JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2001-10-30-011 / NOT PRECEDENTIAL**
ID: **P0100089**
DATE: **10-30-01**
DISPOSITION: **DENIED**
TAX TYPE: **INCOME**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 26th day of September, 2001, the above styled and numbered cause comes on for consideration pursuant to assignment regularly made by the Oklahoma Tax Commission to AN Administrative Law Judge. PROTESTANT represents herself in this matter. The Account Maintenance Division is represented by AN Assistant General Counsel, General Counsel's Office of the Oklahoma Tax Commission. A hearing was held in this matter and upon conclusion of the hearing, this case was submitted for decision.

FINDINGS OF FACT

1. Protestant was listed as owner of a business located in BIGCITY, Oklahoma, on the Business Registration form filed with the Oklahoma Tax Commission on or about February 2, 1993.

2. Sales tax reports for the period February 2, 1993, through June 8, 1993, were filed but sales tax was unremitted.

3. The Oklahoma Tax Commission issued and caused to be filed against Protestant Tax Warrant No. STS999999999999 for the period February 2, 1993, through June 8, 1993, in the amount of $4,521.48

4. On March 21, 2001, Protestant was notified that her income tax refund of $379.29 for 2000 had been delayed due to a reported sales tax liability.

5. Protestant filed a written protest on April 6, 2001, asserting that the attached "court order from the State of Ok. . . . holds me Blameless in this Tax Matter."

CONCLUSIONS OF LAW

1. Jurisdiction over the parties and the subject matter of this proceeding is vested in the Tax Commission. 68 0.S. Supp. 1997, § 205.2.

2. The amount of delinquent Oklahoma tax, penalty and interest thereon, due and owing by a taxpayer pursuant to any state tax law shall be deducted from any income tax refund due to such taxpayer prior to the payment of such refund. 68 O.S. Supp. 1997, § 205.2E. A taxpayer may file an objection to such action and request a hearing. 68 O.S. Supp. 1997, § 205.2B. At the hearing, it shall be determined whether the claimed sum is correct or whether an adjustment to the claim shall be made. *Id*. Further, no action shall be taken in furtherance of the collection of the debt pending final determination of the validity of the debt. *Id*. Here, the evidence proves that the claimed sum is correct, and due and owing. The Divorce Court does not have jurisdiction to enter orders effecting a party's liability to an entity not before the Court. *Stevenson v. Stevenson*, 680 P.2d 642, 647 (Okl.Ct.App. 1984). Furthermore, no adjustment to the claim to the Division is required since the income tax refund of Protestant is solely due to the employment and withholding of Protestant. The refund of income taxes in the amount of $379.29 requested by Protestant on her 2000 income tax return was properly suspended in partial satisfaction of the debt she owes to the State of Oklahoma in the amount of $4,521.48.

DISPOSITION

THEREFORE, IT IS DETERMINED that the protest of PROTESTANT to the claim of the Account Maintenance Division to the income tax refund of $379.29 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.