JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2001-08-01-010 / NOT PRECEDENTIAL**
ID: **P0000256**
DATE: **08-01-01**
DISPOSITION: **DENIED**
TAX TYPE: **SALES / MIXED BEVERAGE / TOURISM**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT

1. That on or about July 2, 1999, as a result of a field audit of the records of the Corporation, the Division caused to be issued proposed sales tax, mixed beverage gross receipts tax, and tourism tax assessments against the Corporation and proposed sales tax assessments against the Officers.

2. That by letters dated October 26 and 28, 1999, Protestants, through their representative, submitted letters protesting the results of the audit, providing documentation for the Division's review, and claiming that a portion of the audit covered a period during which Protestants did not own the ESTABLISHMENT.

3. That the Division adjusted the proposed assessments based on the documentation provided by Protestants.

4. That the Division's records reflect Protestants continued to report mixed beverage taxes under their mixed beverage tax license during the audit period, and thus the Division denied any adjustment to the audit period.

5. That by letters dated November 30, 2000, the Division caused to be issued revised sales tax, mixed beverage gross receipts tax and tourism tax assessments against the Corporation and revised sales tax assessments against the Officers.

6. That the revised amounts assessed, inclusive of interest accrued through November 30, 2000, are as follows:

Sales Tax

Tax:	$ 238,071.10
Interest:	144,726.02
Penalty:	23,807.12
TOTAL:	**$ 406,604.24**

Mixed Beverage Tax

Tax:	$ 32,499.64
Interest:	9,549.55
Penalty:	3,249.96
TOTAL:	**$ 45,299.15**

Tourism Tax

Tax:	$ 334.29
Interest:	94.10
Penalty:	33.43
TOTAL:	**$ 461.82**

7. That notices of the revised assessments were forwarded to Protestants at their last known addresses. Protestants did not respond to the revised assessments.

8. That a Prehearing Conference was held in this matter on January 29, 2001.

9. That Protestants were directed to provide for review by the Division additional information in support of their protests.

10. That Protestants failed to submit the additional information.

11. That a second prehearing conference was scheduled for April 23, 2001.

12. That Protestants failed to appear or respond to the notice thereof.

13. That notice was thereafter served on the parties of the submission of this cause upon the filing of a verified response to protest by the Division.

14. That Protestants did not respond to this notice.

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 the 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); and that Protestants have wholly failed to come forward with any information to show they are entitled to further relief, Rule 710:1-5-47 of the ***Oklahoma Administrative Code***.

DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it is DETERMINED that the protest of PROTESTANTS d/b/a ESTABLISHMENT AND OFFICERS. It is further DETERMINED that the amounts in controversy, inclusive of any additional accrued and accruing interest, be respectively fixed as the deficiencies 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.