JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2000-06-20-013 / NOT PRECEDENTIAL**
ID: **CR990007**
DATE: **06-20-00**
DISPOSITION: **DENIED**
TAX TYPE: **SALES**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. During the period, August, 1995, through February, 1996, COMPANY ONE, OUT OF STATE, purchased materials from COMPANY TWO, ANYTOWN, Oklahoma ("Vendor") and paid Oklahoma sales tax thereon to the Vendor in the amount of $2,147.32.

2. A use tax audit of the books and records of COMPANY ONE, for the period of February 1, 1993, through December 31, 1996, was completed on June 27, 1997, by AN OUT OF STATE Department of Finance and Administration. As a result of the audit, it was determined that, among other things, purchases totaling $33,980.27 from COMPANY TWO were sales subject to OUT OF STATE and local use tax resulting in additional tax liability in the amount of $2,147.33. Following the audit and notice of the determination, taxpayer paid the audit in full.

3. By letter dated June 2, 1999, CLAIMANT as owner of COMPANY ONE requested a refund of sales tax paid on some of the purchases from the Vendor. Additionally, Claimant advised that the Vendor refused to reimburse the sales tax collected in error and requested the Tax Commission's assistance in resolving this matter. The Division, by letter dated August 20, 1999, advised Claimant that a letter from the Vendor assigning the tax refund to Claimant would be required. On or about October 13, 1999, the Vendor sent a letter to the Division requesting that the tax refund on the designated invoices be assigned to Claimant.

4. By letter dated October 14, 1999, the Credits and Refunds Section of the Oklahoma Tax Commission denied Claimant's request for refund of $2,147.32 for the period August, 1995, through February, 1996, stating that the request was beyond the statute of limitations.

5. Claimant protested the denial by letter dated October 21, 1999, and requested a hearing.

ISSUE AND CONTENTIONS

Whether Claimant's refund claim for sales taxes erroneously paid to the State of Oklahoma is barred by the statute of limitations.

Claimant contends that subsequent to being made aware of the erroneous payment of tax to the State of Oklahoma, she contacted several agencies seeking instructions on how to obtain a refund. However, each agency and chain of events delayed the process, resulting in a further two-year delay, through no fault of her own. Claimant contends she is entitled to a refund of $2,147.32.

The Division does not dispute that sales taxes were paid through an error of law and erroneously collected by the vendor; however, the Division contends that there is no ability to extend the time in which a Claimant may file a claim for refund under Section 227(b) of Title 68 beyond the three (3) year statute of limitations and that the claim was properly denied.

CONCLUSIONS OF LAW

1. The Oklahoma Tax Commission has jurisdiction of this claim for refund. 68 O.S. 1991, § 227.

2. Any taxpayer who has paid any tax though error of fact, or computation, or misinterpretation of law may file a claim for refund of such tax within three (3) years from the date of payment. 68 O.S. Supp. 1993, § 227(a) and (b).

3. In the present case, the record reflects that Claimant failed to file a claim for refund of the erroneously paid sales taxes within three (3) years of the payment of taxes. Further, Claimant has provided no evidence to substantiate the allegation that representations made by certain Oklahoma Tax Commission employees delayed Claimant in filing a timely claim for refund. Accordingly, Claimant's refund claim is barred under the provisions of Section 227.

4. Claimant's protest to the denial of the refund should be denied.

DISPOSITION

It WAS DETERMINED, based upon the specific facts and circumstances of this case, that the protest to the denial of the sales tax claim for refund of CLAIMANT 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.