JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2000-12-12-018 / NOT PRECEDENTIAL**
ID: **P0000157**
DATE: **12-12-00**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE REGISTRATION / TITLE**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Protestant applied to title and register her 1990 Chevrolet, VIN #XXXXXXXXXXXXXXXXX in the ANOTHER STATE.

2. By letter dated July 7, 2000, Protestant was notified of a proposed assessment for registration fees for 1999 and 2000, excise tax and penalties in the following amounts:

1999 Registration Fees	$ 98.00
1999 Registration Fee Penalty	25.00
2000 Registration Fees	90.00
2000 Registration Fee Penalty	25.00
Excise Tax	131.00
Excise Tax Penalty (thru 7-7-00)	131.00
TOTAL DUE	$500.00

3. A timely letter of protest was filed.

ISSUE AND CONTENTIONS

Whether Protestant sustained her burden of proof showing in what respect the action or proposed action of the Tax Commission is incorrect.

Protestant contends that she is not a permanent resident of Oklahoma. The Division contends that Protestant is a resident of Oklahoma, operates the vehicle in Oklahoma, and thus is required to register the vehicle in this state.

CONCLUSIONS OF LAW

1. The Oklahoma Tax Commission has jurisdiction of this protest. 68 O.S. 1991, § 221.

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 of 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).

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. *Id*.

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. In addition to the fees required by Sections 1132(A)(1), 1132.1(A) and 1140(E) of Title 47, the owner of a vehicle, upon initial registration of the vehicle, is assessed a fee of one and one-quarter percent (1¼%) of the factory delivered price. The fee is assessed at ninety percent (90%) of the first year's fee in the second year, and each year thereafter it is assessed at ninety percent (90%) of the previous year's fee, through the twelfth year. 47 O.S. Supp. 1995, § 1132(A)(2).

6. A penalty of $.25 a day, not to exceed $25.00, is imposed for delinquent registration. 47 O.S. Supp. 1997, § 1115(C)(4).

7. 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 filed Oklahoma State income Tax Returns, Form 511, for tax years 1996, 1997, 1998 and 1999. The returns and Protestant's Wage and Tax Statements for those years reflect Oklahoma addresses. Protestant has failed to meet her burden of proving that she was not required to register the subject vehicle for 1999 and 2000 in Oklahoma and be subject to the appropriate excise tax and registration fees.

8. The protest should be denied.

DISPOSITION

It WAS the DETERMINATION of the undersigned, based upon the specific facts and circumstances of this case, that the motor vehicle registration and excise tax protest of PROTESTANT 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.