JURISDICTION:	OKLAHOMA TAX COMMISSION
CITE:	2004-09-16-03
ID:	MV-02-007-H
DATE:	SEPTEMBER 16, 2004
DISPOSITION:	DENIED
TAX TYPE:	IRP
APPEAL:	NONE TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

PROTESTANT ("Protestant") is represented by ATTORNEY, Attorney at Law, LAW FIRM. The IRP/IFTA Section of the Audit Division ("Division") is represented by OTC ATTORNEY, Office of General Counsel, Oklahoma Tax Commission.[1]

A hearing was held in this matter on July 13, 2004, at approximately 9:10 a.m., and upon conclusion of the hearing, the record in this matter was closed, and this case was submitted for decision on July 13, 2004.

Upon review of the file and records, including the record of the proceedings, the exhibits received into evidence and the position letters, the undersigned finds:

FINDINGS OF FACT

1. The Protestant was a registrant under the International Registration Plan (”IRP”) based in the jurisdiction of Oklahoma (“Oklahoma”) for the 1999, 2000, and 2001 registration years, OK####1.[2]

2. Pursuant to the IRP Joint Audit Program, the State of Maine, Bureau of Motor Vehicles, examined the records of the Protestant and conducted an audit for the Maine IRP account, ME#####1, and the Oklahoma IRP account, OK####1, for the 1999, 2000, and 2001 registration years.

3. The jurisdiction of Maine (“Maine”) also conducted an International Fuel Tax Agreement (“IFTA”) audit for the same periods.

4. The Protestant reported its fuel purchases and usage on all its vehicles registered under the IRP, including those vehicles registered under the IRP in Oklahoma for the 1999, 2000, and 2001 registration years, utilizing its Maine IFTA license.

[1] The original assessments dated January 26, 2002, were issued by the Motor Vehicle Division, Prorate Section, but, effective September 1, 2003, the responsibility for IRP/IFTA audit functions was transferred from the Motor Vehicle Division to the Audit Division.

[2] The 1999 registration year was for the period of July 1, 1997, to June 30, 1998. The 2000 registration year was for the period of July 1, 1998, to June 30, 1999. The 2001 registration year was for the period of July 1, 1999, to June 30, 2000.

5. On December 31, 2001, the Division received a final audit report from Maine concerning the joint audit with Oklahoma for the 1999, 2000, and 2001 registration years.[3]

6. PRESIDENT is the President of the Protestant. The Protestant is based in Maine.[4] The trucking operation is conducted out of an office located on ANY STREET in ANY TOWN, Maine. At the time of the audit there were six (6) units in the IRP program. Three units were registered in Maine and the remaining three (3) units were registered in Oklahoma. All six (6) units had Maine IFTA decals.

7. On January 26, 2002, the Division mailed the Protestant an assessment for the 1999 registration year in the amount of $2,508.17.[5]

8. On January 26, 2002, the Division mailed the Protestant an assessment for the 2000 registration year in the amount of $139.81.[6]

9. On January 26, 2002, the Division mailed the Protestant an assessment for the 2001 registration year in the amount of $3,952.60.[7]

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[3] Division's Exhibit A. PRESIDENT was contacted regarding the Maine audit. The Maine auditor arranged to meet with PRESIDENT at his office in ANY TOWN, Maine. The opening interview was scheduled and held on November 6, 2001, with PRESIDENT and his daughter, DAUGHTER.

[4] Division's Exhibit A. The Protestant is a Maine corporation. The Protestant operates a potato farm with a complementing business in trucking. The trucking side is used to transport the Protestant's produce and is also for hire. Common cargos hauled are potatoes, french fries, iron, and wood. The Protestant's primary states of operation are the Eastern United States, with some runs going as far west as Texas and Oklahoma. The audit determined that the Protestant did not have an established place of business in Oklahoma, but the Protestant did have an established place of business in Maine. A service company was used for the Oklahoma registration. The final audit report notes that the Protestant became aware that the miles supplied to its service company (SERVICE COMPANY.) were not used and that the Protestant attempted to amend the reported miles. The Division informed the Protestant that no method of amendment was available. The Protestant was further informed that it would be allowed credit for states actually traveled through.

