

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 99-03-23-009 / NOT PRECEDENTIAL
ID: P9800288
DATE: 03-23-99
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the file and records, including the proposed income tax assessment of July 31, 1998, the letter of protest, and the Division's Verified Response to Protest, the undersigned finds:

1. That the Division assessed additional income tax, interest, and penalty against Protestants for the 1992 and 1993 tax years.

2. That the assessments are based on Internal Revenue Service Revenue Agent Report issued to Protestants on January 24, 1995, notifying them of the lack of information provided and/or adjustments made to their returns for years 1992 and 1993.

3. That Protestants did not file amended returns with the state subsequent to the Revenue Agent Report.

4. That a proposed assessment of additional income tax, interest, and penalty was issued against Protestants for the 1992 tax year in the total amount of \$3,723.52, inclusive of tax in the amount of \$1,909.00, interest accrued through December 16, 1998, in the amount of \$1,623.62, and penalty in the amount of \$190.90.

5. That a proposed assessment of additional income tax, interest, and penalty was issued against Protestants for the 1993 tax year in the total amount of \$2,039.99, inclusive of tax in the amount of \$1,133.00, interest accrued through December 16, 1998, in the amount of \$793.69, and penalty in the amount of \$113.30.

6. That the aggregate amount assessed against Protestants for the 1992 and 1993 tax years, inclusive of penalty and interest accrued through December 16, 1998, is \$5,763.51.

7. That MR. PROTESTANT, timely responded to the assessment, asserting that the assessments were not timely and the amounts were incorrect.

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 assessment 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 except in those circumstances where an IRS revision affects items or matters relating to allocation or apportionment, the Tax Commission is bound by the changes made by the IRS, Rule 710:50-3-8(d) of the ***Oklahoma Administrative Code***; that the information furnished by the IRS shall be that upon which any tax liability is computed, Rule 710:50-5-10(a) of the ***Oklahoma Administrative Code***; and that the statute of limitation upon the assessment of income tax is tolled pending the filing of an amended return where the taxable income of a taxpayer is changed or corrected by the IRS and the change or correction affects the Oklahoma taxable income of the taxpayer, 68 O.S. 1991, § 2375(H)(3).

DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it WAS DETERMINED that the protest of MR. PROTESTANT AND MS. PROTESTANT, be denied. It WAS further DETERMINED that the amount in controversy, plus any additional accrued and accruing interest, be fixed as the deficiency due and owing.

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.