

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2001-07-03-003 / NOT PRECEDENTIAL
ID: P0100076
DATE: 07-03-01
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now on this 23rd day of May, 2001, the above styled and numbered cause comes on for decision pursuant to a hearing held in accordance with 68 O.S. Supp. 1997, § 205.2(B). PROTESTANT appears pro se. The Account Maintenance 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 hearing, but responded to the **Notice of Hearing** by letter dated April 19, 2001. Protestant referred to his letter of protest dated January 1, 2001; stated he has no idea what this pertains to and, therefore, is unable to respond to the request for his opinion of issues to be decided, contentions, etc.; and stated he feels he is owed an answer to his January letter. The Division moved for the denial of the protest, standing by its Position Letter filed in this cause on April 24, 2001, and the exhibits attached thereto.

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

1. That Protestant was President of PROTESTANT CORPORATION, as reported on Schedule A of the Franchise Tax Returns for the periods of July 1993 through June 1994; July 1994 through June 1995; July 1995 through June 1996; July 1996 through June 1997; and July 1997 through June 1998.

2. That on or about June 26, 1998, the Division caused to be issued a proposed sales tax assessment against Protestant, as President of PROTESTANT CORPORATION, for the period of January 1, 1995 through October 31, 1997, in the amount of \$6,866.88.

3. That Protestant received notice of the proposed assessment.

4. That Protestant did not protest the proposed assessment nor seek an abatement of the assessment within the time period allowed by statute.

5. That Tax Warrant No. STS 9999999999-99, evidencing the liability for the above-stated period, was filed against Protestant on October 25, 1999, in ANONYMOUS County, Oklahoma.

6. That as of April 30, 2001, the aggregate amount due and owing is \$3,131.16, inclusive of interest in the amount of \$2,381.00; penalty in the amount of \$534.16, and tax warrant fees in the amount of \$216.00.

7. That on or about November 20, 2000, Protestant filed a 1999 Oklahoma Individual Income Tax Return, claiming a refund in the amount of \$62.00.

8. That by letter dated December 22, 2000, the Division notified Protestant of its intent to apply his 1999 income tax refund in the amount of \$62.00 to the liability.

9. That Protestant timely protested the Division's notice, stating that he has no idea what this is about; that he sold his interest in the corporation on January 15, 1998; that he has had no association with PROTESTANT CORPORATION since; and asking for an explanation regarding the tax warrant and amount of liability.

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 is 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.