[5] Division's Exhibit B. The final audit report provided to the Protestant and the Division set out in detail the methodology for the computation of the assessments. Three representative sample periods, 2nd and 4th quarters of 1998 and the 4th quarter of 1999, were selected for complete review of mileage and fuel. These quarters were selected as they included all jurisdictions and were indicative of the record keeping throughout the audit period. The Maine auditor noted in the final report that PRESIDENT agreed with the test periods and signed the Consent to Use Test Period form included with the audit. On December 17, 2001, an exit conference was held with PRESIDENT and DAUGHTER. PRESIDENT was informed that the Maine IRP audit resulted in no changes and that the Oklahoma audit results would be determined by Oklahoma. The Division attached to each assessment its detailed calculations upon which each assessment was based.

[6] Division's Exhibit C.

[7] Division's Exhibit D.

10. The Division received a letter of protest dated February 25, 2002, to the proposed assessments, from PRESIDENT, on behalf of Protestant for the 1999, 2000, and 2001 registration years.[8]

11. On July 29, 2002, a Motion To Dismiss On Jurisdictional Grounds was filed by the Protestant on the basis that the Administrative Law Judge did not have the jurisdiction to issue an administrative ruling because the assessments were invalid. The Protestant asserted that the assessments were not based upon Oklahoma law, administrative rules or procedures.[9]

12. On December 23, 2003, an Order Denying Motion To Dismiss was issued by ALJ X, Administrative Law Judge. On January 8, 2004, the parties were notified that pursuant to *Oklahoma Administrative Code* ("*OAC*") 710:1-5-31, this matter had been assigned to ALJ Z, Administrative Law Judge.[10]

13. Subsequent to the initial assessments, the Protestant submitted mileage records to the Division for consideration. In its Motion To Dismiss, the Protestant stated that the Maine auditor had combined the Maine and Oklahoma fleets, and that the mileage for the Maine fleet should be excluded in calculating the Division's assessments. The Protestant provided its own mileage spreadsheets indicating audit results with Oklahoma base-registered fleet mileage only.[11]

14. On February 19, 2004, the Division sent the Protestant a revised assessment for the 1999 registration year in the amount of $2,378.25.[12] The assessment was revised using the Protestant's own mileage spreadsheet indicating audit results with Oklahoma based-registered fleet mileage only. However, the Division disallowed the credits the Protestant had calculated for the jurisdictions it had paid a fee, but had not traveled

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[8] Division's Exhibit M. Two areas were stated as the basis of the protest. First, the mileage used by the Maine auditor, and second, the disallowance of credits for jurisdictions not traveled. PRESIDENT stated that the Maine auditor had combined the Maine and Oklahoma fleets, which caused the mileage in the New England states to increase and decrease mileage for all other jurisdictions.

[9] Exhibit E. The motion was filed on behalf of the Protestant by COUNSEL, CONSULTING COMPANY, ANY TOWN, Maine. COUNSEL had previously entered an appearance on behalf of the Protestant on June 18, 2002.

[10] *OAC 710:1-5-31* in pertinent part states:

> If for any reason an Administrative Law Judge cannot continue on a case, the Commissioners shall designate another Administrative Law Judge with the above qualifications, who will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings.

[11] Division's Exhibit E.

[12] Division's Exhibit F.

during the registration year.[13] No mileage was traveled in Oklahoma during the 1999 registration year.

15. On February 19, 2004, the Division sent the Protestant a revised assessment for the 2000 registration year reflecting a credit in the amount of $35.97.[14] The assessment was revised using the Protestant's own mileage spreadsheet indicating audit results with Oklahoma based-registered fleet mileage only.[15] The Protestant does not challenge the revised assessment for the 2000 registration year.

16. On February 19, 2004, the Division sent the Protestant a revised assessment for the 2001 registration year in the amount of $3,979.55.[16] The assessment was revised using the Protestant's own spreadsheet indicating audit results with Oklahoma based-registered fleet mileage only. However, the Division disallowed the credits the Protestant had calculated for the jurisdictions it had paid a fee, but had not traveled during the registration year, including the jurisdiction of Oklahoma.[17]

17. The State of Maine joined the IRP effective July 1, 1993. The Protestant established its Maine IRP account on July 1, 1993.[18]

18. The Protestant renewed its Maine IRP account, ME#####1, for the 1998 registration year on July 23, 1997, and Maine issued the Protestant's credentials on September 5, 1997.[19]

19. The Division received the Protestant's IRP Renewal Application for the 1999 registration year ("1999 Renewal") on December 30, 1998. The 1999 Renewal submitted to the Division reflected "estimated" miles for 49 jurisdictions totaling 123,000 miles for

[13] Division's Exhibit F. The Protestant's spreadsheet reflected estimated mileage for 49 jurisdictions totaling 123,000 estimated miles. Actual mileage was accrued in 19 jurisdictions totaling 8535 miles, resulting in fees totaling $2,378.25. The Protestant paid a fee for 30 jurisdictions in which no traveled occurred during the 1999 registration year. The Protestant calculated a credit of $1,173.59.

