

JURISDICTION: OKLAHOMA TAX COMMISSION DECISION
CITE: 86-07-17-05 / NON-PRECEDENTIAL
ID: P-86-015
DATE: JULY 17, 1986
DISPOSITION: FULL SETTLEMENT AND COMPROMISE
TAX TYPE: SALES
APPEAL: NO APPEAL TAKEN

ORDER

NOW, there coming on for hearing before the Oklahoma Tax Commission the matter of the Protest of PROTESTANT, ADDRESS, CITY, Oklahoma, 7XXXX, for sales tax, interest and penalty for the period of September 1, 1982 through August 31, 1985. The Oklahoma Tax Commission, being fully advised in the premises, finds as follows:

(1) That on the 27th day of November, 1985, the Sales and Use Tax Division of the Oklahoma Tax Commission issued its assessment against PROTESTANT for sales tax in the amount of Fourteen Thousand Seven Hundred Sixty-four Dollars and Eighty-three Cents (\$14,764.83) plus interest of Three Thousand Nine Hundred Forty-nine Dollars and Fifty-nine Cents (\$3,949.59) and penalty of One Thousand Four Hundred Seventy-six Dollars and Forty-eight Cents (\$1,476.48) for a total aggregate amount of Twenty Thousand One Hundred Ninety Dollars and Ninety Cents (\$20,190.90).

(2) That on the 13th day of December, 1985, PROTESTANT timely filed its written protest with the Oklahoma Tax Commission protesting the sales tax assessment issued on the 27th day of November, 1985.

(3) That PROTESTANT purchased items of tangible personal property (units) exempt from sales and use tax during the audit period.

(4) That the assessment was based on the amounts PROTESTANT received from customers who paid monthly to have these units placed in their homes or businesses.

(5) That since March, 1985, PROTESTANT has collected, reported and remitted sales tax on charges made to customers who have had units placed in their homes or businesses.

(6) That PROTESTANT relied on incorrect and inconsistent directions from the Sales and Use Tax Division as to whether sales tax was due and, as a result, did not collect any of the sales tax that was later assessed from its customers.

(7) That without admitting said liability, PROTESTANT has offered the amount of Two Thousand One Hundred Eighty-eight Dollars and No Cents (\$2,188.00) in order to settle and compromise the sales tax, interest and penalty assessment made against it. Such amount represents the use tax that PROTESTANT would have paid had PROTESTANT paid use tax on the units purchased and not sold during the audit period.

(8) Additionally, PROTESTANT will continue to collect, report and remit sales tax on the monthly amounts it charges to its customers who have units placed in their homes or businesses until such time as the Sales Tax Code may be amended to clearly exempt such charges, by whatever names called, from sales tax.

(9) That the above stated amount and terms offered in settlement and compromise to the assessment in question is reasonable and should be accepted by the Oklahoma Tax Commission under the provisions of Title 68 O.S. 1981, [§] 219.

IT IS THEREFORE ORDERED AND ADJUDGED that the offer of settlement and compromise by PROTESTANT in the amount of Two Thousand One Hundred Eighty-eight Dollars and No Cents (\$2,188.00) should be and is, accepted in full settlement and compromise of the sales tax assessment made against PROTESTANT for the period of September 1, 1982 through August 31, 1985.

DATED this 17th DAY OF JULY, 1986.

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.