JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2003-12-09-03 / NOT PRECEDENTIAL**
ID: **MV030009**
DATE: **12-09-03**
DISPOSITION: **DISMISSED**
TAX TYPE: **MOTOR VEHICLE-REGISTRATION**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

1. The Division and the State of Illinois performed a joint audit of Registrant for the 2000 registration year, resulting in net registration fees due.

2. By letter dated November 13, 2002, the Division issued an assessment of net registration fees for the 2000 registration year against Registrant in the amount of $23,183.56.[1]

3. A letter of protest dated January 31, 2003, was received by the Division reciting that a verbal request had been made on November 20, 2002, for a formal hearing and a copy of the audit findings, and complaining that no audit findings or notice of hearing had been received.

4. On March 6, 2003, the Division filed a *Motion to Dismiss* Registrant's protest, asserting as the grounds and for the reason for the dismissal, Registrant's failure to file a timely written protest to the proposed assessment.

5. *Notice of Hearing on Motion to Dismiss* was served on the parties.

6. The Motion was heard on April 9, 2003. Registrant neither responded to the notice nor appeared at the hearing.

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).

[1] Based on the audit, $492.03 was credited against additional registration fees of $23,675.59 determined to be due for the 2000 registration year, which amount represents overpayment of fees to several states, for net fees due in the amount of $23,183.56.

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 710:60-4-1, 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, ϗ 306(C). They are binding on the persons they affect and have the force of law. 75 O.S. 2001, ϗ 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, ϗ 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.[2] IRP, Article XVI, ϗ 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, ϗ 1608.

8. The time period specified in Sections 1608 and 1610 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, ϗ 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 Sections 1608 and 1610, except in conditions of fraud. IRP, Article XVI, ϗ 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 should be dismissed.

DISPOSITION

THEREFORE, IT IS DETERMINED that the protest of Registrant be dismissed. 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.

[2] A jurisdiction shall have forty-five days from the date it is notified of the audit findings to notify the base jurisdiction and the registrant in writing of any error in the findings and of its intent to conduct a reexamination of the records of the registrant. IRP, Article XVI, ϗ 1610.