Department concedes that the IRP controls over the MRA, but only concerning matters covered by the IRP. It argues that because the IRP does not specify where trailers must be registered, the MRA base jurisdiction provisions must control. I disagree. While the IRP does not specify where trailers must be registered, it does specify in §515 that if a trailer is properly registered in a member jurisdiction, it is exempt from having to be registered in all other member jurisdictions. Reciprocity for trailer registration is covered by the IRP, and consequently must control.

The §515 phrase "properly registered in any Jurisdiction" also can only mean properly registered under the laws of any other IRP jurisdiction. The Department at least indirectly concedes that fact when it states in its Post-Hearing Brief at 3, that the IRP does not address where trailers must be registered "because each jurisdiction's registration laws differ." That is, proper registration of trailers is controlled by the registration laws of each jurisdiction. The Taxpayer's trailers were thus properly registered in Maine for purposes of the IRP reciprocity provision because they were registered pursuant to the laws of Maine.

The Department cites *State of Alabama v. Evergreen Transportation*, Docket MV. 92-150 (Admin. Law Div. 9/11/1992), in support of its position. The taxpayer in that case was an interstate trucking company that owned trailers that were based in Alabama. It registered the trailers in Tennessee. Relying on the MRA, the Administrative Law Division held that because the trailers were based in Alabama, they were required to be registered in Alabama.

Although the IRP was in effect in Alabama during the years involved in *Evergreen Transportation*, the taxpayer never raised and the Division was apparently unaware of the

IRP reciprocity provision. Perhaps Tennessee was not an IRP member during the years in issue, or perhaps the IRP did not include a reciprocity provision at the time. See, Taxpayer's Reply Brief, at 15. In any case, for whatever reason the IRP reciprocity provision was not addressed. Consequently, the holding in *Evergreen Transportation* is not relevant in this case.

Taxpayer's trailers were properly registered in the State of Maine during the subject years.[1] IRP §515 plainly states that a trailer properly registered in any IRP jurisdiction shall be granted full reciprocity with all other IRP member jurisdictions. Alabama courts apply the same rule of statutory construction that was applied by the Michigan Court in *Behnke*. That is, the intent of the Legislature as expressed in the plain language of a statute must control. *State v. American Brass, Inc.*, 628 So.2d 920 (1993). Consequently, because IRP §515 plainly requires that Alabama must recognize reciprocity for the proper registration of the Taxpayer's trailers in Maine, the final assessments in issue must be voided.

I recognize that the above holding exposes an incongruity in Alabama's system for registering and paying ad valorem taxes on trailers in Alabama. As discussed, pursuant to IRP §515, a trailer based in Alabama but properly registered in another IRP jurisdiction is not required to also be registered in Alabama. Code of Ala. 1975, §40-12-253(a)(1) provides, however, that ad valorem taxes on motor vehicles, including trailers, "shall become due and payable on the first of the registration renewal month of the owner. . . ."

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[1] Maine was not a member of the MRA in the subject years, and apparently Maine's registration laws do not otherwise require trailers to be registered in their base jurisdiction. But that is irrelevant to the issue in this case. What is relevant is that the Taxpayer's trailers were property registered under Maine law.

Section 40-12-253 thus ties the due date for ad valorem taxes on a trailer to when the trailer registration must be renewed in Alabama in a given year. The obvious problem is that in some instances a trailer subject to ad valorem taxation in Alabama may not also be required to be registered in Alabama. But that issue is not presently before the Administrative Law Division, and thus will not be addressed here.

In any case, the fact that the §515 IRP reciprocity agreement creates an incongruity in Alabama law does not mean that the plain language of the provision can be ignored. I agree with Michigan's IRP manager in *Behnke* that if the IRP as a group wants trailers to be registered in their base jurisdictions, it must amend the Plan accordingly. But until the IRP is so amended, I can find no fault in the Michigan Court's rationale in *Behnke.*

The final assessments are voided. Judgment is entered accordingly.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered May 6, 2013.

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BILL THOMPSON
Chief Administrative Law Judge

bt:dr
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