Transport Topics

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Opinion

Trucking Is Overtaxed

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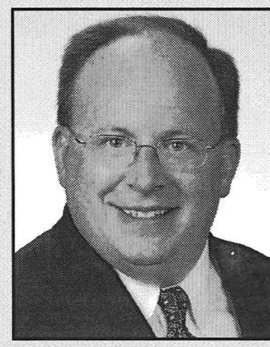

The trucking industry is being overtaxed. Federal and state tax liabilities are rising at a more rapid rate for trucking than for the air and rail carriers with which motor carriers compete.

Motor carriers do not enjoy some of the benefits offered to air and rail carriers as a result of Federal Law 49 U.S.C., which can reduce income and operating taxes imposed at the federal and state levels.

Whether your company is a private carrier, common carrier or contract carrier, you pay operating taxes even when you are losing money. These include excise taxes, sales taxes, use taxes, motor fuel taxes, property taxes, franchise taxes, unemployment compensation, unclaimed property, incorporation and qualification.

All these operating taxes and fees come after the motor carrier has already paid single state registration fees, international registration plan fees, mileage permitting fees and weight distance permitting fees.

If a motor carrier is still able to make money after all the permitting fees and operating taxes are imposed, it is confronted with federal, state and local income taxes on the taxable income of the business — and that applies in nearly every jurisdiction in which a tractor makes a pickup or a delivery, or just passes through. A motor carrier may be paying as much as 40% of its profits to cover these taxes.

Throughout the nation, motor carriers are at a disadvantage when compared to air or rail carriers.

In Virginia, for example, companies apportion their federal taxable income using the "three-factor" method to determine state taxable income and, correspondingly, state tax liability. The three-factor method uses (1) property ratio, (2) payroll ratio and (3) sales ratio. In each of these ratios, or factors, the numerator represents activities within the state and the denominator represents total activities.

This is where the fun begins.

The property factor consists of two types of property that are included in the numerator: ground property and mobile property. Ground property — land, buildings, furniture, fixtures and other equipment — is included based on the position within the state.

Mobile property consists of tractors, trailers and other mobile equipment. When determining the value of mobile property used in the state, the air carrier has a clear competitive advantage over the motor carrier. Air carriers and motor carriers both will use a mileage-traveled formula to calculate the mobile property within the numerator of the property factor.

However, the air carrier will only include the miles traveled within the state, provided it had an actual arrival or actual departure within that state. This excludes from the numerator the miles flown over any states it passes through. The motor carrier, on the other hand, will include all miles traveled through the state in the numerator.

Because only 40% to 70% of taxable income is subject to income taxes, 49 U.S.C. § 41713(b) provides the air carrier with a lower cost structure when quoting freight.

And what about trucking's competition? Not only do air and rail carriers have cost advantages over motor carriers, now add commercial vessels and barges making purchases of transportation equipment, repair parts and supplies. To further this point, take a look at the State of Alabama.

First, certain transactions relating to transportation equipment are exempt from Alabama sales and use taxes. These exemptions include the purchase of rail cars by trucking's competitors. Not only that, but aircraft delivered in the state are not taxed if they are not permanently domiciled in Alabama and are removed from the state within three days of delivery.

Second, when trucking's competitors purchase parts and supplies for aircraft used by air carriers with hub operations in Alabama, those transactions are also exempt.

Finally, consider the April 18 decision made by the Alabama Department of Revenue, Administrative Law Division, in the matter of *Boyd Brothers Transp. Inc. v. Alabama Department of Revenue*. In that case, interstate motor carrier Boyd Brothers was subject to Alabama's tax on the use of tractors and trailers within its borders, even though not all tractors and trailers in the audit period were purchased in Alabama.

Clearly, motor carriers are at a competitive disadvantage when purchasing transportation equipment, at least compared with air or rail carriers.

What can be done?

Motor carriers, along with state motor carrier associations, American Trucking Associations, the National Accounting & Finance Council, and industry consultants should keep working to level the playing field by educating lawmakers and implementing tax-planning strategies. These strategies will make motor carriers more competitive with air and rail carriers.