JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2004-01-08-04 / NOT PRECEDENTIAL**
ID: **MV020001**
DATE: **01-08-04**
DISPOSITION: **DISMISSED**
TAX TYPE: **MOTOR VEHICLE / IRP**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. For registration years 1998, 1999, 2000 and 2001, the Registrant utilized the State of Oklahoma as its base jurisdiction for licensing and registering on a proportional basis its vehicles engaged in interstate commerce.

2. The Division and the Commonwealth of Virginia, Department of Motor Vehicles, performed a joint audit of Registrant for the 1998[1], 1999[2], 2000[3] and 2001[4] registration years. By letters dated December 4, 2001, the Division issued proposed assessments of net registration fees against Registrant for those years.

3. By letter dated December 26, 2001, and received by the Division on January 3, 2002, Registrant filed a timely protest for registration year 2001.

4. At a hearing called to address the merits in this cause, Registrant conceded liability for registration years 2000 and 2001.[5]

5. Subsequent to Registrant's concession, Division made a verbal motion to dismiss Registrant's protest for registration years 1998 and 1999, asserting as the grounds and for the reason for the dismissal that Registrant failed to file a timely protest to the proposed assessments for registration years 1998 and 1999.

---

[1] For the 1998 registration year, the additional registration fees determined to be due were in the amount of $1,488.48.

[2] For the 1999 registration year, the additional registration fees determined to be due were in the amount of $3,243.60.

[3] For the 2000 registration year, the additional registration fees determined to be due were in the amount of $12.87.

[4] For the 2001 registration year, the additional registration fees determined to be due were in the amount of $5,479.54.

[5] While registration year 2001 was protested, neither 2000 nor 2001 will be addressed further in light of Registrant's concession thereto.

6. A hearing on the motion was held, testimony of THE President of REGISTRANT, and THE Administrator of the IRP/IFTA Section of the Motor Vehicle Division, was taken and exhibits were received[6] into evidence.

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 is a signatory state 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 710:60-4-1, 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 Procedure 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.

---

[6] REGISTRANT'S PRESIDENT testified that Registrant had no counsel at the time the letter of protest for registration year 2001 was filed by ITS General Manager, but that it was the intention of Registrant to protest all of the assessments, rather than just the one year stated.

THE ADMINISTRATOR, IRP/IFTA SECTION, DIVISION testified that the December 4, 2001, proposed assessments remaining at issue were sent to Registrant at XXXX ANONYMOUS Boulevard, ANYTOWN, Virginia. He further testified that there was no indication in the files that the proposed assessments had been returned, nor that any protests had been filed in response to the assessments still at issue.

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 Sections 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 for registration years 1998 and 1999. Accordingly, an appeal on the merits for 1998 and 1999 cannot be considered and the protest must be dismissed as to those years.

DISPOSITION

THEREFORE, IT IS DETERMINED that the protest for registration years 1998 and 1999 of Registrant be dismissed.

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.