

JURISDICTION: OKLAHOMA TAX COMMISSION DECISION
CITE: 86-02-04-02 / NON-PRECEDENTIAL
ID: CR-85-013
DATE: FEBRUARY 4, 1986
DISPOSITION: DENIED
TAX TYPE: MOTOR VEHICLE
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

NOW, on this 4th day of November, 1985 the above styled cause comes on for consideration pursuant to the assignment made by the Oklahoma Tax Commission to ADMINISTRATIVE LAW JUDGE, and hearing had, at which hearing CLAIMANT, appeared in person, without counsel, and the Motor Vehicle Division of the Oklahoma Tax Commission appeared by and through their legal representatives, ASSISTANT GENERAL COUNSEL, and LEGAL RESEARCH ASSISTANT, of the General Counsel's office.

Opening statements were made by the parties, testimony of AUDITOR of the Motor Vehicle Division of the Oklahoma Tax Commission and that of the CLAIMANT was taken, and the following exhibits were offered by the General Counsel's office and received into evidence:

1. Oklahoma Tax Commission's letter dated April 17, 1985 denying refund.
2. Protestant's letter received April 26, 1985.
3. Oklahoma Tax Commission's letter dated May 9, 1985 denying refund.
4. CLAIMANT'S letter dated May 1, 1985.
5. CLAIMANT'S letter dated July 3, 1985.
6. Oklahoma Tax Commission's letter dated July 24, 1985.
7. CLAIMANT'S Application for Certificate of Title.
8. Certificate of Origin.
9. Manufacturer's Statement of Origin to a van conversion.
10. DEALER'S lien for van conversion.
11. Lien on transfer of vehicle by DEALER to MOTOR, INC.
12. Original Certificate of Title.
13. Corrected Certificate of Title.

14. Original registration certificate.
15. Corrected registration certificate.
16. Oklahoma Tax Commission's Order #64-637.
17. Notice of hearing.

STATEMENT OF FACTS

On or about September 26, 1983 the CLAIMANT, made Application for Certificate of Title on a 1983 VAN manufactured by General Motors Corporation which he had purchased from DEALER OF CITY, Oklahoma. The application submitted by the Claimant reflected only the General Motors' (manufacturer's) factory delivered price of Ten Thousand Eight Hundred Thirty-nine Dollars (\$10,839.00). A State of Oklahoma registration certificate was issued to the Claimant but subsequently was corrected when the Oklahoma Tax Commission, Motor Vehicle Division, realized after review of the documents that the vehicle in question had, following the original manufacturing of said vehicle by the General Motors Corporation, been forwarded to a company called SECOND MANUFACTURER and therein was subject of a second manufacturing process, which in the van industry is referred to as a van conversion.

The Motor Vehicle Division notified the Claimant that an amended registration certificate would have to be issued reflecting the total manufacturer's factory delivered price to include the original manufacturer's factory delivered price by General Motors of Ten Thousand Eight Hundred Thirty-nine Dollars (\$10,839.00) and the second manufacturer's factory delivered price from SECOND MANUFACTURER of Six Thousand Four Hundred Sixty Dollars (\$6,460.00) representing a total manufacturer's factory delivered price of Seventeen Thousand Two Hundred Ninety-nine Dollars, (\$17,299.00) for the 1983 VAN purchased by the Claimant from DEALER. The Division's policy regarding all van conversion vehicles requires that both the original manufacturer's Statement of Origin and the van conversion manufacturer's Statement of Origin be combined reflecting the total and actual manufacturer's factory delivered price. This increase in the manufacturer's factory delivered price increased the Claimant's registration fee for the State of Oklahoma by Ninety-eight Dollars (\$98.00) which the Claimant paid and thereafter sought refund from the Motor Vehicle Division which was subsequently denied by the Motor Vehicle Division of the Oklahoma Tax Commission.

CLAIMANT'S CONTENTION

The Claimant contends that the registration fees for the vehicle in question should be based solely upon the manufacturer's factory delivered price as per the General Motors Manufacturer's Statement of Origin which reflected the amount of the vehicle of Ten Thousand Eight Hundred Thirty-nine Dollars (\$10,839.00) and that the inclusion of the secondary manufacturing process by SECOND MANUFACTURER in the amount of Six Thousand Four Hundred Sixty Dollars (\$6,460.00) as per the SECOND MANUFACTURER additional

manufacturer's factory delivered price should not be a part of the calculations in reaching the registration fees of the vehicle in question.

