

**JURISDICTION:** OKLAHOMA TAX COMMISSION DECISION  
**CITE:** 86-03-11-55 / NON-PRECEDENTIAL  
**ID:** P-85-080  
**DATE:** MARCH 11, 1986  
**DISPOSITION:** DENIED  
**TAX TYPE:** INCOME  
**APPEAL:** NO APPEAL TAKEN

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**STATEMENT OF FACTS**

PROTESTANT timely filed his 1981 Oklahoma Income Tax Return. On said return, the Protestant reported Oklahoma taxable income of Six Thousand Three Hundred Nineteen Dollars (\$6,319.00). The Division received notice from the Internal Revenue Service of several changes in the Protestant's Federal 1981 Income Tax Return. Among those changes was a disallowance of a charitable contribution in the amount of Forty-one Thousand Two Hundred and Fifty Dollars (\$41,250.00).

Pursuant to the Revenue Agent's Report provided under authority of I.R.C. § 6103(d), the Division issued a timely assessment of additional income taxes and interest in the amount of One Thousand Four Hundred Forty-two Dollars and Fifty-two Cents (\$1,442.50), by letter dated April 1, 1985. By letter dated April 6, 1985, the Protestant protested the assessment and inquired as to how the Division had determined the amount of deficiency. On April 12, 1985, the Division forwarded the Revenue Agent's Report to the Protestant to answer Protestant's questions.

On April 20, 1985, the Protestant again corresponded with the Division, but again failed to raise a genuine issue of fact or law. On July 22, 1985, the Division's ATTORNEY sent a letter to the Protestant requesting the Protestant to contact the Division to agree upon a date for a hearing. On August 16, 1985, Protestant telephoned the Division's attorney and said that he did not care which date was selected. The Division's attorney then selected a date. The undersigned notified Protestant of the hearing date by letter dated September 3, 1985.

**ISSUES AND CONTENTIONS**

The sole issue in this case is whether the adjustments made by the Division, based upon the Revenue Agent's Report provided by the IRS, were timely and proper.

The Protestant contends that the Revenue Agent's Report was incorrect and that, therefore, the Division's assessment was also incorrect. However, Protestant does not state why the Revenue Agent's Report was incorrect. In fact, Protestant failed to raise a factual or legal question.

The Division contends that the adjustments were timely and were made pursuant to the, Federal Revenue Agent's Report. In the absence of proof to the contrary, the assessment should stand as correct.

### **APPLICABLE LAW**

The Internal Revenue Service is authorized pursuant to I.R.C. § 6103(d), to disclose income tax return information to state tax officials. Pursuant to said section, the Internal Revenue Service notified the Division of changes made on Protestant's 1981 Federal Income Tax Return. In a timely manner, the Division acted upon the information provided by the Internal Revenue Service, and assessed additional income tax based on the adjustments made by the Internal Revenue Service.

Protestant did not raise any issues of fact or law in his correspondence with the Division. In fact, Protestant failed to appear for the hearing scheduled to dispose of his protest. In the absence of proof to the contrary, the Division's assessment must stand as correct.

### **CONCLUSIONS**

In view of the above and foregoing findings of fact and law applicable thereto, the undersigned concludes as follows:

- (1) That the Oklahoma Tax Commission has jurisdiction in this matter.
- (2) That Protestant failed to appear and sustain his burden of proving that the IRS and the Division had erred in making the adjustments to his 1981 Federal and State income tax returns.
- (3) That the protest filed by PROTESTANT against the assessment herein should be denied.

### **DISPOSITION**

In view of the above and foregoing findings of fact and conclusions of law, the OKLAHOMA TAX COMMISSION ORDERS that the protest of PROTESTANT be denied and that Protestant pay the full amount of tax assessed plus interest and penalty from the due date until paid.

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.