JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2001-01-30-003 / NOT PRECEDENTIAL**
ID: **P9800035**
DATE: **01-30-01**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE / REGISTRATION**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On June 4, 1997, the driver of Protestant's 1984 Peterbuilt truck was issued a citation for failing to register the vehicle commercially. At the time of the citation the truck was registered as a farm vehicle. A penalty of $100.00 was assessed.

On June 27, 1997, Protestant wrote a letter to the Motor Vehicle Division protesting the citation.

The undersigned forwarded by certified mail to Protestant, a notice of hearing scheduled for June 24, 1998. Protestant appeared at the hearing and testified that he has a mill at his farm where he produces shavings from green logs. The shavings are mixed with kiln-dried sawdust purchased from LUMBER COMPANY to prevent the growth of mold.

Protestant stated that the Peterbuilt truck is used to haul the kiln-dried sawdust from LUMBER COMPANY to his farm. A backhoe is utilized to mix the green log shavings with the sawdust. Protestant said that the final product is sold to 4-H groups, feed stores and individuals. Protestant stated that he uses a pickup and trailer to deliver the product but also stated that the Peterbuilt is used to deliver the product to customers.

CONCLUSIONS OF LAW

Section 1134 imposes a license fee of $30.00 upon each pickup, truck or truck tractor owned and operated by one or more farmers and used primarily for farm use, and not for commercial or industrial purposes. Specific conditions must be met for Protestant's truck to be properly registered under Section 1134. Initially, the truck must be owned and operated by a farmer and must be used primarily for farm use and not for commercial or industrial purposes.

Farmer is not defined in the Motor Vehicle Code. However, *Oklahoma Administrative Code* 710:65-13-15, which was promulgated to implement the provisions of the sales tax exemption at Section 1358 of Title 68, defines farmers as "persons engaged in agricultural production or production of agricultural products." With certain exceptions[1], which are inapplicable herein, the terms agricultural production and production of agricultural products, as used in the Sales Tax Code, "refer to the raising of food crops or livestock for sale". *Oklahoma Administrative Code* 710:65-13-15.

Protestant stated that he did possess an agricultural exemption permit which allows him to purchase items used in agricultural production exempt from sales tax. However, Protestant is not entitled to the sales tax exemption for the processing of wood shavings for sale to customers, as such would not fall within agricultural production. Consequently, the undersigned is of the opinion that Protestant's use of the Peterbuilt to deliver the wood shavings to his customers is a commercial purpose and does not constitute farm use.

Therefore, Protestant was properly cited for failure to register his Peterbuilt commercially.

DISPOSITION

It is the DETERMINATION of the OKLAHOMA TAX COMMISSION, based upon the specific facts and circumstances of this case, that the motor vehicle 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.

[1] Agricultural production and production of agricultural products have been defined to also encompass dairies, feedlot operations and the planting, growing, cultivation and harvesting of sod and plants, flowers, shrubs and trees by commercial sod growers and the wholesale divisions of a nursery operation, respectively. 68 O.S. § 1352.1.