JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2000-09-19-038 / NOT PRECEDENTIAL**
ID: **CR000014**
DATE: **09-19-00**
DISPOSITION: **SUSTAINED**
TAX TYPE: **MOTOR VEHICLE / INCOME**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Protestants are residents of Oklahoma.

2. In 1997, Protestants moved OUT OF STATE.

3. After moving OUT OF STATE, Protestants received a notice of renewal of registration on their 1992 Toyota Camry from the Tax Commission.

4. On or about March 23, 1997, Protestants remitted the full amount of the 1997 registration fees of $128.50 by check to the Tax Commission.

5. Thereafter, Protestants discovered that because of MS. PROTESTANT'S job and insurance, Protestants were required to tag and title the vehicle OUT OF STATE.

6. On or about May 20, 1997, Protestants tagged and titled the vehicle OUT OF STATE.

7. At or during this same time period, Protestants contacted the Tax Commission to explain the situation and to request that the registration renewal be intercepted and that it be kept from being processed.

8. Protestants were advised by a representative of the Division that they should contact their bank and stop payment on the check because the Division could not keep the registration renewal and check from being processed.

9. On or about June 18, 1997, Protestants received notice from the Tax Commission of an insufficient check.

10. Protestants again contacted the Division, explained the situation and faxed a copy of their OUT OF STATE title to the vehicle as instructed.

11. Protestants were advised that if there were any problems a representative of the Division would contact them.

12. Protestants did not receive any further notice from the Tax Commission until April 14, 2000, when they were notified that a claim in the amount of $158.20 had been filed against their 1999 income tax refund by the Division.

13. The notice indicated that the balance is the result of an insufficient check written to the Tax Commission for motor vehicle taxes on March 23, 1997.

14. By letter dated April 24, 2000, Protestants protested the warrant intercept of their 1999 income tax refund.

15. By letter dated May 22, 2000, the Division notified Protestants of the denial of their refund request. The basis of the denial, as set forth in the letter, is:

> The registration fee for which you have requested a refund was for the time period during which your vehicle was titled OUT OF STATE. There is no statutory provision for a refund of that fee. The tag renewal was due March, 1997. The renewal was paid April 29, 1997. The vehicle was titled OUT OF STATE May 20, 1997. There is no prorated refund provided under Oklahoma statutes.

16. Protestants timely protested this denial and demanded a hearing before the Tax Commission.

ISSUE

The issue presented for decision is whether the registration fees claimed by the Division are properly due and owing by Protestants.

CONCLUSIONS OF LAW

1. Jurisdiction over the parties and subject matter of this proceeding is vested in the Tax Commission. 68 O.S. Supp. 1997, § 205.2(B).

2. The Tax Commission is authorized to deduct from any state tax refund due to a taxpayer the amount of delinquent state tax, and penalty and interest thereon, which such taxpayer owes pursuant to any state tax law prior to payment of the refund. 68 O.S. Supp. 1997, § 205.2(E).

3. Where a taxpayer protests the application of the refund to a delinquency the issues to be decided are whether the claimed sum is correct and whether an adjustment to the claim shall be made. 68 O.S. Supp. 1997, § 205.2(B).

4. The incidence of the motor vehicle registration and license fees is upon the use of the vehicle within this state. 47 O.S. 1991, § 1103. See, 47 O.S. 1991, §§ 1112 and 1132.

5. Here, Protestants had moved OUT OF STATE prior to the annual registration renewal date for the vehicle. The owner of the vehicle had gained employment OUT OF STATE and subsequently tagged and titled the vehicle OUT OF STATE. Based on the facts and circumstances of this cause, the undersigned finds that the 1997 motor vehicle registration and license fees were not due and owing. See, 47 O.S. 1991, § 1125(A).

6. Protestants' protest to the Division's claim and warrant intercept of their 1999 income tax refund should be sustained.

DISPOSITION

Based on the above and foregoing findings of fact and conclusions of law, it WAS DETERMINED that the protest of Protestants, MR. AND MS. PROTESTANT, be sustained.

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.