JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **99-07-20-062 / NOT PRECEDENTIAL**
ID: **P9800317**
DATE: **07-20-99**
DISPOSITION: **DENIED**
TAX TYPE: **SALES / WITHHOLDING / TOURISM**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. By letters dated September 18, 1998, the Division proposed to assess estimated sales tax for the period April, 1998, through August, 1998, against THE CORPORATION d/b/a COMPANY ONE, MR. PROTESTANT, as President and as an individual, and MS. PROTESTANT, as Vice President and as an individual, in the following amounts:

Sales Tax

Estimated Tax Due	$ 13,650.00
Interest thru 11-20-98	715.76
Penalty	1,365.00
Total Due	$ 15,730.76

2. By letters dated September 18, 1998, the Division proposed to assess estimated withholding tax for the period April, 1998, through August, 1998, against THE CORPORATION d/b/a COMPANY ONE, MR. PROTESTANT, as President and as an individual, and MS. PROTESTANT, as Vice President and as an individual, in the following amounts:

Withholding Tax

Estimated Tax Due	$ 1,250.00
Interest thru 11-20-98	65.53
Penalty	275.00
Total Due	$ 1,590.53

3. By letter dated September 18, 1998, the Division proposed to assess estimated tourism tax for the period March, 1998, through August, 1998, against THE CORPORATION d/b/a COMPANY ONE, in the following amounts:

Tourism Tax

Estimated Tax Due	$ 222.00
Interest thru 11-20-98	13.01
Penalty	22.20
Total Due	$ 257.21

4. Protestants timely filed a written protest to the proposed assessments, both as to the corporation and as to the individuals. In the letter of protest, Protestants asserted that the corporation was not doing business after May, 1998. Further, Protestants stated that the appropriate reports would be filed within the next thirty days, if it was found that they had not been previously filed.

CONCLUSIONS OF LAW

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

2. The authority under which the proposed assessments were made is 68 O.S. § 1354 for sales tax, 68 O.S. § 2385.2 for withholding tax, and 68 O.S. §§ 50011 and 50012 for tourism tax.

3. The Tax Commission is statutorily authorized to make an assessment "from any information in its possession or obtainable by it." 68 O.S. 1991, § 221(a).

4. 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. 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 assessments are incorrect.

5. The protest should be denied.

DISPOSITION

THEREFORE, IT WAS DETERMINED based upon the specific facts and circumstances of this case, that the sales tax, withholding tax and tourism tax protest of THE CORPORATION d/b/a COMPANY ONE, MR. PROTESTANT, as President and as an individual, and MS. PROTESTANT, as Vice President and as an individual, 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.