

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2001-02-12-003 / NOT PRECEDENTIAL
ID: P0000186
DATE: 02-12-01
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now on this 8th day of January, 2001, the above styled and numbered cause comes on for decision pursuant to Section 221(d) of the *Uniform Tax Procedure Code*. PROTESTANT appears pro se. The Audit Division of the Tax Commission (hereinafter "Division") is represented by AN Assistant General Counsel, General Counsel's Office of the Tax Commission.

Protestant did not appear at the Prehearing Conference scheduled in this cause for November 7, 2000. Thereafter, notice was served upon the parties that the record in this cause would be closed and the matter submitted for decision upon the filing of a verified response to protest by the Division. Protestant did not file a response to this notice.

Upon review of the file and records, including the proposed income tax assessments of February 29, 2000, the letter of protest, and the Division's Verified Response to Protest and attachments, the undersigned finds:

CONCLUSIONS OF LAW

1. That by letters dated February 29, 2000, the Division assessed income tax, interest, and penalty against Protestant for the 1993, 1994, and 1995 tax years.
2. That the assessments are based on Internal Revenue Service Revenue Agent Reports.
3. That Protestant had not previously filed Oklahoma income tax returns for the years in question and did not file amended returns subsequent to the Division's notice.
4. That the aggregate amount assessed against Protestant for the 1993, 1994, and 1995 tax years, inclusive of interest accrued through February 29, 2000, is \$11,448.61.
5. That Protestant timely responded to the assessments, asserting that the tax seemed "unusually high."

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law that the Tax Commission is vested with jurisdiction over the parties and subject matter of this action, 68 O.S. 1991, § 207; that a proposed assessment is presumed correct and the taxpayer bears the burden of showing that it is incorrect, and in what respect, ***Enterprise Management Consultants, Inc. v. Oklahoma Tax Commission***, 768 P.2d 359 (Okl. 1988); that except in those circumstances where an IRS revision affects items or matters relating to allocation or apportionment, the Tax Commission is bound by the changes made by the IRS, Rule 710:50-3-8(d) of the ***Oklahoma Administrative Code***; that the information furnished by the IRS shall be that upon which any tax liability is computed, Rule 710:50-5-10(a) of the ***Oklahoma Administrative Code***; and that the statute of limitation upon the assessment of income tax is tolled pending the filing of an amended return where the taxable income of a taxpayer is changed or corrected by the IRS and the change or correction affects the Oklahoma taxable income of the taxpayer, 68 O.S. 1991, § 2375(H)(3).

DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it is DETERMINED that the protest be denied. It is further DETERMINED that the amount in controversy, plus 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.