

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 99-05-10-012 / NOT PRECEDENTIAL
ID: P9900020
DATE: 05-10-99
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT

Upon review of the file and records, the undersigned finds:

1. That by letters dated September 30, 1998, the Income Tax Division assessed income tax, interest and penalty against Protestant for the 1990, 1991, and 1992 tax years.
2. That the assessments are based on Internal Revenue Service Revenue Agent Reports.
3. That Protestant had not previously filed income tax returns with the State of Oklahoma for the 1990, 1991, and 1992 tax years and did not file amended returns with the state subsequent to the changes made by the Internal Revenue Service.
4. That the aggregate amount assessed against Protestant for the 1990, 1991, and 1992 tax years, inclusive of interest accrued through September 30, 1998, is \$25,354.77.
5. That Protestant filed a timely response to the assessments, asserting that he did not reside in Oklahoma during 1990 and had no taxable income from within the boundaries of the State of Oklahoma for the tax years 1990, 1991, and 1992.

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 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.