JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **98-03-31-004 / NOT PRECEDENTIAL**
ID: **P9700167**
DATE: **03-31-98**
DISPOSITION: **DENIED**
TAX TYPE: **ESTATE**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The DECEDENT, died December 2, 1993, a resident OF ANOTHER STATE.

2. The DECEDENT'S estate filed its original estate tax return on December 23, 1994.

3. The DECEDENT'S estate included real estate and mineral interests located within the State of Oklahoma.

4. The estate reported a value for the mineral interests in the amount of $14,490.00. The mineral interests are reported on Schedule A-2 of the Estate Tax Return.

5. The value of the mineral interests reported on Schedule A-2 by the estate was established by the Appraisal Report by AN ANONYMOUS Appraisal Service. The value of the mineral interest was calculated as follows:

Well Name:	WELL #1
Producer:	ANONYMOUS Oil & Gas, Inc.
Buyer:	XXX
Zone:	CCC
Price:	$1.50 per MCF
3 Year Avg. Production:	8,600 MCF
Year Remaining Value:	25,800 MCF
Total Value:	$38,700.00
Owner Interest:	.015625(On report as 0.15625)
Owner Value:	$604.50

Well Name:	WELL #2
Producer:	ANONYMOUS Oil & Gas, Inc.
Buyer:	XXX
Zone:	CCC-MMM
Price:	$1.50 per MCF
2 Year Avg. Production:	8,200 MCF
Year Remaining Value:	16,400 MCF
Total Value:	$24,600.00
Owner Interest:	.015625
Owner Value:	$385.00

Well Name:	WELL #3
Producer:	XYZ, Inc.
Buyer:	YYY
Zone:	MMM
Price:	$1.50 per MCF
3 Year Avg. Production:	31,000 MCF
Year Remaining Value:	155,000 MCF
Total Value:	$232,500.00
Owner Interest:	.06250
Owner Value:	$14,500.00

6. The Division audited the return and pursuant to the valuation methodology prescribed by *Oklahoma Administrative Code* 710:35-5-21(1) made the following adjustments to the mineral interests listed on Schedule A-2:

> The Schedule A-2 property was still producing on the date of death. The 1040 income for 1993 net after tax, before depletion was $6,293.00 multiplied by 7 resulting in a value of $44,051.00. The 1040 income is reflected on Schedule E.

7. On May 26, 1995, the Division issued an Order Assessing Tax against Protestant in the amount of $1,665.00.

8. On June 26, 1995, Division received Protestant's letter of protest wherein the valuation methodology of the mineral interests was put at issue. Protestant reasserts that the independent appraiser's value should be accepted by the Division as the valuation method used by the Division "appears to be arbitrary".

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. §§ 802 and 816(A) and *Oklahoma Administrative Code* 710:35-5-21.

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. 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.

5. The protest should be denied.

DISPOSITION

Based on the above and foregoing findings of fact and conclusions of law, it WAS DETERMINED that the estate tax protest of the Estate of THE 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.