JURISDICTION:	**OKLAHOMA TAX COMMISSION DECISION**
CITE:	**86-01-23-04 / NON-PRECEDENTIAL**
ID:	**P-85-009**
DATE:	**JANUARY 23, 1986**
DISPOSITION:	**DENIED (TWO PERIODS)**
	HELD IN ABEYANCE (ONE PERIOD)
	SEE OTC ORDER 88-03-01-03 (SUSTAINED ONE PERIOD)
TAX TYPE:	**SALES TAX**
APPEAL:	**NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 5th day of November, 1985, the above styled cause comes on for consideration pursuant to assignment regularly made to ALJ, Presiding Administrative Law Judge, by the Oklahoma Tax Commission, and hearing had on August 23, 1985, at which hearing Protestant appeared in person, and by Attorney, ATTORNEY, and the Sales and Use Tax Division appeared by Attorney, OTC ATTORNEY, and Legal Research Assistant, ASSISTANT.

Opening statements were made by the parties, and exhibits, not herein itemized, were received into evidence. PROTESTANT testified in his own behalf, and AUDITOR, Auditor of the Sales and Use Tax Division, and ASSISTANT DIRECTOR, Assistant Director of the Division, testified on behalf of the Division. Closing arguments were then presented.

STATEMENT OF FACTS

After a field audit conducted by AUDITOR, and on August 23, 1984, and November 13, 1984, assessments were issued in the amount of Thirteen Thousand Eighty-six Dollars and Sixty-five Cents ($13,086.65) in sales tax for the period September 1, 1979 through May 31, 1984, plus penalty and interest and One Hundred Eighteen Dollars and Nine Cents ($118.09) in use tax for the period July 1, 1981 through May 31, 1984, plus penalty and interest against CORPORATION, NAME, PROTESTANT and his wife, WIFE.

At the time of the hearing, the use tax assessments were withdrawn by the Division; and the sales tax assessments were withdrawn against all parties except PROTESTANT, leaving only an assessment of Thirteen Thousand Eighty-six Dollars and Sixty-five Cents ($13,086.65) in sales tax, plus penalty and interest, for the period of September 1, 1979 through May 31, 1984, against PROTESTANT. Also, during the course of the hearing, PROTESTANT admitted liability for sales tax beginning September 1, 1983 through May 31, 1984.

After the hearing and prior to a proposed decision being entered, the undersigned requested additional documents from Protestant which were forthcoming.

By letter of October 14, 1985, PROTESTANT, through his attorney, admitted liability for sales tax, penalty and interest for the time periods 6-30-81 through 9-27-81 in the amount of Nine Hundred Twelve Dollars and Fifty-two Cents ($912.52), and for the period 9-1-83 through

5-31-84 in the amount of Three Hundred Nineteen Dollars and Forty-seven Cents ($319.47). The parties agreed by stipulation that the above taxes, penalty and interest are correct for the respective time periods, and that the undersigned would write a proposed decision consistent with the stipulations.

This leaves the question of tax liability from September 27, 1981 to September 1, 1983, and the amount thereof yet to be determined.

CONCLUSIONS

In view of the above and foregoing findings, the undersigned concludes as follows:

(1) That the Oklahoma Tax Commission has jurisdiction in this matter.

(2) That PROTESTANT owes sales tax, penalty and interest for the time period 6-30-81 through 9-27-81 in the amount of Nine Hundred Twelve Dollars and Fifty-two Cents ($912.52), and for the period 9-01-83 through 5-31-84 in the amount of Three Hundred Nineteen Dollars and Forty-seven Cents ($319.47), which he has paid by cover letter of October 14, 1985, from his attorney.

(3) That the question of tax liability for the period September 27, 1981 to September 1, 1983, and the amount thereof should be held in abeyance for determination at a future time.

(4) That the protest of PROTESTANT should be denied.

DISPOSITION

It is the ORDER of the OKLAHOMA TAX COMMISSION that the protest of PROTESTANT be denied insofar as the assessment periods 6-30-81 through 9-27-81 and 9-01-83 through 5-31-84 since he has admitted liability and paid the taxes, penalty and interest for those time periods.

It is further ORDERED that the question of tax liability and amount thereof for the period 9-27-81 to 9-01-83 be held in abeyance for future determination.

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.