

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2003-04-29-05 / NOT PRECEDENTIAL
ID: MV020030
DATE: 04-28-03
DISPOSITION: DENIED
TAX TYPE: MOTOR VEHICLE / IRP
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the file and records, including the record of the proceedings held on January 28, 2003, and the exhibits received into evidence, the undersigned finds:

1. That in accordance with the provisions of the International Registration Plan ("IRP") and 47 O.S. 2001, § 1120, Registrant was licensed and registered on a proportional basis with the State of Oklahoma during the 2001 registration year.

2. That the Division performed an audit of Registrant's trip reports per vehicle and quarterly mileage summary statements for the 2001 registration year. These records were compared with the minimum mileage required to travel from the trip origins to the trip destinations as documented on the trip sheets. Based on this comparison, it was determined that trip mileage was under reported and/or over reported. As a result of the audit determinations, mileage adjustment factors were applied, on a relative basis, to all applicable IRP jurisdictions.

3. That on November 27, 2001, the Division issued a proposed assessment of additional proportional registration fees against Registrant for the 2001 registration year in the amount of \$18,742.36.

4. That by and through a representative, Registrant timely filed a protest to the proposed assessment, contesting the audit and requesting the Tax Commission explain how they reached the assessment amount.

5. That by letter dated September 18, 2002, the Division by and through the Office of the General Counsel, responded to Registrant's request, advising of the under and/or over reporting on certain jurisdictions.

6. That pursuant to the hearing held on January 28, 2003, the Division re-audited the 2001 registration year, which resulted in an amount due of \$15,874.43. That by letter dated February 5, 2003, the Division notified Registrant of the re-audit findings.

7. That Registrant did not respond to the re-audit notification.

8. That the amount in controversy is \$15,874.43.

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law that the Tax Commission is vested with jurisdiction over the parties and subject matter of this action, 68 O.S. 1991, § 221(D), Rule 710:1-5-46 of the **Oklahoma Administrative Code** ("OAC") and Article XVI, § 1608 of the International Registration Plan ("*IRP*"); that as a registrant under the provisions of the IRP, Registrant is subject to the audit procedures and policies set forth therein, *IRP*, Appendix F, Art. XVI, incorporated by reference, OAC, 710:60-4-20(b)(1); that the audit of a registrant under the IRP shall be conducted by its/his base jurisdiction, *IRP*, Article XVI, Section 1600; that the mileage percentages factor of a registrant may be recalculated as a result of an audit of the registrant's apportioned registration file, *IRP*, Policies and Procedures Manual, Sec. 5030(4), incorporated by reference, OAC, 710:60-4-20(b)(3); that an assessment is presumed correct and the taxpayer bears the burden of showing that it is incorrect, and in what respect, OAC 710:1-5-47; See, **Enterprise Management Consultants, Inc. v. Oklahoma Tax Commission**, 768 P.2d 359 (Okl. 1988); and that Registrant has failed to come forward with any evidence to show the assessment is erroneous in any respect, accordingly Registrant's protest to the assessment is denied.

DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it is DETERMINED that the protest of Registrant be denied. It is further DETERMINED that the amount in controversy 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.