

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 1999-12-16-010 / NOT PRECEDENTIAL
ID: P9900263
DATE: 12-16-99
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Protestants did not appear at the hearing. The Division moved for the denial of the protest, standing by its Position Letter filed in this cause on October 18, 1999, and the exhibits attached thereto.

Upon review of the file and records, including Exhibits A through H attached to the Position Letter of the Division and admitted in this cause, the undersigned finds:

1. That MR. PROTESTANT owes sales tax, penalty, and interest to the State of Oklahoma for the period of January, 1986, through March, 1986, which is attributable to his ownership and operation of a business known as THE PRINTING COMPANY.

2. That this liability was established by and through a proposed assessment, which MR. PROTESTANT did not protest, and a tax warrant, which was filed in COUNTY ONE and COUNTY TWO, State of Oklahoma.

3. That as of October 31, 1999, the sales tax liability of MR. PROTESTANT is \$1,284.32, inclusive of tax in the amount of \$395.48, interest in the amount of \$845.79, and penalty in the amount of \$43.05.

4. That MR. AND MRS. PROTESTANT are due a refund of income tax in the amount of \$346.00 as claimed on their 1998 state income tax return.

5. That the refund is attributable solely to the employment of MR. PROTESTANT.

6. That MR. AND MRS. PROTESTANT timely protested the Division's notice of application of the income tax refund to the sales tax liability of MR. PROTESTANT.

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. Supp. 1997, § 205.2(B); that the Tax Commission is authorized to deduct from any state tax refund due to a taxpayer the amount of delinquent state tax, and penalty, and interest thereon, which such taxpayer owes pursuant to any state tax law prior to payment of the refund, 68 O.S. Supp. 1997, § 205.2(E); that in the event of a protest to the application to deduct the delinquent taxes from the refund due the taxpayer, the only issues subject to determination are whether the claimed sum is correct or whether an adjustment to the claim shall be made, 68 O.S. Supp. 1997, § 205.2(B); that here the evidence proves the claimed sum is correct, and due and owing, and that no adjustment to the claim of the Division is required since the income tax refund of MR. AND MRS. PROTESTANT is solely due to the employment of MR. PROTESTANT.

DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it WAS DETERMINED that the protest of MR. AND MRS. 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.