JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2003-10-21-03 / NOT PRECEDENTIAL**
ID: **MV-03-031**
DATE: **10-21-03**
DISPOSITION: **DISMISSED**
TAX TYPE: **MOTOR VEHICLE REGISTRATION**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 19th day of September, 2003, the *Motion to Dismiss* filed by the Motor Vehicle Division ("Division") in the above styled and numbered cause comes on for consideration pursuant to assignment regularly made by the Oklahoma Tax Commission to AN Administrative Law Judge.

Upon review of the file and record in this cause, the undersigned finds as follows:

1. By letter dated April 14, 2003, the Secretary of State, Bureau of Motor Vehicles for the State of Maine, forwarded to the Division an audit of the records of Registrant for the 2001 and 2002 registration years, resulting in net registration fees due.

2. By letter dated April 29, 2003, the Division issued an assessment of net registration fees for the 2001 registration year in the amount of $2,049.98.

3. By letter dated April 29, 2003, the Division issued a credit letter for registration fees for the 2002 registration year in the amount of $118.74.

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

5. By letter dated July 17, 2003, the Division issued to the Registrant a "Final Notice" of net registration fees due.

6. By letter dated July 29, 2003, and received on August 1, 2003, the Registrant protested the audit findings and assessment of net registration fees.

7. On August 20, 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 audit appeal.

8. Registrant responded to Division's Motion by letter dated August 27, 2003, requesting that the case not be dismissed because of a tardy appeal and admitting the appeal was over the set deadline, but requesting the case proceed on because "[y]ou will see that I have grounds to protest and that I have been very honest with my reporting and that the culprit here is the permit service that was supposed to be representing me."

9. The *Motion* was heard on September 15, 2003.

10. Registrant was not present at the hearing.

11. The amount in controversy is $1,931.24.

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 (AIRP≅).

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 by reference Articles I through XXII of the IRP. *Oklahoma Administrative Code 710:60-4-20(b)(1)*.

4. Rules promulgated pursuant to the Administrative Procedures Act are presumed to be valid. 75 O.S. 2001, ∋ 306(C). They are binding on the persons they affect and have the force of law. 75 O.S. 2001, ∋ 308.2(C).

5. 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. 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.

7. 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.

8. 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.

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

10. 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. 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.