JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2000-04-04-003 / NOT PRECEDENTIAL**
ID: **P9900276**
DATE: **04-04-00**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE REGISTRATION / TITLE**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the file and records, including the letter of protest and the Division's ***Verified Response to Protest***, the undersigned finds:

1. That on June 1, 1999, Protestant registered a 1999 Pontiac Firebird as a commercial vehicle. On the accompanying ***Affidavit of Commercial Use For Vehicles***, AN ANONYMOUS Wrecker Service, Federal Identification Number (FEI) XXX, was listed as the commercial establishment for which primary use of the vehicle was reported.

2. That by letter dated July 16, 1999, the Division advised Protestant that the FEI submitted to justify the commercial registration did not reflect the vehicle being utilized primarily in a commercial capacity. The Division requested that Protestant provide additional documentation to justify the commercial registration or reregister the vehicle at the noncommercial rate.

3. That Protestant responded by mailing the Division's letter back with comments, but did not send additional information.

4. That by letter dated August 10, 1999, the Division advised Protestant that it had determined that the information provided did not support primary commercial use and requested Protestant reregister the vehicle at the noncommercial rate.

5. That Protestant filed a timely protest to the Division's notification and requested a hearing concerning the reregistration of the vehicle and the commercial tag purchased for it.

WHEREFORE, premises considered, the undersigned concludes as a matter of law:

1. That the Tax Commission is vested with jurisdiction over the parties and the subject matter of this action, 68 O.S. 1991, § 207.

2. That a "commercial vehicle" is defined as "any vehicle over eight thousand (8,000) pounds combined laden weight used primarily for business or commercial purposes. 47 O.S. Supp. 1998, § 1102(7).

3. That "[a]ny vehicle, including a station wagon . . ., which has a combined laden weight of eight thousand (8,000) pounds or less and is used primarily for business or commercial purposes may be registered, . . ., as a commercial vehicle". 47 O.S. Supp. 1996, § 1133.1(A).

4. That to register a vehicle as a commercial vehicle pursuant to Section 1133.1, the person shall sign an affidavit attesting to the fact that the person conducts a business or commercial enterprise or is employed by a person conducting a business or commercial enterprise that uses said vehicle primarily for the use of that business or commercial enterprise, shall present a sales tax permit, Federal Employers Identification Number or a copy of Schedule C to their federal income tax return and shall have the words "Commercial Vehicle" permanently and prominently displayed on the vehicle. 47 O.S. Supp. 1996, § 1133.1(B), (C) and (D).

5. Automobiles are noncommercial vehicles required to be registered based on a combination of the original factory delivered price and number of years registered. Rule 710:60-3-70(1) of the *Oklahoma Administrative Code*. "Automobiles" are defined to include "automobiles, noncommercial trucks and vans and nonagricultural trucks. Id.

6. That Protestant has wholly failed to come forward with any information to show she is entitled to the relief requested. ***OAC***, Rule 710:1-5-47.

THEREFORE, based on the above and foregoing findings and conclusions, it WAS DETERMINED that the protest of Protestant, be denied. It WAS further DETERMINED that Protestant be required to reregister the vehicle in question at the noncommercial rates, with any applicable fees due and owing.

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.