JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2001-11-20-006 / NOT PRECEDENTIAL**
ID: **MV010005**
DATE: **11-20-01**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE REGISTRATION / IRP**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 17th day of October, 2001, the above styled and numbered cause comes on for consideration pursuant to assignment regularly made by the Oklahoma Tax Commission to AN Administrative Law Judge. A prehearing conference was scheduled in this matter and notice was sent to Protestant at its last known address. No representative for Protestant appeared for the prehearing conference, scheduled for June 13, 2001. Thereafter, notice was served upon the parties that this cause would be closed and the matter submitted for decision upon the filing of a verified response to the protest by the Motor Vehicle Division (hereinafter "Division"). Protestant did not file a response to this notice. Accordingly, this matter was submitted for an examination into the merits of the protest pursuant to 68 O.S. § 221(D).

Upon review of the file and records in this matter, including the protest filed by MS. ANONYMOUS on behalf of Protestant and the verified response to the protest filed by the Division, the undersigned Administrative Law Judge makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Protestant is a proper registrant under the IRP based in the jurisdiction of the State of Oklahoma.

2. The Division conducted an audit on all available records of Protestant for license year 2000, with the audit period covering the 3rd quarter, 1998, through 2nd quarter, 1999. The audit revealed that the mileage reported by Protestant on its 2000 application was not supported by Protestant's records. Protestant reported miles as actual miles in states where the audit revealed that no miles were driven. The reported miles were considered as second year estimated miles and are not subject to refund.

3. By letter dated April 4, 2001, the Division issued an assessment against Protestant for the 2000 registration year in the amount of $26,173.69.

4. By letter dated April 19, 2001, and received by the Division on April 26, 2001, Protestant filed a timely protest.

CONCLUSIONS OF LAW

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

2. Oklahoma is a signatory state to the International Registration Plan ("IRP"). See, 47 O.S. § 1120.

3. Under the IRP, motor vehicle registration and license taxes may be permitted on a proportional basis commensurate with the use of Oklahoma highways on any truck, bus or truck-tractor or any vehicles engaged in interstate commerce or combined interstate and intrastate commerce. 47 O.S. § 1120(A).

4. Protestant is subject to audit by Oklahoma as its base jurisdiction. Article XVI, Section 1600 of the IRP.

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.

6. Protestant has produced no evidence, cited no authority and raised no specific objections in the protest filed herein.

7. The protest should be denied.

DISPOSITION

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