

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 98-01-27-010 / NOT PRECEDENTIAL
ID: P9700129C
DATE: 01-27-98
DISPOSITION: DENIED
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. By letter dated April 14, 1997, PROTESTANT filed a written protest to the Division's proposed assessment.

3. A prehearing conference was held in this cause on October 20, 1997. PROTESTANT did not attend the prehearing conference nor respond to the notice of prehearing conference.

4. 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 her last known address.

5. 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 a proposed assessment is presumed correct and PROTESTANT bears the burden of showing that it is incorrect and in what respect, [*Enterprise Management Consultants, Inc. v. Oklahoma Tax Commission*, 768 P.2d 359 (Okl. 1988)]; and that PROTESTANT has produced no evidence, cited no authority and raised no objections in the protest filed herein.

DISPOSITION

THEREFORE, IT WAS DETERMINED that the protest of PROTESTANT, be denied. It WAS further DETERMINED that the amounts in controversy, and any additional accrued and accruing interest, be fixed as the deficiencies 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 Non-precedential decisions are not considered binding upon the Commission.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.