

**JURISDICTION:** OKLAHOMA TAX COMMISSION - DECISION  
**CITE:** 2003-05-22-07 / NOT PRECEDENTIAL  
**ID:** MV030003  
**DATE:** 05-22-03  
**DISPOSITION:** DENIED  
**TAX TYPE:** MOTOR VEHICLE / IRP  
**APPEAL:** NO APPEAL TAKEN

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

1. Protestant is a registrant under the International Registration Plan ("IRP") based in the jurisdiction of the State of Oklahoma during the period at issue.

2. An audit was conducted on all available records of Protestant for license years 1998, 1999, 2000 and 2001, with the audit period covering the 3<sup>rd</sup> quarter, 1996, through the 2<sup>nd</sup> quarter, 2000. According to the Virginia/Oklahoma IRP Interjurisdictional Audit Report, the mileage reported by Protestant on its 1998 and 1999 Oklahoma IRP applications were for estimated miles, when the licensee had actual operations during the corresponding record year periods. For IRP Registration Years 1998 and 1999, the mileage reported was adjusted to reflect miles reported on the quarterly Virginia International Fuel Tax Agreement ("IFTA") reports. Refunds were not allowed for jurisdictions in which travel was not found to have occurred.

Protestant provided annual summaries for the 2000 and 2001 registration years; however, no monthly or quarterly summaries by vehicle or source documents were provided. For registration years 2000 and 2001, full registration fees, 100% for the State of Virginia were applied.

3. The Division proposed assessment, by letters dated December 5, 2002, of registration fees of \$977.20 and \$2,197.75 against Protestant for the 1998 and 1999 registration years, respectively.

4. By letters dated December 5, 2002, the Division proposed assessment of registration fees of \$1,067.31 and \$1,547.12 against Protestant for the 2001 and 2001 registration years, respectively.

5. By letter dated January 2, 2003, and received by the Division on January 7, 2003, Protestant filed a timely protest.

6. The Division returned to the jurisdiction of Virginia the audit and assessment documents for registration years 2000 and 2001 for audit. Therefore, the 2000 and 2001 registration years are no longer at issue in this matter.

### CONCLUSIONS OF LAW

1. The Oklahoma Tax Commission is vested with jurisdiction over the parties and subject matter of this action. 68 O.S. 1991, § 207 and 47 O.S. 1991, § 1120.

2. As a registrant under the provisions of the IRP, Protestant is subject to the audit procedures and policies set forth therein. IRP, Art. XVI and IRP, Appendix F, Art. XVI.

3. The audit of a registrant under the IRP shall be conducted by its/his base jurisdiction, IRP, Art. XVI, Section 1600; however, multiple audits and audits by other jurisdictions are allowed, IRP, Art. XVI, Section 1606.

4. 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<sup>1</sup> ("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.

5. 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. If a registrant seeks to apportion its vehicles in a jurisdiction where there was no mileage experience in the previous mileage reporting period, apportionment shall be permitted for one year by including the estimated miles in the numerator (in-jurisdiction miles) of the fee apportionment factor and in the denominator (total fleet miles everywhere) of the apportionment factor. IRP Policies and Procedures Manual § 5020.

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<sup>1</sup>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.

6. Apportioned registration using estimated miles may be permitted for a second consecutive year if there are no actual operations in the mileage reporting year. *Id.* However, if the registrant seeks to apportion its vehicles in a jurisdiction where no mileage was accrued for the second mileage reporting period, the apportionment will be permitted only if the estimated mileage is *not* included in the denominator (total fleet miles) for the subsequent registration year. *Id.* In other words, use of estimated miles for apportioned registration in a jurisdiction for the second year in a row automatically results in a taxpayer's payment of registration fees based on more than 100% of taxpayer's actual mileage. IRP Policies and Procedures Manual § 5030(3). Thus, payment of such fees cannot be deemed an overpayment for which a taxpayer can claim either a refund or a credit against underpayments discovered by audit.

7. Refunds (and credits) are allowable when an audit of actual miles of an apportioned registrant indicates an overpayment. IRP Policies and Procedures Manual § 3030(d).

8. 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.*

9. Protestant has produced no evidence, cited no authority and raised no specific objections as to the figures determined by the audit.

10. 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 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.