[14] Division's Exhibit G.

[15] Division's Exhibit G.

[16] Division's Exhibit H.

[17] Division's Exhibit H. The Protestant's spreadsheet reflects Estimated Mileage in 49 jurisdictions totaling 157,152 miles. Actual Mileage was traveled in 22 jurisdictions totaling 284,153 miles, resulting in additional fees due of $4,119.91. The refunds calculated by the Protestant in 7 jurisdictions, totaling $140.37, resulted in net fees due of $3,979.55. The credits the Protestant calculated for the 20 jurisdictions in which it had not traveled during the 2001 registration year, including Oklahoma, totaled $1,730.97.

[18] Division's Exhibit L.

[19] Division's Exhibit L.

the same vehicle listed on the Protestant's Original IRP Application for the 1998 registration year.[20]

20. The IRP Renewal Application for the 2000 registration year submitted to Oklahoma listed miles for 49 jurisdictions, totaling 237,091 miles for two (2) vehicles.[21] The first vehicle was listed on the 1998 Original and 1999 Renewal. The second vehicle was purchased by the Protestant December 22, 1998.[22]

21. The IRP Renewal Application for the 2001 registration year submitted to Oklahoma listed miles for 49 jurisdictions, totaling 157,152 miles for two (2) vehicles.[23] A third vehicle was purchased March 13, 2001, and added by an IRP Supplemental Application received by the Division March 16, 2001.[24]

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[20] The court file contains an audit packet as part of the protest file on this matter. The Administrative Law Judge is taking judicial notice of a copy of the Protestant's Original IRP Application for the 1998 registration year ("1998 Original") for the purpose of completing the factual details and background of this audit. *OAC 710:1-5-36*. The 1998 registration year was for the period of July 1, 1996, to June 30, 1997. The Division received the 1998 Original on June 10, 1998. Schedule A lists one vehicle purchased June 5, 1998, with VIN1ABC. Schedule B reflects estimated miles for 49 jurisdictions totaling 127,000 miles. Schedule B asks the Protestant to "Explain in detail the scope of your Operation covering any Estimated Mileage". Handwritten in is "Per conversation with registrant." No other explanation is offered. The 1998 Original also includes a Limited Power of Attorney from the Protestant, signed by PRESIDENT, AGENT X, SERVICE COMPANY. AGENT X and AGENT Z are listed as authorized representatives of the Protestant. PRESIDENT also executed an Agreement of Lease, on behalf of the Protestant, with AGENT X, SERVICE COMPANY. for the premises located at 123 FAKE STREET #XYZ, Oklahoma City, OK. This was the location of the service company's offices.

Division's Exhibit I. The 1999 Renewal is dated December 30, 1998, and date stamped as received December 30, 1998. On Schedule A, only one vehicle is listed, the vehicle on the 1998 Original, purchased June 5, 1998, with VIN2XYZ. Under Schedule B of the 1999 Renewal the Protestant is asked to "Explain in detail the scope of your Operation covering any Estimated Mileage". Typed in is "Per Customer Conversation". No other explanation is offered. The 1999 Renewal also includes a Limited Power of Attorney from the Protestant, signed by PRESIDENT, to AGENT X, SERVICE COMPANY. AGENT X and AGENT Z are listed as authorized representatives of the Protestant. PRESIDENT also executed an Agreement of Lease, on behalf of the Protestant, with AGENT X, SERVICE COMPANY. for the premises located at 123 FAKE STREET #XYZ, Oklahoma City, OK. This was the location of the service company's offices.

