

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2001-09-04-039 / NOT PRECEDENTIAL
ID: P0100139
DATE: 09-04-01
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 31st day of July, 2001, the above styled and numbered cause comes on for decision pursuant to Section 221(D) of the *Uniform Tax Procedure Code*. PROTESTER represents herself 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, the undersigned finds:

1. That by letters dated May 15, 2001, the Division assessed income tax, interest and penalty against Protester for the 1996 and 1997 tax years.
2. That the assessments are based on Internal Revenue Service Revenue Agent Reports dated January 10, 2001, and numbered 01005-11 and 01005-10.
3. That Protester had not previously filed an Oklahoma income tax return for the years in question and did not file amended returns with the state subsequent to the changes made by the Internal Revenue Service.
4. That the aggregate amount assessed against Protester for the 1996 and 1997 tax years, inclusive of interest accrued through May 15, 2001, is \$3,774.99.
5. That Protester timely responded to the assessments by filing an *Affidavit of Material Facts* signed by PROTESTER AND SPOUSE, averring, *inter alia*, that their residence is located in Oklahoma; that in the last decade their earnings and/or income have been from sources in Oklahoma and/or other States of the Union; that their wages, salaries, commissions, remuneration and other forms of compensation have been as employees of private enterprises located in Oklahoma and/or other States of the Union; that they are not citizens or residents of the United States known as the [Federal] United States of America; and that neither of them knowingly and intentionally contributed or contracted to contribute money, property or other assets to the treasury of the United States.

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 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.