JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **98-02-12-012 / NOT PRECEDENTIAL**
ID: **P9600270**
DATE: **02-12-98**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE \ IRP**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On or about January 29, 1996, Claimant submitted an IRP renewal application for an apportioned registration with the State of Oklahoma for a 1993 Peterbilt Truck-tractor, VIN No. 9999

2. The signed application, verified by Claimant, reported Claimant as the owner/operator and registrant for the vehicle.

3. The vehicle was leased to AN ANONYMOUS COMPANY OUT OF STATE.

4. Claimant submitted registration fees to the State of Oklahoma in the amount of $1,434.63 for the apportioned registration. The fees were disbursed to forty-six states in accordance with the proration schedule submitted by the Claimant.

5. The State of Oklahoma's portion of the submitted registration fees was $122.00.

6. In March, 1996, Claimant suffered health problems which prevented him from operating the vehicle in question. Claimant subsequently sold the vehicle on March 29, 1996.

7. On or about March 30, 1996, Claimant filed a claim with the State of Oklahoma requesting a refund of three quarters of the registration fees previously paid or $1,075.97.

8. By letter dated April 5, 1996, the Division denied the claim for refund. The basis for the denial as stated in the letter was, "The registration fee for which you requested a refund was for the time period during which your vehicle was sold. There is no statutory provision for a refund of that fee. Oklahoma law makes no provision for the Oklahoma Tax Commission to refund unused portions of the annual registration fee."

9. By letter dated May 1, 1996, Claimant protested the denial of the claim for refund and requested a hearing.

ISSUE AND CONTENTIONS

The issue presented for decision is whether the registration fees are subject to refund.

Claimant contends that the denial of the claim for refund of the balance of the registration fees for the registration year is incorrect.

The Division asserts that the denial of the claim for refund should be sustained. In support of this contention, the Division argues that the statutory provisions of the State of Oklahoma specifically preclude the refund of any proportional registration fees.

CONCLUSIONS OF LAW

1. Jurisdiction over the parties and subject matter of this proceeding is vested in the Tax Commission. 68 O.S. 1991, § 207.

2. Oklahoma is a signatory state to the International Registration Plan ("IRP"). See, 47 O.S. 1991, § 1120.

3. The IRP provides for the registration and license taxes of any truck, bus, or truck-tractor engaged in interstate commerce or combined interstate and intrastate commerce to be proportionally based on the use of Oklahoma highways. 47 O.S. 1991, § 1120(A).

4. Section 700 of Article VII of the IRP provides:

> If a vehicle is withdrawn from an apportioned fleet during the period for which it is registered, the registrant of such fleet shall notify the Commissioner on appropriate forms provided by the Commissioner. The Commissioner shall require the registrant to surrender the cab card and identification plates to the base jurisdiction with respect to any such vehicle. If a vehicle is permanently withdrawn from an apportioned fleet because it has been destroyed, sold or otherwise completely removed from the service of the registrant, the unused portion of the fees paid with respect to such vehicle, <u>where permitted by statute</u>, shall be refunded by each jurisdiction or be applied against liability of such registrant for subsequent additions to such fleet during such registration year or for additional fees upon audit. (Emphasis Added.)

5. "Fleet" is defined by the IRP as "one or more apportioned vehicles."

6. The Oklahoma Vehicle License and Registration Act, 47 O.S. 1991, § 1101 et seq., precludes the refund of proportional registration fees. 47 O.S. 1991, § 1120(F). Section 1120(F) provides:

> If a vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold or otherwise completely removed from service, credit shall be allowed. Such credit shall be a sum equal to the amount paid with respect to such vehicle when it was first proportionally registered in the registration year, reduced by one-fourth (1/4) for each calendar quarter or fraction thereof elapsing since the beginning of the registration year. The credit may be applied against subsequent additions to the fleet to be prorated or for other additional registration fees assessed. In no event shall credit be allowed for fees beyond such registration year, nor shall any such amount be subject to refund. Provided, further, that vehicles removed from a prorated fleet or sold to a nonprorated fleet for operation in Oklahoma shall be registered in Oklahoma for the remaining portion of the year. (Emphasis Added.)

7. Here, Claimant registered his fleet vehicle with the State of Oklahoma in 1996 under the IRP declaring Oklahoma as the base state. The provisions of the Oklahoma Vehicle License and Registration Act precludes the refund of Oklahoma's portion of the apportioned registration fees. 47 O.S. 1991, § 1120(F).

8. Claimant's protest to the Division's denial of the claim for refund of Oklahoma's portion of the proportional registration and license fees should be denied.

DISPOSITION

Based on the above and foregoing findings of fact and conclusions of law, it is DETERMINED that the protest to the denial of 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 not 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.