

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2003-08-26-06 / NOT PRECEDENTIAL
ID: MV030026
DATE: 08-26-03
DISPOSITION: DISMISSED
TAX TYPE: MOTOR VEHICLE REGISTRATION
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. 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, resulting in net registration fees due.

2. That by letter dated February 21, 2003, the Division issued an assessment of net registration fees for the 2000 registration year in the amount of \$1,004.59.

3. That by letter dated February 21, 2003, the Division issued an assessment of net registration fees for the 2001 registration year in the amount of \$1,331.12.

4. That the letters of assessment were forwarded to the Registrant's last-known address as reflected by the files and records of the Division.

5. That by letter dated May 20, 2003, the Registrant protested the audit findings and assessments of net registration fees.

6. That on June 10, 2003, the Division caused to be filed in this matter a ***Motion to Dismiss*** the Registrant's protest, asserting as the grounds and reasons for the dismissal, the Registrant's failure to file a timely protest to the assessment.

7. That the ***Motion*** was heard on July 10, 2003.

8. That the Registrant was not present at the hearing.

9. That the amount in controversy is \$2,335.71.

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law:

1. That the Tax Commission is vested with jurisdiction to consider the ***Motion to Dismiss***. 68 O.S. 1991, § 221(E). See, 710:1-5-46 of the ***Oklahoma Administrative Code*** ("OAC") and Article XVI, § 1608 of the International Registration Plan ("*IRP*").

2. That the State of Oklahoma entered into and is a member of the IRP which provides for the registration and licensing of vehicles engaged in interstate commerce or combined interstate and intrastate commerce on a proportional basis commensurate with the use of

Oklahoma highways. 47 O.S. 2001, § 1120(A).

3. That pursuant to statutory authority, 47 O.S. 2001, § 1149, the Tax Commission promulgated rules with respect to the administration, enforcement and collection of taxes under the IRP and the Oklahoma Motor Vehicle Licensing and Registration Act, 47 O.S. 2001, § 1101 et seq.; which rules incorporate by reference Articles I through XXII of the *IRP*. *OAC*, 710:60-4-20(b)(1).

4. That rules promulgated pursuant to the Administrative Procedures Act, 75 O.S. 2001, § 250 et seq., § 301 et seq., are presumed to be valid and binding on the persons they affect and have the force of law. 75 O.S. 2001, § 308.2(C).

5. That assessments based on audit are required to be made in accordance with the statutes of the jurisdiction involved with the audit of the registrant. *IRP*, Article XVII, § 1702.

6. That upon completion of the audit of a registrant, the audit findings shall be provided to the registrant and to all member jurisdictions in which the registrant was apportioned or in which it accrued miles. *IRP*, Article XVI, Section 1604.

7. That the registrant shall have thirty days from the date it is notified of the findings of the audit to file a written appeal of the audit. *IRP*, Article XVI, Section 1608.

8. That the time period specified in Section 1608 shall begin with the date on which the final audit findings are mailed to the registrant and to the other member jurisdictions. *IRP*, Article XVI, Section 1604.

9. That the findings of the audit shall be final as to member jurisdictions and the audited registrant, if they do not act as specified in Sections 1608 and 1610 except in conditions of fraud. *IRP*, Article XVI, Section 1614.

10. That the Registrant does not allege any fraud with regard to the audit. Therefore, the exception to the finality of the audit after thirty days from the date of mailing the findings without an appeal thereof does not apply.

11. That the Registrant did not timely appeal the final audit findings. Accordingly, the protest is dismissed.

DISPOSITION

THEREFORE, IT IS DETERMINED that the protest of the Registrant be dismissed. It is further DETERMINED that the total 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.