JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2002-08-28-015 / NOT PRECEDENTIAL**
ID: **MV020015**
DATE: **08-28-02**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE / IRP**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 30th day of July, 2002, the above styled and numbered cause comes on for consideration pursuant to assignment regularly made by the Oklahoma Tax Commission. A prehearing conference was scheduled in this matter and notice was sent to Protestant at its last known address. No representative for Protestant appeared for the prehearing conference, scheduled for June 6, 2002. Thereafter, notice was served upon the parties that this cause would be closed and the matter submitted for decision upon the filing of a verified response to the protest by the Motor Vehicle Division (hereinafter "Division"). Protestant did not file a response to this notice. Accordingly, this matter was submitted for an examination into the merits of the protest pursuant to 68 O.S. ϑ 221(D).

Upon review of the file and records in this matter, including the protest filed by Protestant and the verified response to the protest filed by the Division, the undersigned Administrative Law Judge makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Protestant is an interstate motor carrier base-registered in the State of Oklahoma under the provisions of the International Registration Plan ("IRP").

2. The Division conducted an audit utilizing Protestant's annual mileage summary and trip sheets for license year 2000, with the audit period covering the 3rd quarter 1998 through the 2nd quarter 1999. The audit revealed that when the summarized mileage totals reflected on the furnished trip sheets were tabulated and compared with reported Schedule B mileage, there were significant discrepancies in four states, Florida, Georgia, New Mexico and Texas. Utilizing a three-month sample period, minor deficiencies were found upon the examination of reported state mileage for each trip compared with the minimum mileage requirements for the indicated routes of travel in each state.

3. The Division recalculated the proportional registration fees due for those jurisdictions in which mileage was actually accrued based solely upon the actual mileage determined by the audit, and disallowed the inclusion of miles in Protestant's total fleet miles for those jurisdictions in which Protestant did not travel. On March 14, 2002, the Division proposed the assessment of additional fees due for the 2000 registration year in the amount of $566.00.

4. By letter dated March 28, 2002, Protestant filed a timely protest. He stated that he believed the fine to be excessive and that it "is difficult to determine the exact number of miles because book miles do not take you to your exact destination."

5. Protestant paid the net amount due of $566.00 under protest.

CONCLUSIONS OF LAW

1. Oklahoma statutes provide for the proportional registration and licensing of trucks, buses and truck-tractors for vehicles engaged in interstate commerce or combined interstate and intrastate commerce. 47 O.S. 1991, ∋ 1120. The statutes further authorize the Tax Commission to enter into the International Registration Plan[1] ("Plan") to facilitate this purpose. *Id*. Pursuant to such authorization, Oklahoma has been a signatory to and member of the IRP since January 1, 1978. 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 in their entirety the provisions of the Plan, the IRP Uniform Operation Audit Procedure Guidelines and the IRP Policy and Procedures Manual. *Oklahoma Administrative Code 710:60-4-20*. As such, those provisions have the force and effect of law. 75 O.S. 1991, ∋ 308.2.

2. Under the IRP, registration fees for each jurisdiction are calculated by determining the percentage that the miles actually operated in a jurisdiction during the preceding year bear in proportion to the total miles generated by the fleet in all jurisdictions, and then applying that percentage to each jurisdiction's full registration fee. 68 O.S. 1991, ∋ 1120(b); IRP Plan ∋ 300.

3. The burden of proof in all proceedings, unless otherwise provided by law, is on the taxpayer to show in what respect the action or proposed action of the Tax Commission is incorrect. *Oklahoma Administrative Code 710:1-5-47*.

4. Protestant has not produced any evidence or cited any authority in support of the protest filed herein.

5. The protest should be denied.

DISPOSITION

It is the DETERMINATION of the undersigned, based upon the specific facts and circumstances of this case, that the IRP tax protest be denied.

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.

[1] The International Registration Plan is a motor vehicle registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of proportional license fees on the basis of total distance operated in all jurisdictions.