

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2002-07-23-003 / NOT PRECEDENTIAL
ID: CR020005
DATE: 07-23-02
DISPOSITION: DENIED
TAX TYPE: BOAT AND MOTOR EXCISE
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On June 13, 2001, Claimant purchased a 1999 Chriscraft boat in Texas and signed an application to register and title the boat in Texas. A Texas Parks & Wildlife Boat Registration, Title Fees and Tax Receipt indicates that Claimant paid Texas sales tax in the amount of \$1,264.74 on June 20, 2001.

2. Claimant made application to title and register the boat in Oklahoma on July 14, 2001, and pursuant to that process paid excise tax in the amount of \$658.00.

3. By letter dated December 20, 2001, Claimant requested a refund of the excise tax stating that "excise and sales tax only vary in name not function in this matter and why should a taxpayer be taxed twice on any purchase."

4. The Division, by letter dated January 23, 2002, denied Claimant's refund request. The basis for the denial as stated in the letter was, "A boat purchased in another state and titled and registered in Oklahoma is due for payment of excise tax. No exemption is made for taxes paid in the state of purchase."

5. By letter dated February 19, 2002, Claimant protested the denial of the refund claim and requested a hearing.

CONCLUSIONS OF LAW

1. An excise tax is levied and shall be collected upon the transfer of legal ownership of any vessel or motor registered in this state and upon the use of any vessel or motor registered in this state and upon the use of any vessel or motor registered for the first time in this state. 63 O.S. 1991, Section 4103A. The tax is due at the time of transfer of legal ownership or first registration in this state and shall be collected at the time of the issuance of the certificate of title. *Id.*

2. Section 4106 of Title 63 sets forth the circumstances under which a certificate of title can be issued without the payment of excise tax. None of the outlined exemptions are applicable in this matter.

3. As a general rule, statutes exempting property from taxation are to be applied circumspectly and are to be strictly construed against the allowance of an exemption. *Bert Smith Road Machinery Co. v. Oklahoma Tax Commission*, 563 P.2d 641 (Okl. 1977); *Phillips Petroleum Co. v. Oklahoma Tax Commission*, 542 P.2d 1303 (Okl. 1975). The language of an exemption statute may not be construed so as to give it an effect which is not intended. *Protest of Hyde*, 188 Okl. 413, 110 P.2d 292 (1941).

4. The burden of proof in all proceedings 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*. Claimant failed to prove that there was an applicable exemption from the imposition of the Oklahoma excise tax for taxes paid in another state.

5. Claimant's excise tax claim for refund should be denied.

DISPOSITION

It is the DETERMINATION of the OKLAHOMA TAX COMMISSION, based upon the specific facts and circumstances of this case, that the motor vehicle excise tax claim for refund 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.