JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **99-05-20-006 / NOT PRECEDENTIAL**
ID: **P9800277**
DATE: **05-20-99**
DISPOSITION: **DENIED**
TAX TYPE: **INCOME**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. PROTESTANTS are married and are residents of the State of Oklahoma.

2. By letters dated June 30, 1998, the Division caused to be issued against Protestants proposed assessments of income tax, penalty and interest for the 1989 through 1992 tax years. The aggregate amount assessed was $16,746.62, consisting of tax in the amount of $7,823.00, interest accrued through June 30, 1998, in the amount of $8,141.32, and penalty in the amount of $782.30.

3. The proposed assessments were based on Revenue Agent Reports/ Service Center Reports. The reports were received by the Division from the Internal Revenue Service.

4. The Division, after receiving the reports and determining from a review of its records that Protestants had not filed Oklahoma income tax returns for the years in question, utilized the information from the reports to determine Protestants' Oklahoma taxable income.

5. On July 16, 1998, the Division received Protestants' letter of protest wherein the entire amount of the proposed assessments was placed in controversy.

6. Based on additional information, by letters dated August 14, 1998, the Division revised the proposed income tax assessments. The revised amount assessed in the aggregate was $12,874.92, consisting of tax in the amount of $5,904.00, interest accrued through August 14, 1998, in the amount of $6,380.52, and penalty in the amount of $590.40.

CONCLUSIONS OF LAW

1. The Oklahoma Tax Commission has jurisdiction of this protest. 68 O.S. § 221.

2. The Oklahoma Income Tax Act imposes an income tax upon the Oklahoma taxable income of every resident or nonresident individual who earns income within the State. 68 O.S. § 2355.

3. Every resident individual is required to make an income tax return stating his or her taxable income, 68 O.S. § 2368, and must transmit the return to the Tax Commission and remit the amount of tax due. 68 O.S. §§ 2355 and 2375.

4. *Oklahoma Administrative Code* 710:1-5-47 provides that the Protestant has the burden of showing in what respect the action or proposed action of the Tax Commission is in error. Protestants have not met this burden of showing that the taxing statutes of the State of Oklahoma do not impose liability for State income tax upon them, or that the amount proposed to be assessed is in error.

5. The protest should be denied.

DISPOSITION

It WAS DETERMINED, based upon the specific facts and circumstances of this case, that the income tax protest of PROTESTANTS 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.