JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2003-10-09-07 / NOT PRECEDENTIAL**
ID: **MV030021**
DATE: **10-09-03**
DISPOSITION: **DISMISSED**
TAX TYPE: **MOTOR VEHICLE-REGISTRATION**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On March 3, 2003, the Division received from the Motor Vehicle Division, Alabama Department of Revenue, an audit of the records of Registrant for the 2000, 2001 and 2002 registration years, which resulted in net registration fees due.

2. By letter dated March 10, 2003, the Division issued an assessment of net registration fees for the 2000 registration year in the amount of $462.83.

3. By letter dated March 10, 2003, the Division issued an assessment of net registration fees for the 2001 registration year in the amount of $2,365.62.

4. By letter dated March 10, 2003, the Division issued an assessment of net registration fees for the 2002 registration year in the amount of $30.36.

5. The letters of assessment were forwarded to Registrant at its last-known address in accordance with Section 208 of Title 68.

6. By letter dated April 5, 2003, Registrant requested copies of all relevant documents concerning the audit, including the calculation of fees and a breakdown of charges. The letter contains no language protesting the proposed assessments or requesting an extension of time in which to file a protest.

7. Division correspondence indicates that the information requested in Registrant's letter of April 5, 2003, was forwarded to Registrant on April 14, 2003.

8. By letter dated April 21, 2003, the Registrant requested a hearing regarding its IRP audit.

9. On May 16, 2003, the Division filed a *Motion to Dismiss* the Registrant's protest, asserting as the grounds and reasons for the dismissal Registrant's failure to file a timely protest to the assessments.

10. The *Motion* was heard on June 16, 2003.

11. Registrant neither responded to the notice nor appeared at the hearing.

12. The amount in controversy is $2,858.81.

CONCLUSIONS OF LAW

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

1. The Tax Commission is vested with jurisdiction to consider the *Motion to Dismiss*, 68 O.S. 2001, ∋ 207, *Oklahoma Administrative Code 710:1-5-46* and Article XVI, ∋ 1608 of the *International Registration Plan* ("IRP").

2. 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. The Tax Commission has promulgated rules as provided by law to facilitate the administration, enforcement and collection of taxes under the IRP and the Oklahoma Motor Vehicle Licensing and Registration Act. *Oklahoma Administrative Code 710:60-40-1, et seq.* Those rules specifically incorporate in their entirety the provisions of the Plan, the IRP Uniform Operation Audit Procedure Guidelines and the IRP Policy and Procedures Manual. *Oklahoma Administrative Code 710:60-4-20*. As such, those provisions have the force and effect of law. 75 O.S. 2001, ∋ 308.2.

4. 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.

5. 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, ∋ 1604.

6. 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, ∋ 1608.

7. 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, ∋ 1604.

8. 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, ∋ 1614.

9. The Registrant does not allege any fraud with regard to the audit. Therefore, the exception to the finality of the audit does not apply.

10. The Registrant did not timely appeal the audit findings. Accordingly, the protest must be dismissed.

DISPOSITION

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