[21] Division's Exhibit J. This exhibit also includes a Limited Power of Attorney from the Protestant, signed by PRESIDENT, to AGENT X, SERVICE COMPANY. AGENT Z, AGENT A, AGENT B are listed as authorized representatives of the Protestant. PRESIDENT also executed an "Agreement of Lease" with AGENT X, SERVICE COMPANY, for the premises located at 123 FAKE STREET #XYZ Oklahoma City, OK. A copy of the Protestant's Interstate Commerce Commission ("ICC") Permit No. MC#####1 was attached, which reflects that the Protestant has had authority as an ICC carrier since August 31, 1990.

[22] The record does not contain a Supplemental Application adding the second vehicle to the 1999 Renewal.

[23] Division's Exhibit K.

[24] Division's Exhibit K.

PROCEDURAL BACKGROUND

1. On March 3, 2004, pursuant to a teleconference held on March 1, 2004, the Administrative Law Judge issued a Scheduling Order, including setting the oral hearing of this matter for May 25, 2004, at 9:30 a.m.

2. On May 11, 2004, the Division filed its Position Letter.

3. On May 13, 2004, COUNSEL filed a "Request To Cancel Hearing".[25]

4. On May 14, 2004, an Order Denying Request To Cancel Hearing was issued by the Administrative Law Judge.

5. On May 18, 2004, COUNSEL withdrew as counsel for the Protestant.[26]

6. On May 19, 2004, ATTORNEY filed an Entry of Appearance on behalf of the Protestant, simultaneously with an Application To Extend The Hearing Date.

7. On May 20, 2004, the Administrative Law Judge granted ATTORNEY'S Application and issued an Order To Extend Hearing to June 16, 2004, at 9:30 a.m., as requested by ATTORNEY in his application.

8. On June 15, 2004, ATTORNEY filed a [Second] Application To Extend Hearing on the basis that the Protestant had presented new evidence to the Division for consideration, and that a settlement might be reached after the Division considered the evidence.

9. On June 15, 2004, the application was granted, and by agreement of parties the hearing was continued to June 22, 2004, at 9:30 a.m.

10. On June 21, 2004, ATTORNEY filed a [Third] Application to Extend Hearing Date on the basis that the Division had requested addition information, which the Protestant was attempting to gather and send to the Division.

11. On June 21, 2004, the Administrative Law Judge granted the Application, over the objection of the Division, but advised counsel that no further continuances would be granted. The order continued the hearing to July 13, 2004, at 9:00 a.m.

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[25] COUNSEL renewed previous arguments made in the Motion To Dismiss, which was denied. COUNSEL stated that the sole purpose of his client's request for a hearing was to cross-examine Maine's Revenue Agent. COUNSEL objected to depositions because his client would bear the expense. COUNSEL also objected to the Division's request that PRESIDENT appear at the oral hearing the Protestant had requested, unless the Division arranged for his travel and expenses.

[26] On May 20, 2004, the Administrative Law Judge issued an Order Granting Withdrawal of Appearance, as to COUNSEL'S withdrawal as counsel for the Protestant.

12. On July 8, 2004, the Protestant filed its Position Letter, simultaneously with a Motion To Permit PRESIDENT To Appear By Telephone, due to his business commitments and the travel expenses involved. The motion noted that PRESIDENT would have to travel from Maine for the hearing on "relatively short notice" to appear in person. On July 9, 2004, the Division filed its objection to the Protestant's Motion.

13. On July 12, 2004, the undersigned Administrative Law Judge issued an Order Denying Protestant's Motion to Permit PRESIDENT To Appear By Telephone.[27]

ISSUES AND CONTENTIONS

Two issues are presented for decision. The first issue is whether the Protestant properly used estimated miles for proportional registration of its Oklahoma fleet on the 1999 Renewal filed with Oklahoma. The second issue is whether the Protestant should be given credit for estimated mileage paid to jurisdictions it had not traveled during the registration year.

As to the first issue, the Protestant asserts that its protest to the assessment for the 1999 Renewal must be sustained because the Protestant created a new operation for the 1998 registration year, with newly acquired equipment, entitling it to use estimated miles for the 1999 renewal. The Protestant also asserts that because it operated less than 90 days for the 1999 registration year, it could use estimated miles on its 1999 Renewal; and if estimated miles were used in the 1999 Renewal, all supplemental applications had to use estimated miles. The Protestant's Position Statement filed July 8, 2004, does not cite any specific provision(s) of the IRP or *Oklahoma Administrative Code* to support its position.

