

JURISDICTION: OKLAHOMA TAX COMMISSION DECISION
CITE: 87-06-25-03 / NON-PRECEDENTIAL
ID: P-86-198
DATE: JUNE 25, 1987
DISPOSITION: DENIED
TAX TYPE: USE
APPEAL: NO APPEAL TAKEN

ORDER

Pursuant to Oklahoma Tax Commission Order No. 87-05-05-02, this matter comes on for hearing before the Oklahoma Tax Commission en banc on the 15th day of May, 1987, upon the Application for Oral Argument of PROTESTANT in response to the proposed Findings, Conclusions and Recommendations submitted by ALJ, Administrative Law Judge of the Oklahoma Tax Commission on January 23, 1987. PROTESTANT appeared by attorney, ATTORNEY and the Business Tax Division appeared by attorney, OTC ATTORNEY.

Oral arguments in support of the respective positions of the parties were made and the case was submitted for decision. After reviewing the facts and authority presented and hearing oral argument, the Commission finds as follows:

1. Title 68 Okla. Stat. § 1402 provides that:

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming with this state, tangible personal property purchased or brought into this state, an excise tax on the storage, use, or other consumption in this state of such property at the rate of three and one-fourth percent (3¼%) of the purchase price of such property. Said tax shall not be levied on tangible personal property intended solely for use in other states, but which is stored in Oklahoma pending shipment to such other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service. The tax in such instances shall be paid at the time of importation or storage of the property within the state and a subsequent credit shall be taken by the taxpayer for the amount so paid upon removal of the property from the state. Such tax is hereby levied and shall be paid in an amount equal to three and one-fourth percent (3¼%) of the purchase price of such tangible personal property.

2. PROTESTANT did, as provided in 68 Okla. Stat. § 1402, store tangible personal property in Oklahoma pending shipment to other states.

3. PROTESTANT did not comply with the provision in 68 Okla. Stat. § 1402 which requires that the tax shall be paid at the time of importation and storage of the property within Oklahoma and a subsequent credit shall be taken upon removal of said property from the State.

WHEREFORE, IT IS HEREBY ORDERED by the Oklahoma Tax Commission that the protest of PROTESTANT be upheld with respect to all tangible personal property stored in Oklahoma pending shipment to other states except that all penalty and interest attributable to PROTESTANT'S failure to comply with the provisions of 68 Okla. Stat. § 1402 regarding payment of tax is hereby due and owing.

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.