JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2000-09-26-016 / NOT PRECEDENTIAL**
ID: **P9900303**
DATE: **09-26-00**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE REGISTRATION**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Revocable Trust PROTESTANT registered a 1981 Mack Truck, ANONYMOUS VIN No. based on a declared laden weight of 84,000 pounds, under the commercial vehicle semiannual installment registration plan, provided for in Section 1133(H) of Title 47 of the Oklahoma Statutes. The first half of the license fee was paid on January 29, 1999.

2. On July 1, 1999, Protestant paid the second half of the license fee in the aggregate amount of $510.75, consisting of $505.00 license fee, $4.25 penalty, and $1.50 insurance fee.

3. By letter dated July 21, 1999, Protestant requested a refund of $511.50 for license, penalty and insurance fee on the Mack truck paid on July 1, 1999. The reason given was that the truck had been sold as salvage on April 20, 1999.

4. The Motor Vehicle Division sent a letter dated September 27, 1999, denying the refund for the reason that "half year tags allow payment be divided in two payments. The second installment is due even if the vehicle is stolen, wrecked, sold, etc. Therefore, the fee is not refundable."

5. By letter received October 26, 1999, Protestant filed a protest to the denial and requested a hearing in the matter.

6. AN Administrative Manager, Motor Vehicle Division, testified that weight, for purpose of calculation of applicable license fees, is determined at the time of registration and that there is no procedure in which to refund a portion of the license fee if the weight changed during the registration year. THE ADMINISTRATIVE MANAGER explained that although weight can be added at any time during the commercial registration period it cannot be decreased.

7. Subsequent to the hearing, Protestant submitted a letter from COMPANY ONE which stated that it purchased the Mack truck on April 20, 1999, from COMPANY TWO as a salvage vehicle.

ISSUE AND CONTENTIONS

The issue presented for decision is whether the Division properly denied the claim for refund of the commercial license fees.

Protestant contends that for the vehicle at issue the minimum registration rate of $95.00 was due and therefore any overcharge should be refunded as a matter of fairness. Further, Protestant contends that a half-year tag was purchased in July, 1999, but that since the vehicle was sold as salvage on April 20, 1999, that amount should be refunded.

The Division contends that the vehicle was registered as a commercial vehicle in January, 1999, for the entire year. However, Protestant opted to make semiannual payments, as allowed by statute. The second installment was then due on or before the first day of July of that year, whether the vehicle had been sold or disposed of in any manner. Thus, the payment is not refundable.

CONCLUSIONS OF LAW

1. The Oklahoma Tax Commission has jurisdiction of this protest. 68 O.S. 1991, § 207.

2. An annual license fee is required to be paid upon the registration of each commercial vehicle. 47 O.S. 1991, § 1133(A). The license fee shall be computed and assessed based on the combined laden weight of the vehicle or combination of vehicles. *Id*.

3. If the total amount of the annual license fee due exceeds $1,000.00, the license fees may be paid in equal semiannual installments. However, paying the license fee in semiannual installments does not reduce the amount of the fees due. If a vehicle is sold, wrecked, or otherwise retired from service, the unpaid balance shall be immediately due and payable. 47 O.S. Supp. 1997, § 1133(H).

4. A refund of the license fee may not be obtained for a reduction of the weight classification for a commercial vehicle unless an error was made by the motor license agent. *Oklahoma Administrative Code* 710:60-9-95(5)(c).

5. The burden of proof in all proceedings, unless otherwise provided by law, is on the taxpayer to show in what respect the action or proposed action of the Tax Commission is incorrect. *Oklahoma Administrative Code* 710:1-5-47. Protestant registered the commercial vehicle, as required, and paid the fee in equal semiannual installments as provided by statute. Utilization of the installment plan for payment does not reduce the amount of the license fees due. In the instance wherein a vehicle is sold, the remaining amount due on the yearly license fee immediately becomes due and owing.

6. The Division properly denied Protestant's claim for refund.

DISPOSITION

It WAS the DETERMINED, based upon the specific facts and circumstances of this case, that the protest of the PROTESTANT Revocable Trust to the denial of the claim for refund 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.