As to the first issue, it is the Division's position that the protest on the assessment for the 1999 registration year should be denied because the Protestant did not qualify under IRP, Art. VIII, Section 800 to use estimated miles on its 1999 Renewal because it was not the Protestant's initial application. The Division argues that the Protestant was an established motor carrier in Maine for many years and had IRP/IFTA accounts in Maine, with an IRP mileage history, prior to its registration in Oklahoma. The Division further asserts that despite the Division's request for discovery, the Protestant did not provide any evidence of new operations being contemplated at the time the Protestant filed its 1999 Renewal, and that the Protestant should have filed the 1999 Renewal using actual mileage pursuant to IRP, Art. IV, Section 400 and is properly subject to audit.

As to the second issue, the Protestant admits that it owes some money for the misreported miles on the 2001 Renewal, and that it attempted to amend the 2001 Renewal, but the Division denied its request. The Protestant contends that it should be given credit for the estimated mileage paid to jurisdictions it had not traveled during the

[27] A copy of the order was faxed to ATTORNEY July 12, 2004, at 8:46 a.m. Another copy was mailed to ATTORNEY and delivered to Division's counsel.

2001 registration year. The Protestant's Position Statement filed July 8, 2004, does not cite any authority to support its position.

In response to the second issue, the Division argues that if the Protestant seeks to apportion its vehicles in a jurisdiction where the Protestant had no mileage in the preceding year, the Protestant may do so by including estimated miles[28], but if the Protestant has actual mileage and is estimating mileage in a jurisdiction for the second consecutive year, the Protestant is required to pay a mileage percentage in excess of the 100% registration fee, which is not refunded, or credited against underpayments in jurisdictions it underpaid.[29]

CONCLUSIONS OF LAW

1. The Oklahoma Tax Commission is vested with jurisdiction over the parties and subject matter of this action.[30]

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.[31]

3. The Oklahoma 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.[32]

4. The rules promulgated pursuant to the Administrative Procedures Act are presumed to be valid and binding on the persons they affect and have the force of law.[33]

5. As a registrant under the provisions of the IRP, the Protestant is subject to the audit procedures and policies set forth therein.[34]

6. The Protestant is subject to joint audits, which may be conducted by multiple jurisdictions.[35]

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[28] IRP Policies and Procedures Manual, Section 5020, and *OAC 710:60-4-15*.

[29] IRP Policies and Procedures Manual, Section 5030(3), R. at p. 301.

[30] See 68 O.S. § 207; 47 O.S. § 1120, IRP, Art. XVI, Section 1608.

[31] 47 O.S. § 1120(A).

[32] 47 O.S. § 1101 et seq., which incorporate by reference Articles I through XXII of the IRP. *OAC 710:60-4-20(b)(1)*.

[33] 75 O.S. § 250 et seq., § 301 et seq., and 75 O.S. § 308.2(C).

[34] IRP, Art. XVI and IRP, Appendix F, Art. XVI.

7. The Protestant is subject to audit by Oklahoma as its base jurisdiction.[36]

8. 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.[37]

9. The official commentary to IRP, Art. VIII, Section 800 provides in pertinent part:

> This Article authorizes the registrant to estimate anticipated mileage for the upcoming license year if no mileage history exists because *'new operations' are contemplated.* (Emphasis Added)

10. "New operation" means a vehicle or fleet of vehicles not previously registered pursuant to the provisions of the IRP. "New operation" does not include an existing fleet that is expanding the number of vehicles or area of operation.[38]

11. The record in this matter is void of any evidence that the Protestant established a new operation or contemplated the establishment of a new operation in Oklahoma for the 1998 or 1999 registration years. The office of the Protestant's service agent was used as the Protestant's Oklahoma address and the Protestant's only contact with Oklahoma

12. The Protestant was not a new registrant and had actual IRP mileage for the preceding year in Maine. The Protestant was ineligible to use estimated miles under the provisions of OAC 710:60-4-15.[39]

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[35] IRP, Art. XVI, Section 1606.

[36] IRP, Art. XVI, Section 1600.

[37] IRP, Art. XVI, Section 1604. Section 1604 amended April 10, 1998, Ballot 1.7.187. Effective October 1, 1999.

38 *OAC 710:60-4-2.* Added at 12 OK Reg. 2931, eff. 7-14-95.

