

**JURISDICTION:** OKLAHOMA TAX COMMISSION - DECISION  
**CITE:** 2001-02-13-005 / NOT PRECEDENTIAL  
**ID:** P0000242  
**DATE:** 02-13-01  
**DISPOSITION:** DISMISSED  
**TAX TYPE:** MOTOR VEHICLE EXCISE  
**APPEAL:** NO APPEAL TAKEN

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 10<sup>th</sup> day of January, 2001, the ***Motion to Dismiss*** filed by the Motor Vehicle Division (hereinafter "Division") of the Tax Commission in the above styled and numbered cause comes on for consideration. Upon review of the file and records, including the record of the proceedings held on December 28, 2000, to consider the ***Motion to Dismiss***, the undersigned finds:

1. That by letter dated July 20, 2000, the Division caused to be issued against RESPONDENT (hereinafter "Respondent") a proposed assessment of motor vehicle excise tax in the amount of \$1,633.00.

2. That the assessment is based on the Division's determination that the licensed dealer excise tax exemption granted to Respondent did not apply to nineteen (19) vehicles which had been registered by Respondent as farm or commercial trucks.

3. That the proposed assessment was forwarded to Respondent at its last known address in accordance with 68 O.S. Supp. 1993, § 208.

4. That Respondent neither asked for nor received an extension of time within which to file a written protest.

5. That by letter to the Oklahoma Tax Commission dated November 13, 2000, Respondent transmitted a check in the amount of \$1,001.00 for the excise tax assessed on all but one (1) of the vehicles and requested an administrative hearing concerning said vehicle.

6. Upon receipt of the letter from Respondent, the Division forwarded the file to the Office of the Administrative Law Judges for further proceedings.

7. That the total amount in controversy in this proceeding is \$632.00.

8. That on December 7, 2000, the Division caused to be filed the ***Motion to Dismiss***.

9. That dismissal of the protest is requested on the grounds and for the reason that a protest to the proposed assessment was not timely filed.

10. That a ***Notice to Appear or Respond in Writing*** was served on Respondent.

11. That Respondent neither responded to the ***Notice*** nor appeared at the hearing.

### CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes that the Tax Commission is vested with jurisdiction to consider the Motion to Dismiss, 68 O.S. 1991, § 207 and Rule 710:1-5-46 of the ***Oklahoma Administrative Code***; that Respondent did not file a timely protest to the proposed motor vehicle excise tax assessment; and that the proposed assessment is final and absolute and the Tax Commission is without jurisdiction to consider the merits of the protest, 68 O.S. 1991, § 221(e).

### DISPOSITION

THEREFORE, it is DETERMINED that the protest of Respondent, be dismissed. It is further DETERMINED that the amount in controversy, inclusive of any additional accrued and accruing interest, be fixed as the deficiency due and owing.

### 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.