JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2000-05-09-014 / NOT PRECEDENTIAL
ID: P0000048
DATE: 05-09-00
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 February 26, 1999, the Division caused to be issued a proposed assessment of income tax, interest, and penalty against Protestant for Calendar year 1992. That the resulting liability of the proposed assessment is $3,572.28, inclusive of tax in the amount of $1,803.00, interest accrued through April 26, 1999, in the amount of $1,588.98, and penalty in the amount of $180.30.

2. That on March 31, 1999, the Division caused to be issued a proposed assessment of income tax, interest, and penalty against Protestant for Calendar year 1993. That the resulting liability of the proposed assessment is $3,134.46, inclusive of tax in the amount of $1,700.00, interest accrued through March 31, 1999, in the amount of $1,264.46, and penalty in the amount of $170.00.

3. That on April 30, 1999, the Division caused to be issued a proposed assessment of income tax, interest, and penalty against Protestant for Calendar year 1994. That the resulting liability of the proposed assessment is $2,982.61, inclusive of tax in the amount of $1,748.00, interest accrued through April 30, 1999, in the amount of $1,059.81, and penalty in the amount of $174.80.

4. That each of the proposed assessments were forwarded to Protestant's last known address as reflected in the records of the Division.

5. That the total amount in controversy in this proceeding is $9,689.35, inclusive of tax in the amount of $5,251.00, interest in the amount of $3,913.25, and penalty in the amount of $525.10, plus accruing interest.

6. That the assessments are the result of information obtained from the Internal Revenue Service indicating Protestant had income from sources within the State of Oklahoma during the years in question sufficient to require the filing of Oklahoma income tax returns. That Protestant had not filed Oklahoma income tax returns for the years in question. That the information utilized by the Division had been previously furnished to Protestant by the Internal Revenue Service in the form of Revenue Agents Reports No. XXX, dated January 17, 1995; No. YYY, dated November 1, 1996, and No. ZZZ, dated

December 20, 1996.

7. That on February 5, 2000, the Oklahoma Tax Commission received Protestant's protest to the assessments.

8. That on March 7, 2000, the Division caused to be filed a ***Motion to Dismiss*** the protest on the grounds and for the reason of Protestant's failure to timely file a timely protest to the proposed assessments.

9. That on March 27, 2000, Protestant filed a response to the Division's ***Motion***.

10. That all parties appeared at the hearing held on April 6, 2000.

WHEREFORE, premises considered, the undersigned concludes that the Tax Commission is vested with jurisdiction to consider the ***Motion to Dismiss***, 68 O.S. 1991, § 207 and Rule 710:1-5-46 of the ***Oklahoma Administrative Code***; that the proposed assessments were forward to Protestant at his last-known address, 68 O.S. Supp. 1993, § 208; that Protestant did not file a timely protest to the proposed income tax assessments, 68 O.S. 1991, § 221(c); and that the proposed assessments are final and absolute and the Tax Commission is without jurisdiction to consider the merits of the protest, 68 O.S. 1991, § 221(e).

THEREFORE, it WAS DETERMINED that the protest of Protestant, be dismissed. It WAS further DETERMINED that the amount in controversy, inclusive of any additional accrued and accruing interest, be fixed as the deficiency due and owing.

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.