JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **98-06-25-008 / NOT PRECEDENTIAL**
ID: **P9700363**
DATE: **06-25-98**
DISPOSITION: **DENIED**
TAX TYPE: **WITHHOLDING**
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 PROTESTANTS and the verified response to the protest filed by the Account Maintenance Division, the undersigned makes the following findings of fact and conclusions of law:

1. On December 10, 1996, PROTESTANT filed a Business Registration Form and initial Franchise Tax Return. The Registration Form indicated the corporation was at the time either withholding taxes or intended in the future to withhold taxes from its employees' wages.

2. The Registration Form and Franchise Tax Return listed the following corporate officers:

OFFICER "A"
OFFICER "B"

3. The corporation failed to timely file withholding tax reports for October, 1996, through December, 1996, and April, 1997, through September, 1997. As a result, the Division by letters dated October 24, 1997, issued proposed assessments of taxes against PROTESTANTS for withholding tax, interest and penalty in the estimated amounts of $138.47 and $233.30 for the periods of October, 1996, through December, 1996, and April, 1997, through September, 1997, respectively.

4. PROTESTANTS timely protested the proposed assessment.

5. On or about November 21, 1997, PROTESTANTS filed reports for October, 1996, through December, 1996, and April, 1997, through June, 1997, reflecting no wages were paid for those periods. The Division accepted the reports filed.

6. The sole issue remaining involves the period July, 1997, through September, 1997. PROTESTANTS have not filed a withholding tax report for this period.

7. Revised assessment letters were issued for withholding tax, penalty and interest accrued through April 15, 1998, in the estimated amount of $132.47 for the period July, 1997, through September, 1997.

8. The revised assessment letter issued against OFFICER "B" omits any middle initial for the reason that the records of the Division contain conflicting information with respect to the middle initial of OFFICER "B".

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. §§ 217, 221, 253, and 2385.3 and *Oklahoma Administrative Code* 710:90-3-17 and 710:90-5-3.

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. PROTESTANTS have wholly failed to come forward with any evidence in support of their protest and therefore, have failed to meet their burden of proving in what respect the proposed assessment is incorrect.

5. The protest should be denied.

DISPOSITION

It WAS the DETERMINATION of the COMMISSION, based upon the specific facts and circumstances of this case, that the withholding tax protest of THE CORPORATION and THE CORPORATE OFFICERS, IN THEIR CAPACITIES AS OFFICERS AND AS INDIVIDUALS, 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.