

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2003-03-11-005 / NOT PRECEDENTIAL
ID: P0200113
DATE: 03-11-03
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 11th day of February, 2003, 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 himself in this matter. The Audit Division ("Division") is represented by AN Assistant General Counsel, General Counsel's Office of the Oklahoma Tax Commission. A hearing was held. Notice of the hearing was mailed to Protestant at his last known address, yet he did not appear. At the conclusion of the hearing, this matter was submitted for decision.

FINDINGS OF FACT

1. On March 8, 2001, Protestant electronically filed an Oklahoma Individual Income Tax Return, Form 511, for tax year 2000, claimed three exemptions and requested a refund of \$241.00.
2. Protestant did not claim the sales tax relief as a direct credit against the income taxes owed on his 2000 state income tax return.
3. On February 20, 2002, Protestant filed an Amended Oklahoma Individual Income Tax Return, Form 511X, for tax year 2000, and Form 538-S, Oklahoma claim for credit or refund of sales tax.
4. Protestant claimed a refund of sales tax on Form 538-S and the amended Oklahoma income tax return in the amount of \$120.00. The claim for refund of sales tax was denied as not timely filed.
5. By letter dated April 30, 2002, Protestant protested the denial. In the protest letter, Protestant contends that he sent an addendum to the Tax Commission on March 17, 2001, claiming the sales tax refund and filing Form 538-S. Copies of a Form 538-S and a handwritten addendum were enclosed with the letter.
6. While Protestant's addendum and Form 538-S reflect a hand written date of March 17, 2001, no file stamp date, proof of mailing date or other proof of a date of filing were submitted.

7. By letter dated May 20, 2002, the Division responded to Protestant's letter, advising that no record of the addendum dated March 17, 2001, was located in the records of the Tax Commission. Additionally, Protestant was advised that the claim for the 2000 sales tax credit was filed on February 20, 2002, which was the postmark date on the envelope. On that date, an amended return, Form 511X, and Form 538-S were filed.

8. Protestant, by letter dated May 28, 2002, requested a hearing on the denial of his claim for sales tax refund for tax year 2000.

ISSUE

Whether the Division properly denied Protestant's claim for sales tax relief, for tax year 2000, authorized by the Sales Tax Relief Act¹.

CONCLUSIONS OF LAW

1. Jurisdiction over the parties and subject matter of this proceeding is vested in the Tax Commission. 68 O.S. 1991, § 207.

2. The claim for the sales tax relief, if taken as a direct credit against the income taxes owed by the taxpayer, must be filed with the taxpayer's income tax return on or before the 15th day of April following the close of the taxable year. 68 O.S. Supp. 1998, § 5013(A). If the sales tax relief is not taken as a direct credit against the income taxes owed by the taxpayer, the claim for relief must be received by and in the possession of the Tax Commission by June 30 of each year for the sales taxes paid for the preceding calendar year. *Id.*

3. While the copies of an addendum and Form 538-S provided by Protestant bear a handwritten date of March 17, 2001, no verification or proof of actual mailing or filing was submitted.

4. Tax Commission records reflect that Protestant filed an Amended Individual Income Tax Return for tax year 2000, including Form 538-S, on February 20, 2002.

5. Protestant's claim for sales tax relief was not received by or in the possession of the Tax Commission on or before June 30, 2001. Accordingly, the Division properly denied Protestant's claim.

6. The protest should be denied.

¹68 O.S. § 5010, *et seq.*

DISPOSITION

It is the DETERMINATION of the undersigned, based upon the specific facts and circumstances of this case, that the income tax protest of PROTESTANT 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.