JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2003-10-07-07 / NOT PRECEDENTIAL**
ID: **MV030030**
DATE: **10-07-03**
DISPOSITION: **DISMISSED**
TAX TYPE: **MOTOR VEHICLE REGISTRATION**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That by letter dated February 18, 2003, The Department of the Secretary of State, Bureau of Motor Vehicles, for the State of Maine forwarded to the Division an audit following its examination of records supporting REGISTRANT'S 2001 apportioned registration application. That the audit resulted in additional fees due the State of Maine.

2. That by letter dated February 27, 2003, the Division caused to be issued against the Registrant adjustments of IRP registration fees due for 2001 in the net amount of $695.48.

3. That by letter dated April 24, 2003, the Division caused to be issued to the Registrant a "Final Notice" of the net registration fees due.

4. That the adjustment letter and the "Final Notice" were forwarded to the Registrant at his last-known address in accordance with 68 O.S. Supp. 1993, ϶ 208.

5. That the Registrant did not ask for or receive an extension of time within which to file a written protest to the adjustment.

6. That the Division received a letter from the Registrant dated May 31, 2003, stating that he was disputing the 2001 audit year and advising that the "Final Notice" was the only notice he had received.

7. That on July 3, 2003, the Division caused to be filed a ***Motion to Dismiss*** the Registrant's protest to the 2001 registration year audit and assessment.

8. That dismissal of the protest is requested on the grounds and for the reason that a timely protest to the assessment was not filed by the Registrant.

9. That a ***Notice to Appear or Respond in Writing***, and show cause why the protest should not be dismissed was mailed to the Registrant at his last-known address.

10. That the Registrant did not respond to the ***Notice*** or appear at the hearing.

11. That the total amount in controversy in this proceeding is $695.48.

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. 2001, ∋ 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 does not apply.

11. That the Registrant did not timely appeal the final audit findings. Accordingly, the protest must be 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.