

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2001-04-24-011 / NOT PRECEDENTIAL
ID: P000253B
DATE: 04-24-01
DISPOSITION: DENIED
TAX TYPE: WITHHOLDING
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. A business registration form under the signature of PROTESTANT was received by the Tax Commission on June 3, 1997, for PROTESTANT CORPORATION, located at 99999 East 99th, BIGCITY, Oklahoma, listing OFFICER A as President and PROTESTANT as Secretary/Treasurer. The form indicated that the business began withholding Oklahoma income tax from its employees' wages on May 23, 1997.

2. On May 5, 2000, the Division caused to be issued a proposed withholding tax assessment against Protestant as Secretary of PROTESTANT CORPORATION and as an individual.

3. The proposed withholding tax assessment indicates an actual reported, but unremitted, tax amount due of \$500.00 for the period of January, 1999, and an estimated tax amount of \$2,800.00 for the periods of May, 1997, through June, 1997, and February, 1999, through March, 2000.

4. The total amount of the proposed withholding tax assessment, together with penalty and interest accrued through July 7, 2000, was \$4,644.85.

5. Protestant filed a protest to Division's assessment on or about May 10, 2000, claiming that he was an officer in name only and that after the first of January, 1999, he had no other business dealings with the corporation, other than as a contract delivery driver for about three months.

CONCLUSIONS OF LAW

1. The Oklahoma Tax Commission has jurisdiction of this protest. 68 O.S. § 221.
2. The statutory authority and basis upon which the proposed assessment was issued are 68 O.S. 1991, §§ 2385.2 and 2385.3.
3. The burden of proof in all proceedings, unless otherwise provided by law, is on the taxpayer to show in what respect the action or proposed action of the Tax Commission is incorrect. *Oklahoma Administrative Code* 710:1-5-47.

4. Protestant has wholly failed to come forward with any evidence in support of his allegations and therefore, has failed to meet his burden of proving in what respect the proposed assessment is incorrect.

5. The protest should be denied.

DISPOSITION

It is the DETERMINATION of the OKLAHOMA TAX COMMISSION, based upon the specific facts and circumstances of this case, that the withholding tax protest of PROTESTANT, as Secretary of PROTESTANT CORPORATION 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.