JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **98-11-19-005 / NOT PRECEDENTIAL**
ID: **P9600524**
DATE: **11-19-98**
DISPOSITION: **DENIED**
TAX TYPE: **INCOME**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the file and records. The undersigned finds:

1. That sometime during 1993, Protestant obtained a divorce from his spouse.

2. That in December, 1993, Protestant moved OUT OF THE COUNTRY where he began working as a consultant/contract employee for AN ANONYMOUS COMPANY.

3. That Protestant reconciled with his ex-spouse and returned to Oklahoma in December, 1994.

4. That Protestant and his ex-spouse were remarried in 1995.

5. That Protestant and his ex-spouse filed separate income tax returns with the State of Oklahoma for the 1994 tax year.

6. That Protestant on the 1994 Form 511 reported all of his income to the State of Oklahoma.

7. That on February 20, 1996, Protestant filed a 1994 Form 511-NR.

8. That Protestant on the 1994 Form 511-NR listed his residency status as a part-year resident.

9. That on the 1994 Form 511-NR, Protestant excluded the income earned OUT OF THE COUNTRY from the computation of Oklahoma taxable income and requested a refund of $2,056.00.

10. That the Division denied the claim for refund, finding Protestant was a resident of Oklahoma for purposes of the Oklahoma Income Tax Act during the 1994 tax year.

11. That Protestant timely responded to the denial of the refund, asserting that he was not a resident of the State of Oklahoma during the 1994 tax year.

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law that the Tax Commission is vested with jurisdiction over the parties and subject matter of this action, 68 O.S. 1991, § 207; that a proposed action of the Commission is presumed correct and the taxpayer 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); that an Oklahoma domicile, once established, is presumed to continue unless an individual can show a change has occurred, ***Suglove v. Oklahoma Tax Commission***, 605 P.2d 1315, 1318 (Okl. 1979); that to effect a change of domicile there must be (a) actual abandonment of the first domicile, coupled with (b) the intention not to return to it and (c) actual residence in another place with intention of making it a permanent home, Id., at 1317; and that Protestant has wholly failed to come forward with any evidence to show he is entitled to the relief requested, Rule 710:1-5-47 of the ***Oklahoma Administrative Code***.

DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it WAS DETERMINED that the 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.