JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2001-06-20-013 / NOT PRECEDENTIAL**
ID: **P0100074**
DATE: **06-20-01**
DISPOSITION: **DENIED**
TAX TYPE: **INCOME**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the file and records, including the record of the hearing and the exhibits received into evidence, the undersigned finds:

1. hat on or about February 1, 1999, a joint amended Oklahoma income tax return for 1995 was filed on behalf of Protestant and her spouse admitting an income tax liability of $1,710.00. That the return stated an explanation for the amendment as "failed to report unemployment, pension, and barter income."

2. That Tax Warrant No. ITI XXXX-XXXXXX-XX, evidencing the 1995 income tax liability, was filed against Protestant in AN ANONYMOUS County on October 30, 2000.

3. That on or about February 13, 2001, Protestant filed her Oklahoma income tax return for 2000, claiming a refund in the amount of $341.00.

4. That by letter dated February 13, 2001, the Division notified Protestant of its intent to apply her 2000 income tax refund to the 1995 income tax liability.

5. That by letter dated February 27, 2001, Protestant timely protested the Division's notice of application of the income tax refund to the liability.

6. That Protestant testified at the hearing held on May 1, 2001, that she had the amended 1995 return prepared and filed upon becoming aware of the unreported unemployment, pension, and barter income; that said income was all attributable to her ex-husband; that she had received no benefit whatsoever from said income; that she should not be held liable for the liability; that she had sought innocent spouse relief from the IRS and the Oklahoma Tax Commission, but both requests were denied; and that she feels the Oklahoma Tax Commission should be seeking payment from her ex-husband for this liability but continues to only seek payment from her.

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. Supp. 1997, § 205.2(B); that the Tax Commission is authorized to deduct from any state tax refund due to a taxpayer the amount of delinquent state tax, and penalty and interest thereon, which such taxpayer owes pursuant to any state tax law prior to payment of the refund, 68 O.S. Supp. 1997, § 205.2(E); that in the event of a protest to the application to deduct the delinquent taxes from the refund due the taxpayer, the only issues subject to determination are whether the claimed sum is correct or whether an adjustment to the claim shall be made, 68 O.S. Supp. 1997, § 205.2(B); that here the evidence proves the claimed sum is correct, and due and owing, and that no adjustment to the claim of the Division is required.

DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it WAS DETERMINED that the protest of Protestant, 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.