JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2000-09-28-006 / NOT PRECEDENTIAL**
ID: **P9900345**
DATE: **09-28-00**
DISPOSITION: **DISMISSED**
TAX TYPE: **INCOME**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On February 5, 1999, Protestants filed their original Oklahoma income tax return for 1998. Included as part of their federal and Oklahoma adjusted gross income, and supported by the attached Wage and Tax Statements, were two payments designated as wages totaling $23,923.00. One was from A GOVERNMENTAL ENTITY in the amount of $16,925.00, and the other was from AN ANONYMOUS ACCOUNTING SERVICE in the amount of $6,998.00.

2. Upon review of the original Oklahoma income tax return, the Division denied a partial military pay exclusion and adjusted the return to reflect a refund in the amount of $69.00. The refund was issued by the Commission and redeemed by Protestants.

3. On March 16, 1999, Protestants filed an amended Oklahoma income tax return to include additional income in the amount of $3,769.17 resulting from the late receipt of a Wage and Tax Statement. In addition, Protestants again claimed an active duty pay exclusion.

4. The Division reviewed the amended return and denied the active duty pay exclusion and adjusted the return. The result was additional tax due in the amount of $682.00.

5. On October 7, 1999, Protestants filed a second amended 1998 Oklahoma income tax return, declaring the two payments from the GOVERNMENTAL ENTITY and AN ANONYMOUS ACCOUNTING SERVICE, totaling $23,923.00, as out of state income.

6. The Division denied the exclusion and asserted that the payments totaling $23,923.00 were designated as wages by the GOVERNMENTAL ENTITY and AN ANONYMOUS ACCOUNTING SERVICE and did not qualify for an out of state income exclusion. An exclusion in the amount of $200.00 was allowed on line 8 for Oklahoma adjustments to income; however, no explanation was provided. The Division calculated that tax was due in the amount of $668.00.

7. By letter dated November 29, 1999, from their accountant, Protestants protested the classification of the payments from the GOVERNMENTAL ENTITY and AN ANONYMOUS ACCOUNTING SERVICE as wages. Protestants asserted that the payment from AN ANONYMOUS ACCOUNTING SERVICE in the amount of $6,998.00 was a reimbursement for moving expenses and the payment from the GOVERNMENTAL ENTITY in the amount of $16,925.00 was a reimbursement for money lost on the sale of their home in ANOTHER STATE. Documentation showing the amount of the benefit paid by the GOVERNMENTAL ENTITY relating to the sale of their house was provided by Protestants.

8. A third amended Oklahoma income tax return for 1998 was filed by Protestants on May 3, 2000, reflecting an additional liability of $682.00. The payments from the GOVERNMENTAL ENTITY and AN ANONYMOUS ACCOUNTING SERVICE were categorized as wages and included in the federal adjust gross income, in agreement with the Wage and Tax Statements. The previous refund of $69.00 was taken into account in the final liability.

9. The Division asserts that the last amended return is an admission by Protestants of liability for the additional income tax for tax year 1998. No payment for the tax has been received.

DISPOSITION

Based on the foregoing findings, it WAS concluded that Protestants, have admitted liability for the additional 1998 income tax and that no other issues remain in controversy. Therefore, it WAS DETERMINED that the protest of PROTESTANTS be dismissed.

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.