JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2003-06-19-12 / NOT PRECEDENTIAL**
ID: **MV030006**
DATE: **06-19-03**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE / IRP**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now on this 15th day of May, 2003, the above styled and numbered cause CAME on for decision pursuant to a hearing held on April 21, 2003.

A prehearing tele-conference was held in this matter on March 24, 2003, at which conference, a discussion was had concerning Registrant's contentions with respect to the registration fee assessments. Pursuant to the prehearing tele-conference, a *Notice of Hearing* was issued, scheduling the matter for hearing. The hearing in this cause was held on April 21, 2003, at the hour of 10:30 a.m., at which hearing Registrant failed to appear.

Upon review of the file and records, including the record of the proceedings held on April 21, 2003, and the exhibits received into evidence, the undersigned finds:

1. That for the registration years 2000 and 2001, the 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 and the Commonwealth of Virginia, Department of Motor Vehicles, performed a joint audit of Registrant for the 2000 and 2001 registration years, based on actual mileage records obtained from IFTA reports. As a result of the audit, it was determined that additional fees were due.

3. That on December 20, 2002, the Division issued a proposed assessment of additional proportional registration fees against Registrant for the 2000 registration year in the amount of $221.98.

4. That on December 20, 2002, the Division issued a proposed assessment of additional proportional registration fees against Registrant for the 2001 registration year in the amount of $4,334.52.

5. That by letter dated January 14, 2003, Registrant filed a protest to the proposed assessments, stating he was appealing the audits and needed further explanation.

6. That the amount in controversy is $4,556.50.

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) and Article XVI, ∋ 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 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 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.