JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2000-03-14-004 / NOT PRECEDENTIAL**
ID: **P9800194**
DATE: **03-14-00**
DISPOSITION: **DISMISSED**
TAX TYPE: **INCOME**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

1. That on August 31, 1994, Protestants filed a joint Oklahoma Individual Income Tax Return, Form 511, for the 1993 tax year.

2. That on said return, Protestants claimed as an exclusion from Oklahoma adjusted gross income pursuant to 74 O.S. 1991, § 5064.7(A)(1) royalties earned as an inventor in the amount of $126,201.00.

3. That on December 13, 1994, the Division issued notice of an examination and adjustment to the 1993 income tax return to Protestants.

4. That the notice of examination and adjustment reflects the assessment of additional income tax in the amount of $6,199.00.

5. That on January 28, 1995, the Division forwarded a billing notice to Protestants reflecting the additional income tax due on their 1993 income tax return and the penalty and interest accrued from the due date of the return to the date of the billing notice.

6. That by letter dated April 5, 1995, Protestants filed a protest to the billing notice, asserting that this notice did not constitute a proposed assessment.

7. That on May 31, 1995, Protestants remitted the amount due in full.

8. That at some point in 1998, Protestants file was referred as a waiver request.

9. That the request for waiver was held in abeyance pending consideration of Protestants' protest after Protestants reasserted the protest by letter dated July 2, 1998.

10. That the Division recommends the waiver of penalty and interest as reflected in the waiver fact sheet dated January 29, 1998.

WHEREFORE, premises considered, the undersigned concludes that the Tax Commission is vested with jurisdiction over the parties and the subject matter of this cause, 68 O.S. 1991, § 207 and Rule 710:1-5-46 of the *Oklahoma Administrative Code*; that the notice of examination and adjustment to Protestants' 1993 income tax return constitutes a notice of proposed assessment as contemplated by the Oklahoma Tax Procedure Code, 68 O.S. 1991, § 221(a); that Protestants did not file a timely protest to the proposed assessment, 68 O.S. 1991, § 221(c); that the proposed assessment is final and absolute and the Tax Commission is without jurisdiction to consider the merits of the protest, 68 O.S. 1991, § 221(e); and that Protestants request for remitter of the penalty and interest should be approved, 68 O.S. 1991, § 220(a).

THEREFORE, it WAS DETERMINED that the protest of Protestants be dismissed. It WAS further DETERMINED that Protestants' request for a remitter of the penalty and interest in the amount of $1,356.99, be approved.

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.