

**JURISDICTION:** OKLAHOMA TAX COMMISSION - DECISION  
**CITE:** 2001-08-21-011 / NOT PRECEDENTIAL  
**ID:** P0100018  
**DATE:** 06-21-01  
**DISPOSITION:** DENIED  
**TAX TYPE:** INCOME  
**APPEAL:** NO APPEAL TAKEN

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That by letter dated November 20, 1997, the Division assessed income tax, interest, and penalty against Protestant for the 1992 tax year.

2. That the assessment is based on information made available to the Tax Commission from the Internal Revenue Service which indicated that during 1992, Protestant had income from Oklahoma sources sufficient to require the filing of a Oklahoma income tax return.

3. That Protestant had not previously filed a Oklahoma income tax return for the year in question.

4. That the aggregate amount assessed for the 1992 tax year, inclusive of interest accrued through November 20, 1997, is \$2,274.16.

5. That by letter received on December 20, 2000, Protestant protested the proposed assessment, asserting:

- a. That she did not receive the assessment letter until November 20, 2000.
- b. That she has never filed tax returns.
- c. That in 1992, she did not work because she was pregnant and in 1993, she was incarcerated and in the custody of the Oklahoma Department of Corrections.

6. That a prehearing conference was held in this matter on March 15, 2001, at which conference, Protestant requested additional time to provide documentation in support of her protest.

7. That Protestant failed to contact the Division or provide any additional documentation or evidence and a hearing was set in this matter and held on July 3, 2001.

8. That Protestant failed to appear at the hearing or respond to notice thereof.

### ISSUE AND CONTENTIONS

The issue presented for decision is whether Protestant has sustained her burden of proving that the proposed income tax assessment is incorrect.

Protestant contends that she was incarcerated during the year in question.

The Division contends that based on information provided by the Internal Revenue Service, Protestant had sufficient income during 1992 to require the filing of an Oklahoma Individual Income Tax Return; that there is no record of such return; and the assessment is correct.

### CONCLUSIONS OF LAW

1. That the Tax Commission is vested with jurisdiction over the parties and subject matter of this action, 68 O.S. 1991, § 207.

2. 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 (Okla. 1988).

3. That the information furnished by the IRS shall be that upon which any tax liability is computed, Rule 710:50-5-10(a) of the ***Oklahoma Administrative Code***.

4. That Protestant has wholly failed to come forward with any evidence to show she is entitled to the relief requested, Rule 710:1-5-47 of the ***Oklahoma Administrative Code***.

5. That Protestant's protest should be denied.

### DISPOSITION

Based on the above and foregoing findings of fact and conclusions of law, it is DETERMINED that the protest be denied. It is further DETERMINED 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.

OTC Order No. 2001-08-21-011