JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **98-06-23-016 / NOT PRECEDENTIAL**
ID: **P9700181**
DATE: **06-23-98**
DISPOSITION: **DENIED**
TAX TYPE: **INCOME**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the file and records in this matter, including the protest filed by PROTESTANT and the verified response to the protest filed by the Audit Division, the undersigned Administrative Law Judge MADE the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. PROTESTANT is a resident of ANOTHER STATE.

2. The Division received information which indicated that PROTESTANT had sufficient income from the State of Oklahoma to require the filing of an Oklahoma income tax return.

3. AN ANONYMOUS Estate filed a Fiduciary Return and a copy of the Federal K-1 was attached thereto, which reflects that PROTESTANT received Two Thousand One Hundred Seventeen Dollars ($2,117.00) in income from the estate.

4. The Division issued a proposed assessment on May 16, 1997, for income tax, penalty and interest through May 30, 1997, in the amount of Two Hundred Thirty-one Dollars and Thirty-six cents ($231.36) for the period March 1, 1994, through February 28, 1995.

5. PROTESTANT'S letter of protest was received on June 18, 1997; however, the protest failed to set forth any basis to support his claim that the proposed assessment is incorrect.

6. On October 27, 1997, the Office of General Counsel sent a letter to PROTESTANT requesting that he submit any proof to support his claim that the proposed assessment is incorrect.

7. On November 21, 1997, the Office of General Counsel received a letter from PROTESTANT stating he is not subject to the jurisdiction of the State of Oklahoma and that any further communications from the Oklahoma Tax Commission would be refused.

8. The notice of prehearing conference sent to PROTESTANT was returned, marked "Return to Sender".

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. § 2368(A)(4) and *Oklahoma Administrative Code* 710:50-3-38(a).

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 upon the above and foregoing findings of fact and conclusions of law, it WAS DETERMINED that the income tax protest of PROTESTANT 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.