MOTOR VEHICLE DIVISION'S CONTENTIONS

The Motor Vehicle Division of the Oklahoma Tax Commission contends that pursuant to the provisions of Title 47, Section 22.5 of the Oklahoma Statutes and in compliance with Order No. 64-637 of the Oklahoma Tax Commission, both the original manufacturer's Statement of Origin from General Motors reflecting the factory delivered price of the vehicle in the amount of Ten Thousand Eight Hundred Thirty-nine Dollars (\$10,839.00) and the subsequent secondary manufacturing of the vehicle by SECOND MANUFACTURER in the amount of Six Thousand Four Hundred Sixty Dollars (\$6,460.00) must be computed together to reach the proper and correct registration fees due from the Claimant on the vehicle in question.

ARGUMENT AND AUTHORITY

In support of the Claimant's request for refund he cites Attorney General's Opinion No. 84-42 dated January 22, 1985. The Attorney General's Opinion discussed the application of the provisions of Title 47, Section 22.5(1) of the Oklahoma Statutes concerning licensing fees to be paid to the Oklahoma Tax Commission upon the registration of motor vehicles, wherein the Attorney General's Opinion recited that the licensing fee collected pursuant to the provisions of Title 47, Section 22.5(1) of the Oklahoma Statutes shall be based solely upon the factory delivered price of an automobile including vans, under the definition of automobile, and the value of all extra or optional equipment is not to be considered in calculating the licensing fee.

Taking the contention of the Claimant in its best light, one would have to assume that the secondary manufacturing process which was performed on the vehicle in question by SECOND MANUFACTURER in the amount of Six Thousand Four Hundred Sixty Dollars (\$6,460.00) never transpired. The Claimant would have the Motor Vehicle Division and the Oklahoma Tax Commission consider the secondary manufacturing process amounting to Six Thousand Four Hundred Sixty Dollars (\$6,460.00) to be simply the value of extra or optional equipment attached to that vehicle. The Motor Vehicle Division's contentions and assertions are more well reasoned than that of the Claimant's.

The facts of the case reflect that a 1983 VAN, being the vehicle in question, was manufactured by General Motors Corporation, and prior to the sale of said vehicle to the Claimant the vehicle was forwarded to SECOND MANUFACTURER wherein a second manufacturing process occurred to the vehicle in question amounting to Six Thousand Four Hundred Sixty Dollars (\$6,460.00) creating a combined total manufacturer's factory delivered price of the vehicle in question in the amount of Seventeen Thousand Two Hundred Ninety-nine Dollars (\$17,299.00) which under the provisions of the Commission Order No. 64-637 and the literal interpretation of Title 47, Section 22.5 of the Oklahoma Statutes is proper in reaching this vehicle's registration fee. The instructive guidelines of Attorney General's Opinion No. 84-42 do not conflict with the application of the Commission order and/or the statutory provisions of Section 22.5, supra, in view of the fact that the Attorney General's Opinion did not address a dual manufacturing process on a vehicle such as in the case at bar. Under the interpretation by

the Motor Vehicle Division by and through Oklahoma Tax Commission Order No. 64-637, the original Manufacturer's Certificate of Origin reciting the original manufacturer's factory delivered price of this General Motors van and the second manufacturing process performed on the vehicle in question by SECOND MANUFACTURER wherein a second Manufacturer's Statement of Origin was issued by said company were combined to obtain the actual manufacturer's factory delivered price of the converted 1983 VAN.

CONCLUSION

In view of the above and foregoing factual situation and law applicable thereto, the Administrative Law Judge concludes as follows:

(1) That the Oklahoma Tax Commission has jurisdiction in this matter.

(2) That the method employed by the Motor Vehicle Division of the Oklahoma Tax Commission, when determining the factory delivered price of the van conversion vehicle, of combining the original manufacturer's factory delivered price and the secondary manufacturer's factory delivered price is correct in obtaining the total registration fee of said vehicle.

3. That the claim for refund of CLAIMANT should be denied.

DISPOSITION

It is the ORDER of the OKLAHOMA TAX COMMISSION that the claim for refund of CLAIMANT be denied.

OKLAHOMA TAX COMMISSION

CAVEAT: This decision was NOT deemed precedential by the Commission. This means that the legal conclusions are generally applicable or are limited in time and/or effect. Non-precedential decisions are not considered binding upon the Commission. Thus, similar issues may be determined on a case-by-case basis.