

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2000-04-11-021 / NOT PRECEDENTIAL
ID: P9900223
DATE: 04-11-00
DISPOSITION: DENIED
TAX TYPE: MOTOR VEHICLE EXCISE / REGISTRATION
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. By letter dated June 25, 1999, the Motor Vehicle Division assessed MR. PROTESTANT AND MS. PROTESTANT excise tax, registration fees and applicable penalties on their 1997 Dodge as follows:

1998 Registration Fees	\$ 282.00
1998 Registration Fee Penalty	25.00
1999 Registration Fees	256.00
1999 Registration Fee Penalty	25.00
2000 Registration Fees	232.00
2000 Registration Fee Penalty	25.00
Excise Tax	683.00
Excise Tax Penalty (as of 6/25/99)	<u>201.50</u>
Total	\$1,729.50

2. The assessment was based on information that in 1997, Protestants, although residents of Oklahoma, titled and registered the vehicle at issue in AN ANONYMOUS STATE.

3. A timely protest to the Division's proposed assessment was filed by letter dated July 19, 1999. The protest letter reflected an address IN ANYTOWN, Oklahoma. In said letter, Protestant requested a waiver of all penalties and the 1998 registration fee.

4. Protestant submitted documentation to the Division in support of the contention that the 1997 Dodge should be registered as a commercial vehicle for years 1998 and 1999. The Division agreed and adjusted the assessment reducing the amount assessed as follows:

1998 Registration Fees	\$ 100.00
1998 Registration Fee Penalty	25.00
1999 Registration Fees	100.00
1999 Registration Fee Penalty	25.00
Excise Tax	683.00
Excise Tax Penalty (as of 6/25/99)	<u>201.50</u>
Total	\$1,134.50

5. At the hearing, MR. PROTESTANT admitted that he owed some of the taxes assessed and had attempted to negotiate with the Division an amount he could afford but was unsuccessful. MR. PROTESTANT explained that in November of 1996, he suffered a mild heart attack. He and his wife decided that they needed to lower their "economic level" because they were planning to retire. MR. AND MS. PROTESTANT concluded they could not afford to retire in Oklahoma and after some investigation decided to move to AN ANONYMOUS STATE. During this period, MR. AND MS. PROTESTANT purchased a truck. Due to certain family and business considerations MR. AND MS. PROTESTANT were unable to relocate to AN ANONYMOUS STATE. According to MR. PROTESTANT, he could have declared residency in AN ANONYMOUS STATE and moved out there but he had too much to settle in Oklahoma.

6. MR. AND MS. PROTESTANT filed Oklahoma State Income Tax returns for 1997 and 1998.

7. The Division, to determine the manufacturer's total delivered price of a 1997 Dodge Ram Club Cab Pickup Model No. 15325, referred to a guide commonly known as the "Red Book", which showed that the Suggested Factory Sticker Retail Price of the vehicle in question was \$20,980.00.

ISSUES AND CONTENTIONS

Whether the assessment of motor vehicle excise tax and registration fees on the vehicle in question is erroneous.

Protestants contend that the amount assessed is excessive; that they should only be required to pay a one year registration fee, no penalties and that the excise tax should be calculated on the amount paid for the vehicle.

The Division contends that Protestants purchased the vehicle in question while residents of Oklahoma, used the vehicle on Oklahoma roads, but titled and registered the vehicle in AN ANONYMOUS STATE. Therefore, Protestants should be required to pay commercial registration for the years 1998 and 1999 and applicable penalties. Additionally, Division contends that Protestants were properly assessed excise tax in an amount based on the manufacturer's price delivered at the factory plus the value of extra or optional equipment attached to the vehicle.

CONCLUSIONS OF LAW

1. The Oklahoma Tax Commission has jurisdiction of this protest. 68 O.S. § 207.
2. Motor vehicle excise tax is levied and shall be collected upon the transfer of legal ownership of any vehicle registered in this state and upon the use of any vehicle registered in this state and upon the use of any vehicles registered for the first time in this state; 68 O.S. Supp. 1997, § 2103(A)(1). The tax is due at the time or transfer of legal ownership or first registration and shall be collected at the time of the issuance of a certificate of title. 68 O.S. Supp. 1997, § 2103(A)(2). The value of any new vehicle manufactured in the United States shall be determined as of the date of sale or other transfer or ownership, and assignment of the certificate of title shall include the manufacturer's price of such a vehicle delivered at the factory plus the value of all extra or optional equipment or accessories minus any portion of the value of such optional equipment deducted by the dealer at the time of the sale if such optional equipment and accessories are sold by the dealer as a discount package. 68 O.S. Supp. 1992, § 2104(B).
3. A penalty for failure to remit the excise tax in a timely manner accrues in the amount of \$.25 per day until the excise tax is paid or until the penalty equals the tax.
4. 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. 47 O.S. 1991, § 1112.
5. A penalty of \$.25 a day, not to exceed \$25.00, is imposed for delinquent registration. 47 O.S. § 1115(C)(4).
6. Any vehicle 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. 1994, § 1133.1(A).
7. The burden of proof in all proceedings is on Protestants to show in what respect the action or proposed action of the Commission is incorrect. *Oklahoma Administrative Code* 710:1-5-47. Protestant have wholly failed to provide any evidence that the registration fees and penalties for 1998 and 1999 are not due and owing or that the utilization by the Division of the "Red Book" to determine manufacturer's total factory delivered price of a 1997 Dodge Ram Club Cab Pickup to assess the excise tax was erroneous.
8. Protestants' protest to the proposed assessment should be denied.
9. Protestants' request for a waiver of penalty and the Division's recommendation should be reserved for ruling by the Tax Commission.

DISPOSITION

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