JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2003-06-19-09 / NOT PRECEDENTIAL**
ID: **MV020032**
DATE: **06-19-03**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE / IRP**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A prehearing conference was held in this matter on November 25, 2002. Pursuant to the prehearing conference, the parties were directed to file a status report on or before January 27, 2003.

By memorandum dated January 28, 2003, the Division advised that the assessments in this matter were based on 100% Arizona fees due to Registrant's failure to provide records. He further advised that it had been decided that the State of Arizona would contact Registrant and obtain the records to perform an audit in Arizona. The Division requested 60 days to complete the audit. Pursuant to the Division's request, the parties were directed to file an additional status report on or before April 1, 2003.

By memorandum dated April 1, 2003, the Division advised that the audit performed by the State of Arizona resulted in revised assessments which were mailed to Registrant on March 7, 2003. The Division further advised that Respondent had failed to respond to the revisions and requested that the matter be set for hearing. Pursuant to the Division's request, a *Notice of Hearing* was issued, scheduling the matter for hearing. The hearing in this cause was held on May 1, 2003, at the hour of 9:30 a.m., at which hearing Registrant failed to appear.

Upon review of the file and records, including the record of the proceedings held on May 1, 2003, and the exhibits received into evidence, the undersigned finds:

1. That for the registration years 2000, 2001, and 2002, Registrant utilized the State of Oklahoma as its base jurisdiction for licensing and registering on a proportional basis its vehicles engaged in interstate commerce.

2. That the Division performed an audit of Registrant for the 2000, 2001, and 2002 registrations years. That due to Registrant's failure to provide records, the Division, by letters dated August 29, 2002, caused to be issued against Registrant assessments of registration fees representing one hundred percent (100%) Arizona operations for the 2000, 2001, and 2002 registration years, in the amounts of $3,368.45, $2,427.21, and $6,081.83, respectively.

3. That by letter dated September 23, 2002, Registrant filed a protest to the proposed assessments, stating he completely disagreed with the findings and requesting a re-audit.

4. That pursuant to a re-audit of Registrant by the State of Arizona, the Division, by letters dated March 7, 2003, caused to be issued against Registrant revised assessments for the 2000, 2001, and 2002 registration years, in the amounts of $2,906.33, $1,702.05, and $6,081.84, respectively.

5. That Registrant did not respond to the re-audit notifications.

6. That the amount in controversy is $10,690.22.

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, ϟ 221(D) and Article XVI, ϟ 1608 of the International Registration Plan ("*IRP*"); that as a registrant under the provisions of the IRP, the Registrant is subject to the audit procedures and policies set forth therein, *IRP*, Appendix F, Art. XVI, incorporated by reference, Rule 710:60-4-20(b)(1) of the *Oklahoma Administrative Code* ("*OAC*"); that the audit of a registrant under the IRP may be conducted by its/his base jurisdiction and/or the commissioners of the several member jurisdictions, *IRP*, Article XVI, Sections 1600 and 1606; 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 revised assessments are erroneous in any respect, accordingly Registrant's protest to the assessments 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.