

**JURISDICTION:** OKLAHOMA TAX COMMISSION DECISION  
**CITE:** 86-09-30-07 / NON-PRECEDENTIAL  
**ID:** CR-86-008  
**DATE:** SEPTEMBER 30, 1986  
**DISPOSITION:** DENIED  
**TAX TYPE:** MOTOR VEHICLE EXCISE  
**APPEAL:** NO APPEAL TAKEN

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The above styled cause comes on for consideration, pursuant to assignment regularly made to ALJ, Administrative Law Judge, by the Oklahoma Tax Commission and hearing had, at which hearing Claimant, CLAIMANT, appeared by and through NAME, President, and the Motor Vehicle Tax Division of the Oklahoma Tax Commission appeared by and through its legal representative, OTC ATTORNEY of the General Counsel's office of the Oklahoma Tax Commission. Opening statements were made by the respective parties and exhibits, not herein itemized, were received into evidence. Following the closing arguments, the case was submitted for a decision.

**STATEMENT OF FACTS**

The factual circumstances concerning the case at bar are undisputed. The Claimant, CLAIMANT, now known as CLAIMANT NAME 2, is the holder of an Internal Revenue Service Section 501(c)(3) tax exempt recognition; the business of said corporation providing transportation services to the elderly and the handicapped, pursuant to a Section 16(b)(2) program of the Urban Mass Transportation Act of 1964.

On or about April 29, 1986, the Claimant obtained registration for a paratransit van and was issued a tax exempt license plate pursuant to Title 47 O.S. § 1136(3)(d), and on said date, pursuant to Title 68 O.S. § 2103(a), the Claimant paid vehicle excise tax in the amount of Eight Hundred Thirty-Three Dollars (\$833.00). Subsequent to the payment of the vehicle excise tax, the Claimant did, on or about May 30, 1986, file a Claim for Refund asserting that it was exempt pursuant to Title 68 O.S. § 2105 of the Motor Vehicle Excise Tax Act.

The Special Unit on Aging of the Department of Human Services of the State of Oklahoma administers the Section 16(b)(2) program of the Urban Mass Transportation Act of 1964. This Program provides capital assistance of eighty percent (80%) of the total cost as to the purchase of vans and/or buses for private non-profit corporations which provide transportation to the elderly and the handicapped within the State of Oklahoma. In the instant case, eighty percent (80%) of the funds used by the Claimant to purchase the paratransit van came from the Department of Human Services of the State of Oklahoma and the Claimant contributed twenty percent (20%) of the total cost of the vehicle. The Claimant entered into a contract with the Department of Human Services of the State of Oklahoma to provide for the undertaking of transportation services for the elderly and the handicapped and is limited in the use of said equipment, being, in this instance, the paratransit van, to the use specified in the agreement with the Department of Human Services. The agreement with the Department of Human Services and

the Claimant reflect that in no event may the Claimant use the vehicle for any other purpose than providing transportation service for the elderly and/or the handicapped. An operating agreement between the Central Oklahoma Transportation and Parking Authority and the Claimant provides for the overall funding aside from the initial purchase of the paratransit van owned by the Claimant. See Exhibits B and E.

### **ISSUES AND CONTENTIONS**

It is the contention of the Claimant that since it is a non-profit corporation, a holder of tax exempt status pursuant to the Internal Revenue Code Section 501(c)(3), that eighty percent (80%) of the purchase price of the paratransit van was obtained from the Special Unit on Aging of the Department of Human Services of the State of Oklahoma and that the revenue generated for the continued operation and funding of this project comes from the Central Oklahoma Transportation and Parking Authority, that the motor vehicle excise tax in the amount of Eight Hundred Thirty-Three Dollars (\$833.00) should in fact be refunded, taking a view of itself as a governmental subdivision organization.

In the alternative, the Claimant asserts that the maximum amount that should be collected under the Motor Vehicle Excise Tax Act would be twenty percent (20%) of the Eight Hundred Thirty-Three Dollars (\$833.00), said percentage being that portion of funds contributed by the Claimant for the purchase of the paratransit van.

It is the position of the Motor Vehicle Tax Division of the Oklahoma Tax Commission that, pursuant to Title 68 O.S. § 2105, there is in fact no exemption to which the Claimant could avail itself and therein, the vehicle excise tax was collected properly and that the Claim for Refund should in fact be denied.

The issue presented is whether or not the Claimant does in fact qualify for an exemption under the provisions of Title 68 O.S. § 2105, therefore exempting the paratransit van from the motor vehicle excise tax.

### **APPLICABLE LAW**

Title 68 O.S. § 2103(a) provides that there shall be levied an excise tax in the amount of three and one-quarter percent (3¼%) of the value of each vehicle upon the transfer of legal ownership of said vehicle registered in this State and upon the use of any such vehicle registered in this State for the first time in this State except otherwise provided in Sections 2101 through 2108 of Title 68. This tax is due at the time of the transfer of the legal ownership or first registration in the State of Oklahoma of said vehicle and must be collected by the Oklahoma Tax Commission at the time of issuance of a Certificate of Title for the vehicle.

The exemption provisions contained within the Vehicle Excise Tax Act are found at § 2105 supra which states that a Certificate of Title shall be issued without the payment of excise tax if in fact the registrant can qualify for one of the enumerated exemptions contained within that specific section. Review of the specific provisions of § 2105 supra reflect no specific provision which would legitimize Claimant's contention that it is entitled to an exempt status.

It is a well established rule of law that exemption statutes are to be strictly construed against the taxpayer claiming the exemption and this rule of law has been strictly adhered to by the Oklahoma Tax Commission. See Bert Smith Road Machinery Company, Inc. v. Oklahoma Tax Commission, 563 P.2d 641 (Okla. 1977); Phillips Petroleum Company v. Oklahoma Tax Commission, 542 P.2d 1303 (1975).

The Claimant does attempt to reinforce its assertion that is entitled to an exemption under § 2105(c) supra, which exempts the motor vehicle excise tax levy on any vehicle registered by the State of Oklahoma, or by any of the political subdivisions thereof, yet the facts do not support the Claimant's assertion since the facts reflect that the Claimant is a non-profit corporation and not organized for a political or governmental purpose for the State of Oklahoma and therefore could not be viewed as a "political subdivision" of the State of Oklahoma. See Sheldon v. Grand River Dam Authority, 182 Okl. 24, 76 P.2d 355.

The Claimant's attention is directed to Title 47 § 1136.3, which provides as follows:

3. Tax-Exempt or Nonprofit License Plates - such plates shall be designed for:

(d) any vehicle owned and operated by a non-profit organization that provides older persons transportation to and from medical, dental and religious services and relief from business and social isolation;

The registration fee shall be One Dollar (\$1.00);

This specific exemption provision is contained within the Oklahoma Vehicle License and Registration Act and therein specifically exempts from the registration fees the paratransit van registered by the Claimant, yet there is no specific exemption provision contained within the Vehicle Excise Tax Act, Title 68 § 2101 et seq., which would in fact exempt the Claimant from the levy of the motor vehicle excise tax as claimed.

The Legislature has seen fit to exempt from the registration fee any vehicle which qualifies under the provisions of Title 47 § 1136.3, but did not provide a similar specific exemption from the motor vehicle excise tax under the exemption provisions contained within Title 68 § 2105.

### **CONCLUSIONS OF LAW**

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

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

(2) That the exemption provisions contained within Title 68 § 2105 are specific and do not afford the Claimant an exemption from the motor vehicle excise tax and, as such, that the Claim for Refund of CLAIMANT must in fact 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.