JURISDICTION: OKLAHOMA TAX COMMISSION DECISION
CITE: 87-02-05-11 / NON-PRECEDENTIAL
ID: P-86-038
DATE: FEBRUARY 5, 1987
DISPOSITION: DENIED
TAX TYPE: MOTOR VEHICLE
APPEAL: DISMISSED / OK S.CT. 69,322

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above styled cause comes on for consideration pursuant to assignment regularly made by the Oklahoma Tax Commission to ALJ, Administrative Law Judge. A hearing was had, at which hearing Protestant appeared on his own behalf and the Motor Vehicle Division of the Oklahoma Tax Commission appeared by OTC ATTORNEY, Attorney. Exhibits, not herein itemized, were received into evidence, and the case was submitted for a decision.

STATEMENT OF FACTS

On January 1, 1986, Protestant sent to the Motor Vehicle Division of the Oklahoma Tax Commission a money order for Thirty-Five Dollars and Twenty-Five Cents ($35.25) as payment under protest for the renewal of the Vehicle Registration on a 1970 Chevrolet truck. Although he claims that the State of Oklahoma owns this truck, his name is the name which is on the Certificate of Title.

On the same date, Protestant also sent to the Motor Vehicle Division a money order for Forty-Three Dollars and Twenty-Five Cents ($43.25) under protest for the renewal of the Vehicle Registration on a 1978 Chevrolet truck which Protestant also claims is owned by the State of Oklahoma, but which lists a trust for which Protestant acts as Executive Trustee as the owner on the Certificate of Title.

On January 8, 1986, in response to Protestant's attempt to renew the registration on the above-mentioned vehicles, the Motor Vehicle Division sent Protestant notice that the law requires the surrender of an insurance security verification form in order to renew a vehicle registration and that Protestant had failed to comply with that requirement. On January 24, 1986, Protestant sent the Motor Vehicle Division insurance security verification forms as required for renewal of registration on the above-mentioned vehicles under protest. The registration on both of the vehicles expired in December of 1986.

ISSUES AND CONTENTIONS

The sole issue herein is whether the Protestant under the provisions of 47 O.S.A. § 1112 et seq. is required to surrender the insurance verification forms to the Oklahoma Tax Commission and register and pay the taxes on the vehicles.

The Protestant contends that the requirement of insurance security verification constitutes compulsory insurance legislation which is unconstitutional under Article I, Section 10 of the

United States Constitution. He also relies on the above citation to support his contention that only gold and silver can be used as tender for the payment of debts. Protestant further contends that by requiring him to enter into an insurance contract against his will and by requiring him to register his vehicle with the state and pay tax, the state is asserting ownership of his vehicles.

The Motor Vehicle Division contends that the Oklahoma Tax Commission does not have jurisdiction to handle protests regarding compulsory liability insurance. The Motor Vehicle Division further contends that the Oklahoma Tax Commission has a ministerial duty to require that an insurance security verification form be surrendered when applying for vehicle registration, and that the Oklahoma Tax Commission has no discretion in administering this requirement. The Motor Vehicle Division also asserts that 47 O.S.A. § 1112 requires Protestant to register his vehicles and that 47 O.S.A. § 1115 provides for vehicle registration to be renewed annually.

APPLICABLE LAW

The Oklahoma Tax Commission only has the authority which is delegated to it by the Oklahoma State Legislature. Title 68 O.S.A. § 203 is the statutory section which delegates authority to the Oklahoma Tax Commission to "administer and enforce" the state tax law. Title 68 O.S.A. § 203 provides:

> The Tax Commission is hereby authorized to enforce the provisions of this Code and to promulgate and enforce any reasonable rules and regulations with respect thereto. The Tax Commission may also prescribe, promulgate and enforce all necessary rules and regulations for the purpose of making and filing of all reports required under any State tax law, and such rules and regulations as may be necessary to ascertain and compute the tax payable by any taxpayer subject to taxation under any State tax law; and may, at all times, exercise such authority as may be necessary to administer and enforce each and every provision of any State tax law. (Emphasis Added)

Title 47 O.S.A. § 1112 is one of the laws which the Oklahoma Tax Commission is charged with enforcing. Title 47 O.S.A. § 1112 provides as follows:

> Every owner of a vehicle possessing a certificate of title shall, before using the same in this state, make an application for the registration of such vehicle with a motor license agent. The application shall contain such information as shall be required by the Oklahoma Tax Commission. Every owner, when making application for registration, shall furnish the following information: 1. A full description of the vehicle including the manufacturer's serial or other identification number, the manufacturer's factory delivered price, total delivered price, and any security interest upon said vehicle, an odometer reading of said vehicle when applicable, and the insurance security verification to said vehicle;… (Emphasis Added)

The Oklahoma Tax Commission is also charged with enforcing the provisions of 47 O.S.A. § 1115 which require that vehicle registrations be renewed annually. The only discretion vested in the Tax Commission in administering this provision is in waiving penalties for failure to register a vehicle which is "proven to have been inoperable during the registration period." Protestant has not alleged that either of his vehicles were inoperable during the registration period.

CONCLUSIONS

In view of the above and foregoing Findings of Fact and Conclusions of Law applicable thereto, the undersigned Administrative Law Judge concludes as follows:

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

(2) That the Oklahoma State Legislature has delegated to the Oklahoma Tax Commission the authority and responsibility of enforcing certain portions of the Oklahoma Statutes.

(3) That the Oklahoma Tax Commission is charged with enforcing 47 O.S.A. § 1112, et seq., requiring annual motor vehicle registration.

(4) That 47 O.S.A. § 1112 clearly requires the submission of insurance security verification before the vehicle registration can be issued.

(5) That the motor vehicle protest of PROTESTANT should be denied.

DISPOSITION

It is the ORDER of the OKLAHOMA TAX COMMISSION that the motor vehicle protest of PROTESTANT 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.