FINDINGS OF FACT AND CONCLUSIONS OF LAW

Claimant, CLAIMANT appears pro se. The Motor Vehicle Division of the Oklahoma Tax Commission (hereinafter “Division”) is represented by OTC ATTORNEY, Assistant General Counsel, Office of the General Counsel, Oklahoma Tax Commission.

STATEMENT OF THE CASE

By e-mail communication sent February 26, 2008, Claimant requested a refund of the motor vehicle late registration penalty remitted to the State of Oklahoma on February 11, 2008 for the registration of a 2007 Infiniti G35 Sedan, VIN XYZ123. The Division denied the request by letter dated March 10, 2008. By correspondence dated March 13, 2008, Claimant requested a hearing on the denial.

On April 3, 2008, the Division referred the refund claim to the Office of the Administrative Law Judges (“ALJ’s Office”) for further proceedings consistent with the Uniform Tax Procedure Code\(^1\) and the Rules of Practice and Procedure before the Oklahoma Tax Commission\(^2\). The case was docketed as Case No. CR-08-004-K and assigned to ALJ, Administrative Law Judge.\(^3\)

A hearing was scheduled for May 22, 2008, by Notice of Hearing issued April 7, 2008.\(^4\) The hearing was held as scheduled. Claimant did not appear at the hearing or respond to the Notice. The Division called one witness: SUPERVISOR, Supervisor-Accounting Section of the Division who testified regarding the records of the Division. Division’s Exhibits A-1, A-2 and B through F were identified, offered and admitted into evidence. Upon conclusion of the Division’s presentation, the record was closed and the claim for refund was submitted for decision.\(^5\)

---

\(^1\) 68 O.S. 2001, § 201 et seq.


\(^3\) OAC, 710:1-5-22(b).

\(^4\) OAC, 710:1-5-24.

\(^5\) OAC, 710:1-5-39(a).
FINDINGS OF FACT

Upon review of the file and records, including the tape recording of the hearing, the exhibits received into evidence and the pleadings of the parties, the undersigned finds:

1. Claimant is a resident of Oklahoma. Exhibit C.


3. The vehicle was shipped to Claimant with a sixty (60) day Colorado issued temporary tag that expired on February 28, 2008. Exhibit C.

4. On February 11, 2008, Claimant registered the vehicle with the State of Oklahoma and was assessed a twenty-five dollar ($25.00) penalty for failing to register the vehicle within thirty (30) days of the date the vehicle was assigned to him. Exhibit B.

5. By e-mail communication sent February 26, 2008, Claimant requested a refund of the late registration penalty remitted to the State of Oklahoma. Exhibit C.

6. The Division denied the request by letter dated March 10, 2008. Exhibit D.


8. According to SUPERVISOR, the date the vehicle was assigned to Claimant was used as the date the vehicle entered Oklahoma since no other date was provided.

9. The amount in controversy is $25.00.

ISSUE AND CONTENTIONS

The issue presented for decision is whether the motor vehicle late registration penalty of $25.00 was properly assessed.

Claimant contends that the penalty should not have been assessed since the temporary tag issued by the Colorado auto dealer had not expired at the time the vehicle was registered in Oklahoma.

The Division contends that the $25.00 late penalty was properly assessed. In support of this contention, the Division argues that the registration of motor vehicles in the State of Oklahoma is governed by the Oklahoma Vehicle License and Registration Act, not the vehicle registration laws of the State of Colorado. The Division further argues that Claimant has not shown that he registered the vehicle within thirty (30) days of the date the vehicle entered Oklahoma.
CONCLUSIONS OF LAW


2. The registration of motor vehicles in the State of Oklahoma is governed by the Oklahoma Vehicle License and Registration Act, 47 O.S. 2001, § 1101 et seq., (“Act”). 47 O.S. 2001, § 1103. Section 1103 provides in part:

   It is the intent of the Legislature that the owner or owners of every vehicle in this state shall possess a certificate of title as proof of ownership and that every vehicle shall be registered in the name of the owner or owners thereof.

3. Every owner of a vehicle possessing a certificate of title shall, before using the same in this state, make an application for the registration of such vehicle. 47 O.S. 2001, § 1112. In the event of the sale or transfer of the ownership of a vehicle for which a certificate of title has been issued, the purchaser or transeree shall, within thirty (30) days from the time of delivery, present the assigned certificate of title and the insurance security verification to the vehicle to the Oklahoma Tax Commission or one of its motor license agents accompanied by the registration fees, license fees and excise taxes that may be due, whereupon a new certificate of title shall be issued to the assignee. 47 O.S. 2001, § 1107(A).

4. For all vehicles, unless otherwise specifically provided by the Act, a registration fee shall be assessed at the time of initial registration by the owner and annually thereafter, for the use of the avenues of public access within this state. 47 O.S. 2001, § 1132(A). Upon every transfer or change of ownership of a vehicle, the new owner shall obtain title for and register the vehicle within thirty (30) days of change of ownership. In the event the vehicle is not registered, title and tagged within thirty (30) days from the date of transfer of ownership, a penalty of twenty-five cents ($0.25) is imposed, not to exceed Twenty-five dollars ($25.00). 47 O.S. 2001, § 1132(D).

5. The Act specifically provides in pertinent part at § 1151(C):

   If a used vehicle is brought into Oklahoma by a resident of this state and is not registered within thirty (30) days, a penalty of twenty-five cents ($0.25) per day shall be charged from the date of entry to the date of registration, such penalty to accrue for thirty (30) days, upon failure to register, at the end of which time the penalty shall be Twenty-five Dollars ($25.00), provided that in no event shall the penalty exceed an amount equal to the license fee.

6. In administrative proceedings, the burden of proof is on taxpayer to show in what respect the action or proposed action of the Tax Commission is incorrect. OAC, 710:1-5-47. See, Enterprise Management Consultants, Inc. v. State ex rel. Oklahoma Tax Commission, 1988 OK 91, 768 P.2d 359.
7. Here, Claimant failed to show that he registered the vehicle within thirty (30) days of the date the vehicle entered Oklahoma. Accordingly, the late registration penalty was properly assessed. Claimant in the letter requesting a hearing gives an example of how the late registration penalty is unfair, stating that a person who purchased a car in another state could owe the penalty even though the car has been in Oklahoma only twenty-four (24) hours. Claimant’s example is incorrect since the penalty provision only applies to residents of this state and only when the vehicle is not registered within thirty (30) days of the date the vehicle entered the state.

8. Claimants’ request for refund of the late registration penalty remitted to the State of Oklahoma on the aforementioned vehicle in the amount of $25.00 should be and the same is hereby denied.

**DISPOSITION**

Based on the above and foregoing findings of fact and conclusions of law, it is ORDERED that the protest to the denial of the motor vehicle late registration penalty refund claim of Claimant, CLAIMANT, be denied.

OKLAHOMA TAX COMMISSION

CAVEAT: This decision was NOT deemed precedential by the Commission. This means that the legal conclusions are 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.