JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2000-03-21-010 / NOT PRECEDENTIAL**
ID: **P9900068**
DATE: **03-21-00**
DISPOSITION: **DENIED**
TAX TYPE: **INCOME**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the file and records, including the Division's amended brief in chief and the exhibits attached thereto, the undersigned finds:

1. Protestants are residents OUT OF STATE.

2. During 1997, Protestants received rental income in the amount of $4,238.46 from their ownership of an interest in real property in the State of Oklahoma.

3. Protestants filed a 1997 State of Oklahoma nonresident income tax return reporting said rental income as "Oklahoma source income" and remitting income tax in the amount of $12.00 on said income.

4. The Division audited Protestants' return, along with a copy of Protestants' 1997 Federal income tax return which Protestants submitted to the Division.

5. Based on this audit, the Division proposed the assessment of additional income tax against Protestants in the amount of $233.00.

6. Protestants remitted the amount of the additional income tax, inclusive of interest, under protest and requested a refund.

7. The assessed tax was calculated by including in Oklahoma taxable income, Protestants' income from all sources less the deductions and exemptions available to Protestants, then pro-rating the amount of income tax after the deduction of allowable credits based on a percentage, the numerator of which is "Oklahoma source income" and the denominator of which is "all sources income."

8. Only Oklahoma source income was subjected to Oklahoma income tax.

ISSUE AND CONTENTIONS

The issue presented for decision is whether the assessment of additional income tax on Oklahoma source income based on a method whereby income from all sources is utilized in calculating the tax rate on the Oklahoma source income is erroneous.

CONCLUSIONS OF LAW

1. Jurisdiction over the parties and subject matter of this proceeding is vested in the Tax Commission. 68 O.S. 1991, § 207.

2. The Oklahoma taxable income of part-year resident individuals and nonresident individuals shall be calculated as if all income were earned in Oklahoma. 68 O.S. Supp. 1994, § 2362. The amount of tax payable to the State of Oklahoma is computed by multiplying the applicable percentage (adjusted gross income from Oklahoma sources divided by adjusted gross income from all sources) with the amount of tax computed on Oklahoma taxable income after the deduction of all allowable credits. Id.

3. Protestants' protest to the proposed assessment is controlled by the decision of the Oklahoma Court of Appeals in ***Walters v. Oklahoma Tax Commission***, 935 P.2d 398 (Okl.App. 1996), wherein the Court held at page 402, "[u]se of out-of-state income to calculate a tax rate for in-state income in no way represents a tax on the out-of-state income."

4. Protestants' protest to the assessment of additional income tax should be denied.

DISPOSITION

Based on the above and foregoing findings of fact and conclusions of law, it WAS DETERMINED that the protest of Protestants, be denied. It WAS further DETERMINED that the amount of the deficiency as determined by the Division, be found to be calculated in accordance with the applicable law and facts of this cause.

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.