

JURISDICTION: OKLAHOMA TAX COMMISSION DECISION
CITE: 87-01-06-03 / NON-PRECEDENTIAL
ID: CR-86-015
DATE: JANUARY 6, 1987
DISPOSITION: DENIED
TAX TYPE: MOTOR VEHICLE
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. A hearing was had, at which hearing Claimants appeared and testified on their own behalf. The Motor Vehicle Division of the Oklahoma Tax Commission appeared by Attorney, NAME of the General Counsel's Office of the Oklahoma Tax Commission. Testifying on behalf of the Motor Vehicle Division of the Oklahoma Tax Commission was DIVISION WITNESS.

Opening statements were made by the respective parties and exhibits, not herein itemized, were received into evidence. At the conclusion of the testimony and after closing arguments, this case was submitted for a decision.

STATEMENT OF FACTS

The Claimants purchased a new automobile in Arizona on or around August 22, 1985. At the time of this purchase, they paid Six Hundred and Sixty-six Dollars and Thirty-two Cents (\$666.32) in sales tax to the State of Arizona. The sales tax was remitted to OUT-OF-STATE DEALER from whom Claimants purchased the car. OUT-OF-STATE DEALER told the Claimants that the sales tax money would be sent to Oklahoma to satisfy Oklahoma taxes. The money was never remitted to the State of Oklahoma.

On September 23, 1985, Claimants registered their 1985 Dodge in Oklahoma. At the time of such registration, Claimants paid motor vehicle excise tax in the amount of Four Hundred Thirty-seven Dollars and Fifty Cents (\$437.50). Claimants later requested a refund of the Four Hundred Thirty-seven Dollars and Fifty Cents (\$437.50) previously paid in motor vehicle excise tax, and this request was denied by letter dated July 28, 1986. On July 31, 1986, Claimants requested in writing a hearing with respect to the Motor Vehicle Division of the Oklahoma Tax Commission's denial of their request for a refund.

ISSUES AND CONTENTIONS

The sole issue herein is whether remitting Arizona sales tax to Arizona on a new automobile will satisfy the Oklahoma excise tax liability imposed by 68 O.S.A. § 2103.

Claimants contend that because they paid sales tax in Arizona at the time they purchased their new vehicle, they should not be required to pay motor vehicle excise tax to Oklahoma. Claimants contend that, since the excise tax in Oklahoma is in lieu of all other taxes, paying sales

tax to Arizona, which the car dealer told them would be remitted to Oklahoma, satisfies Claimants' Oklahoma excise tax liability.

The Motor Vehicle Division of the Oklahoma Tax Commission contends the Claimants' grievance is with the Arizona dealer from whom they purchased the car. The Motor Vehicle Division of the Oklahoma Tax Commission concedes that had the Six Hundred Sixty-six Dollars and Thirty-two Cents (\$666.32) in sales tax paid to the dealer been paid to Oklahoma, Claimants' tax liability would be satisfied. The Motor Vehicle Division of the Oklahoma Tax Commission contends, however, that paying sales tax in Arizona, which is not later remitted to Oklahoma, will not satisfy Oklahoma excise tax liability.

APPLICABLE LAW

Title 47 O.S.A. § 1105 requires the owner of every vehicle in this state to possess an Oklahoma Certificate of Title as proof of ownership, and 47 O.S.A. § 1112 requires every owner of a vehicle possessing a Certificate of Title to make an application for the registration of such vehicle with a motor license agent. Claimants purchased their vehicle in Arizona and paid Arizona sales tax on the vehicle. Claimants then brought the vehicle to Oklahoma where it was titled and registered. The vehicle had not previously been registered in Oklahoma. Title 68 O.S.A. § 2103(a) levies an excise tax upon:

...the value of each vehicle, upon the transfer of legal ownership of any such vehicle registered in this state and upon the use of any such vehicle registered in this state and upon the use of any such vehicle registered for the first time in this state, except as otherwise provided in Sections 2101 through 2108 of this title. The tax hereby levied shall be due at the time of the transfer of legal ownership or first registration in this state of such vehicle, and shall be collected by the Tax Commission at the time of the issuance of a certificate of title for any such vehicle.... (Emphasis added)

Title 68 O.S.A. § 2106 provides that excise tax is in lieu of all other taxes on the transfer or first registration in this state of vehicles. Title 68 O.S.A. § 2105 sets forth exemptions from the excise tax levied in § 2103. Claimants, however, have not provided any documents which would support an exemption under § 2105.

CONCLUSIONS

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 Claimants' remittance of Arizona sales tax to Arizona does not satisfy Claimants' excise tax liability to Oklahoma.

DISPOSITION

It is the ORDER of the OKLAHOMA TAX COMMISSION that Claim for Refund of CLAIMANTS 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.