JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **98-03-10-005 / NOT PRECEDENTIAL**
ID: **P9700001**
DATE: **03-10-98**
DISPOSITION: **DENIED**
TAX TYPE: **ESTATE**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The DECEDENT, died on December 12, 1993, a resident of AN ANONYMOUS County.

2. The estate did not file an Estate Tax Return during the following nine (9) month period as required by 68 O.S. §§ 815 and 819.

3. The Estate Tax Section of the Audit Division sent a proposed assessment in the amount of $1,896.35 to the estate on November 15, 1995, using information made available under 68 O.S. §§ 812 and 813. This assessment was based solely on the proceeds of a life insurance policy in the amount of $56,600.00.

4. The decedent's estate filed an Estate Tax Return on December 4, 1995, and remitted $1,896.35, the amount of the initial assessment. The return did not reflect the life insurance proceeds, which was the basis of the Estate Tax Section's initial assessment.

5. The Estate Tax Section issued an Order Assessing Tax on October 14, 1996. It was a recalculation of the initial assessment based on the filing of the estate tax return. The order provided for a refund of $208.35 to the estate.

6. On November 4, 1996, the decedent's estate timely filed an objection to the Order Assessing Tax.

CONCLUSIONS OF LAW

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

2. Estate tax is levied upon the transfer of the net estate of every decedent at the rates prescribed in Section 803 of Title 68 of the Oklahoma Statutes. 68 O.S. § 802.

3. The value of the gross estate, used as a basis for the determination of the value of the net estate, shall be determined in accordance with the provisions of Section 807 of Title 68 of the Oklahoma Statutes. 68 O.S. 1991, § 807(A). In particular to this proceeding, the value of Decedent’s gross estate as provided in Section 807 includes the amount of the proceeds from a life insurance policy in which the decedent, at the time of death, had retained some right. 68 O.S. 1991, § 807(A)(6).

4. 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.

5. Protestant has wholly failed to come forward with any evidence in support of its protest and, therefore, has failed to meet its burden of proving in what respect the proposed assessment is incorrect.

6. The protest should be denied.

DISPOSITION

Therefore, based on the above and foregoing, it WAS DETERMINED that the estate tax protest of THE ESTATE OF DECEDENT 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.