

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2003-04-10-03 / NOT PRECEDENTIAL
ID: P0200124
DATE: 04-10-03
DISPOSITION: DISMISSED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That the Division disallowed Protestant's exclusion of \$4,314.00 as out of state income on his 1999 Amended Non-Resident Oklahoma Income Tax Return filed October 5, 2000, because Protestant did not provide sufficient proof of a Texas domicile.

2. That as a result of the disallowance, the Division proposed the assessment of additional income tax, interest and penalty against Protestant in the aggregate amount of \$1,177.43, consisting of tax in the amount of \$839.00, interest accrued through November 26, 2002, in the amount of \$337.33, and penalty in the amount of \$1.10.

3. That by letter dated June 12, 2001, the Division notified Protestant of the adjustment to his return and resulting assessment of additional income tax, interest and penalty.

4. That the letter further informed Protestant that the adjustments would become final within 30 days of the date of the mailing of the letter unless he protested the assessment in writing and requested a hearing.

5. That the Division's notification was forwarded to Protestant's last-known address as reflected in the records of the Division.

6. That on July 16, 2002, Protestant faxed a letter to the Division requesting a hearing with respect to the 1999 tax period.

7. That on September 27, 2002, the Division caused to be filed a ***Motion to Dismiss*** the protest on the grounds and for the reason of Protestant's failure to file a timely written protest to the proposed assessment.

8. That Protestant's representative was present at the hearing held November 26, 2002, wherein the Court announced that based on the evidence presented the protest would be dismissed due to Protestant's failure to file a timely written protest to the proposed assessment.

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes that the Tax Commission is vested with jurisdiction to consider the ***Motion to Dismiss***, 68 O.S. 1991, § 207 and Rule 710:1-5-46 of the ***Oklahoma Administrative Code***; that the proposed assessment was forwarded to Protestant at his last-known address, 68 O.S. Supp. 1993, § 208; that Protestant did not file a timely written protest to the proposed income tax assessment, 68 O.S. 1991, § 221(c); and that the proposed assessment is final and absolute and the Tax Commission is without jurisdiction to consider the merits of the protest, 68 O.S. 1991, § 221(e).

DISPOSITION

THEREFORE, it is DETERMINED that the protest of Protestant be dismissed. It is further recommended that the amount in controversy, inclusive of 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.