JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2003-10-07-10 / NOT PRECEDENTIAL**
ID: **CR030005**
DATE: **10-07-03**
DISPOSITION: **DENIED**
TAX TYPE: **MOTOR VEHICLE REGISTRATION**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 5th day of September, 2003, the above styled and numbered cause comes on for consideration pursuant to assignment regularly made by the Oklahoma Tax Commission to AN Administrative Law Judge. Claimant represents himself in this matter. The Motor Vehicle Division is represented by AN Assistant General Counsel, General Counsel's Office of the Oklahoma Tax Commission. A hearing was held. Notice of the hearing was mailed to Claimant as his last known address, yet he did not appear. At the conclusion of the hearing, this matter was submitted for decision.

FINDINGS OF FACT

1. On May 12, 1999, Claimant registered a 1999 Dodge Durango[1] and paid standard registration fees of $371.00.

2. On May 15, 2003, Claimant requested a refund of the difference between the standard registration of $371.00 and the active duty military fee of $15.00.

3. In support of the claim, a letter dated May 8, 2003, from A Lieutenant Colonel, USAF, certifying that CLAIMANT has "served continuously on active since 22 June 1989" was submitted.

4. The Division, by letter dated May 28, 2003, denied Claimant's refund claim for the reason that "[y]our request was received more than three years following payment of the fees. Oklahoma law stipulates a statute of limitations of three years for such requests."

5. Claimant, by letter dated June 1, 2003, and received June 3, 2003, protested the Division's denial and requested a hearing.

6. THE Administrator, Motor Vehicle Division, testified that he researched Division records for the current year and the preceding year and determined that Claimant registered the vehicle pursuant to the special military rate for the 2002 and 2003 registration years.

[1] The vehicle was titled in the names of CLAIMANT AND HIS SPOUSE.

ISSUE AND CONTENTIONS

Whether Claimant's refund claim for vehicle registration fees erroneously paid to the State of Oklahoma is barred by the statute of limitation.

Claimant contends he recently realized the possibility of a refund and was unaware of the statute of limitations. Additionally, he contends that since he was in uniform when he paid the taxes, the cashiers at the Altus "Tag Office" were negligent in not informing him of the reduced rate for active duty military personnel.

The Division, while not disputing Claimant's eligibility for the reduced registration rate, contends that the claim is barred under Section 227 of Title 68 of the Oklahoma Statutes because the claim was not filed within three years of the registration. Further, the Division contends that Claimant bears the burden of proof of showing in what respect the action of the Division is incorrect, and it has failed that burden.

CONCLUSIONS OF LAW

1. Jurisdiction over the parties and subject matter of this proceeding is vested in the Oklahoma Tax Commission. 68 O.S. 1991, § 207.

2. Any taxpayer who has paid any tax through error of fact, or computation, or misinterpretation of law may file a claim for refund of such tax within three (3) years from the date of payment. 68 O.S. Supp. 1993, § 227(a) and (b).

3. In the present case, the record reflects that Claimant failed to file a claim for refund of the erroneously paid vehicle registration fees within three (3) years of the payment of taxes. Further, Claimant has not presented any evidence to prove otherwise. Accordingly, Claimant's refund claim is barred under the provisions of Section 227 of Title 68 of the Oklahoma Statutes.

4. Claimant's protest to the denial of the claim for refund of vehicle registration fees should be denied.

DISPOSITION

It is the DETERMINATION of the undersigned, based upon the specific facts and circumstances of this case, that the protest to the denial of the vehicle registration fee claim for refund of CLAIMANT 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.