JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **98-11-19-008 / NOT PRECEDENTIAL**
ID: **MV9600006**
DATE: **11-19-98**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE**
APPEAL: **NO APPEAL TAKEN**

FINDING OF FACT AND CONCLUSIONS OF LAW

A. The parties stipulate to the following:

1. [Protestant], is AN OUT OF STATE corporation, domesticated in the State of Oklahoma, with its principal place of business OUT OF STATE.

2. That the Commission issues certain Temporary Permit Authorization Forms enabling vehicles to be proportionally registered in this state under the provisions of the International Registration Plan.

3. That this action is governed by the laws of the State of Oklahoma, 47 OS 1124.1.

4. That on or about July 8, 1996, the Commission issued to Protestant, one hundred fifty (150) Temporary Authorization Forms, consecutively. That the above Forms were received by Protestant and the receiving of said documents is not in question.

5. That on or about September 29, 1996, a total of twelve (12) of the Temporary Authorization Forms, were either thrown away or accidentally knocked in a waste can and thrown away. The loss was reported to the Commission by telephone on September 20, 1996, and by letter dated September 23, 1996.

6. Protestant is unable to produce the above said twelve Temporary Authorization Forms.

7. On or about October 14, 1996, the Commission notified Protestant of a penalty in the sum of Two Thousand One Hundred Sixty Dollars ($2,160.00) for the loss of the above-stated permits. On or about November 13, 1996, the Commission gave a second notice to Protestant for payment of $2,160.00 for the loss of said twelve (12) permits.

8. Protestant filed a proper protest of this cause by letter dated November 15, 1996.

ISSUE AND CONTENTIONS

The issue presented for decision is whether Protestant is liable for the penalty assessment under 47 O.S. 1991, § 1124.1.

Protestant contends that it should not be held liable for the penalty assessment. In support of this contention, Protestant argues that the temporary permit authorizations were not misused, but were accidentally lost.

The Division contends that the penalty assessment should be sustained. In support of this contention, the Division argues that the statute provides for zero tolerance and since Protestant can not produce the twelve (12) temporary permits, Protestant is liable for the penalty assessment.

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. See, 47 O.S. 1991, § 1149.

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. The Commission is authorized to issue temporary permits or authorization for any vehicle to be proportionally registered in this state under the IRP and may assign said temporary permits or authorization to the owners or operators who may issue the temporary permits or authorization as needed for the operation of vehicles that will be added to a fleet of proportionally registered vehicles. 47 O.S. 1991, § 1124.1. Owners or operators are accountable for all temporary permits or authorization assigned to them and are subject to audit by the Commission. Any owner or operator that is unable to produce, upon request of the Commission, <u>any</u> unissued temporary permit or authorization assigned them <u>shall</u> be subject to a fee of One Hundred Eighty Dollars ($180.00). Id. (Emphasis added).

5. The provisions of a statute must be applied where the language of the statute is plain and unambiguous and the meaning is clear and unmistakable. ***Matter of Estate Tax Protest of Leake Estate***, 891 P.2d 1299 (Okl.App. 1994).

6. Here, Protestant failed to produce, upon request of the Commission, twelve (12) unissued temporary permits assigned to it by the Commission. The reason for the failure is immaterial under the statute. Accordingly, Protestant is liable for the penalty fee of $180.00 for each permit it is unable to produce.

7. Protestant's protest should be denied.

DISPOSITION

Based on the above and foregoing findings of fact and conclusions of law, it WAS DETERMINED that the protest of PROTESTANT SERVICES INC., 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.