

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 98-01-27-009 / NOT PRECEDENTIAL
ID: P9700129B
DATE: 01-27-98
DISPOSITION: DISMISSED
TAX TYPE: SALES
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the file and records, including the record of the proceeding held on November 21, 1997, to consider the *Motion to Dismiss*, the undersigned finds:

1. On March 13, 1997, the Division issued a proposed assessment of sales tax, interest and penalty against PROTESTANT as an officer of ANONYMOUS, INC.

2. PROTESTANT filed a protest to the Division's proposed assessment. The envelope in which the protest was mailed was postmarked April 17, 1997.

3. On October 22, 1997, the Division filed a *Motion to Dismiss* on the grounds and for the reasons that the protest was untimely filed; that PROTESTANT failed to state any factual or legal defense upon which relief may be granted; and that PROTESTANT did not request a hearing. Notice of the hearing scheduled to consider the *Motion to Dismiss* was forwarded to the parties to this proceeding. The Notice forwarded to PROTESTANT was mailed to his last known address.

4. PROTESTANT neither responded to the notice of hearing nor appeared at the hearing.

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes that the Tax Commission is vested with jurisdiction to consider the *Motion to Dismiss*, (68 O.S. 1991, § 207 and 710:1-5-46 of the *Oklahoma Administrative Code*); that PROTESTANT did not file a timely protest to the proposed sales tax assessment; and that the proposed assessment is final and absolute and the Tax Commission is without jurisdiction to consider the merits of the protest. [See, 68 O.S. 1991, § 221(e)].

DISPOSITION

THEREFORE, it WAS DETERMINED that the protest of PROTESTANT be dismissed. It WAS further DETERMINED that the amount of the proposed assessment, and any additional accrued and accruing interest, be fixed as the deficiency due and owing by PROTESTANT.

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 Non-precedential decisions are not considered binding upon the Commission.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.