

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2001-08-01-011 / NOT PRECEDENTIAL
ID: P0100107
DATE: 08-01-01
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 14th day of June, 2001, the above styled and numbered cause comes on for decision pursuant to Section 221(d) of the *Uniform Tax Procedure Code*. PROTESTER represents himself in this matter. The Audit Division of the Tax Commission (hereinafter "Division") is represented by AN Assistant General Counsel, General Counsel's Office of the Tax Commission.

Upon review of the file and records, including the hearing in this matter, the undersigned finds:

1. That by letter dated April 16, 2001, the Division assessed income tax, interest and penalty against Protester for the 1997 tax year.
2. That the assessment is based on an Internal Revenue Service Revenue Agent Report dated November 29, 2000, and numbered XXXXX-XX.
3. That Protester had not previously filed an Oklahoma income tax return for the 1997 tax year and did not file an amended return with the state subsequent to the changes made by the Internal Revenue Service.
4. That the aggregate amount assessed against Protester for the 1997 tax year, inclusive of interest accrued through April 16, 2001, is \$16,780.30.
5. That Protester timely responded to the assessment, advising that "[PROTESTER] is natural person with a presumption of legislative intent that includes persons (not natural)" and that "Oklahoma intended to tax, but shall not be construed so as to tax any natural person such as I who engage in a trade, business or profession in the State under his/her own or any fictitious name whether individually as a proprietorship or in a partnership with other: any estate of a decedent or incompetent; or any testamentary trust."

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, *Oklahoma Administrative Code 710:50-3-8(d)*; that the information furnished by the IRS shall be that upon which any tax liability is computed, *Oklahoma Administrative Code 710:50-5-10(a)*; and that Protester has neither asserted any cognizable factual errors nor presented any justiciable issues of law in regard to the proposed action of the Division, *Oklahoma Administrative Code 710:1-5-47*.

DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it is DETERMINED that the protest of Protester be denied. It is further PROTESTANT 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.