JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **98-01-22-045 / NOT PRECEDENTIAL**
ID: **P9700049**
DATE: **01-22-98**
DISPOSITION: **DENIED**
TAX TYPE: **SALES / TOURISM**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Protestant was listed on the Business Registration form as owner of AN ANONYMOUS BAR, located in ANYTOWN, Oklahoma, operating under Sales Tax Permit Number XXX.

2. Sales and tourism tax were not reported or remitted by Protestant for the periods of October, 1995, and December, 1995, through May 7, 1996.

3. On or about January 3, 1997, Division issued its proposed sales tax and tourism tax assessments against Protestant as follows:

Sales Tax

Tax	$1,900.00
Interest thru 2-14-97	273.10
Penalty	190.00
TOTAL	$2,363.10

Tourism Tax

Tax	$ 32.00
Interest thru 2-14-97	4.56
Penalty	3.20
TOTAL	$ 39.76

4. Protestant filed a protest, which was received by the Account Maintenance Division (hereinafter Division) on February 4, 1997, claiming that he did not open the business until November 1, 1995, and that it was closed on February 1, 1996.

5. Division, based on information contained in its files and records, agrees that Protestant does not owe sales or tourism tax for October, 1995.

CONCLUSIONS OF LAW

1. The Oklahoma Tax Commission has jurisdiction of this protest. 68 O.S. § 221.

2. The statutory authority and basis upon which the proposed assessment was issued are 68 O.S. Supp. 1995, §§ 1354 and 1361.

3. The burden of proof in all proceedings, unless otherwise provided by law, 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.

4. The amounts attributed to October, 1995, should be excluded from the assessment issued herein.

5. Protestant has wholly failed to come forward with any evidence in support of its protest as to the period of December, 1995, through May 7, 1996, and therefore, has failed to meet his burden of proving in what respect the proposed assessment is incorrect.

6. The protest as to the period of December, 1995, through May 7, 1996, should be denied.

DISPOSITION

It WAS the DETERMINATION of THE OKLAHOMA TAX COMMISSION, based upon the specific facts and circumstances of this case, that the proposed sales and tourism tax assessment for October, 1995, be withdrawn and that the protest to the proposed assessment of sales and tourism tax for the period December, 1995, through May 7, 1996, be denied.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.