[39] *OAC 710:60-4-15* in pertinent part states:

> (a) If an applicant for proportional registration operated for ninety (90) or more days during the mileage reporting period of the preceding year, actual operated miles must be filed. For those jurisdictions where there is no mileage to report, but for which proration is desired, estimated miles must be filed.
> (b) If an applicant for proportional registration is new, or the applicant did not operate for ninety (90) days or more during the reporting period, estimated miles must be filed for all jurisdictions for which proration is sought.
> (c) Estimated mileage will not be accepted after the first year of prorate registration in Oklahoma, except in cases where actual operation was less than ninety (90) days during the mileage reporting year where estimated mileage will also be accepted for the second year.

13. The Protestant should have filed its 1999 Renewal using actual mileage pursuant to IRP, Art. IV, Section 400.[40]

14. If a registrant seeks to apportion its vehicles in a jurisdiction where the registrant had no experience in the preceding year, the registrant may do so by including estimated miles.[41] If a registrant had actual mileage and is estimating operations in a jurisdiction for the second consecutive year, the registrant is required to pay that jurisdiction a mileage percentage in excess of the 100% registration fee.[42]

15. If the Protestant has actual mileage and is estimating mileage in a jurisdiction for the second consecutive year, the Protestant is required to pay that jurisdiction a mileage percentage in excess of the 100% registration fee.[43] The IRP Policies and Procedures Manual does not permit or grant a refund or credit of registration fees for which the registrant was required to pay in excess of 100% registration fees.

16. An assessment is presumed correct and the Protestant bears the burden of showing that it is incorrect, and in what respect.[44]

17. The Protestant has failed to meet its burden of proof in this matter. The Protestant has produced no evidence and cited no authority that the assessments issued by the Division are incorrect, or that the sums are not due and owing.

The information provided by Maine regarding the previous operations of the Protestant is uncontroverted. Since 1990, the Protestant has been an established motor carrier, the Protestant has had a Maine IRP account since July 1, 1993, and Maine is the

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[40] IRP, Art.IV, Section 400, in pertinent part states:

> (b) The base jurisdiction commissioner shall adopt the following procedures for renewal and expanded operations.
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> Upon renewal, the registrant shall use the actual mileage operated during the preceding year (or portion of such year) in computing fees due each jurisdiction pursuant to Article III and all second and subsequent year estimates shall be computed over 100%.

[41] IRP Policies and Procedures Manual, Section 5020 and *OAC 710:60-4-15*.

[42] IRP Policies and Procedures Manual, Section 5030(3), in pertinent part states:

> If a registrant had actual operation during the mileage reporting period and is estimating operation in a jurisdiction for the second consecutive registration year, the registrant will be required to pay that jurisdiction a mileage percent that is in excess of the 100 % registration.

[43] IRP Policies and Procedures Manual, Section 5020, and *OAC 710:60-4-15*. IRP Policies and Procedures Manual, Section 5030(3), R. at p. 301.

[44] *OAC 710:1-5-47*. See *Enterprise Management Consultants, Inc. v. Oklahoma Tax Commission*, 1988 OK 91, 768 P.2d 359.

only jurisdiction during the audit period in which the Protestant had an established place of business.

The Protestant's own spreadsheets reflect little, if any, change in the Protestant's operations after its registration in Oklahoma. The miles traveled by the Protestant remained almost exclusively in the Eastern United States. Any objections to the use of actual mileage flies in the face of the Protestant providing its own spreadsheets, on which the Division issued the revised assessments for all three registration years.

The Division treated the inclusion of the jurisdictions where the Protestant had no actual mileage, according to its spreadsheets, as second year estimates and disallowed the credit of fees paid for authority to travel in those jurisdictions. The Protestant asserts that it should receive a credit to be applied to the jurisdictions where the Protestant's spreadsheets indicate an underpayment of fees. The Protestant's position cannot be sustained.

DISPOSITION

It is the ORDER of the OKLAHOMA TAX COMMISSION, based upon the specific facts and circumstances of this case, that the protest be denied, that the total amounts reflected by the revised assessments issued February 19, 2004, for the 1999 and 2001 registration years be fixed as the Protestant's deficiency, and that those amounts be determined as due and owing.[45]

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.

[45] The Protestant does not challenge the revised assessment for the 2000 registration year, which resulted in a credit of $35.97.