

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2002-04-09-005 / NOT PRECEDENTIAL
ID: P0100234
DATE: 04-09-02
DISPOSITION: DENIED
TAX TYPE: SALES / WITHHOLDING
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now on this 28th day of February, 2002, the above styled and numbered cause comes on for decision pursuant to Section 221(d) of the Uniform Tax Procedure Code. PROTESTANT appears pro se. The Account Maintenance Division of the Tax Commission (hereinafter "Division") is represented by AN Assistant General Counsel, General Counsel's Office of the Tax Commission.

Protestant did not appear at the Prehearing Conference scheduled in this cause for December 18, 2001. Thereafter, notice was served on the parties that the record in this cause would be closed and the case submitted for decision upon the filing of a verified response to protest by the Division. Protestant did not respond to this notice.

Upon review of the file and records, including the proposed assessments, the letter of protest, and the Division's Verified Response to Protest, the undersigned finds:

1. That Protestant was listed as an officer of CORPORATION X, effective April 1, 1998, on documentation filed with the Oklahoma Tax Commission on or about April 7, 1998. Subsequently, Protestant signed various sales tax reports and checks for payment of sales and withholding tax liabilities which were submitted to the Oklahoma Tax Commission.

2. That on January 5, 2001, the Division caused to be issued a proposed sales tax assessment against Protestant for the period of September 1998 through May 2000, in the estimated amount of \$19,750.23, inclusive of tax in the amount of \$14,700.00, interest accrued through March 30, 2001, in the amount of \$3,580.23, and penalty in the amount of \$1,470.00.

3. That on January 5, 2001, the Division caused to be issued a proposed withholding tax assessment against Protestant for the period of July 1998 through May 2000, in the estimated amount of \$4,629.41, inclusive of tax in the amount of \$3,100.00, interest accrued through March 30, 2001, in the amount of \$754.41, and penalty in the amount of \$775.00.

4. That the amount in controversy, inclusive of penalty and interest accrued through March 30, 2001, is \$24,379.64.

5. That by letter post-marked January 8, 2001, Protestant filed a timely protest, asserting that he does not have any ownership in CORPORATION X; that he sold his ownership; and that he was a partner for only 4 to 6 months.

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); and that Protestant has wholly failed to come forward with any evidence to show entitlement to the relief requested, 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 Protestant be denied. It is further DETERMINED that the amounts in controversy, plus any additional accrued and accruing interest, be 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.