**JURISDICTION:** **OKLAHOMA TAX COMMISSION - DECISION**
**CITE:** **2003-08-26-03 / NOT PRECEDENTIAL**
**ID:** **P0300056**
**DATE:** **08-26-03**
**DISPOSITION:** **DENIED**
**TAX TYPE:** **INCOME**
**APPEAL:** **NO APPEAL TAKEN**

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That Protestants filed an Oklahoma income tax return for tax year 1998 as part-year residents, claiming a refund in the amount of $113.00.

2. That Protestants' 1998 income tax return was received by the Tax Commission on June 14, 2002.

3. That on September 3, 2002, the Central Processing Division of the Tax Commission notified Protestants that their refund request for 1998 was barred.

4. That Protestant, timely responded to the Division's notice, stating he filed the 1998 Oklahoma tax return on April 15, 1999, accompanied with a copy of his wife's death certificate.

5. That Protestant requested the matter be corrected and his 1998 tax refund be sent to him.

6. That the Division responded to Protestant's letter advising him that according to the records of the Tax Commission, the 1998 return was received on June 14, 2002.

7. That the Division's letter requested that Protestant submit evidence in support of his claim that the return was filed on April 15, 1999.

8. That Protestant failed to respond to the Division's letter.

## 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. 2001, ∋ 207; that the refund of income taxes is governed by 68 O.S. 1991, ∋ 2373, which states in relevant part: "[t]he amount of the refund shall not exceed the portion of the tax paid during the three (3) years immediately preceding the filing of the claim, or, if no claim was filed, then during the three (3) years immediately preceding the allowance of the refund"; that "∋ 2373 acts in a manner analogous to a statute of repose in that it acts as a substantive limitation on the right to recover any amount as a refund when the claim for refund is filed more than three years after the date on which Oklahoma income tax is paid", ***Neer v. Oklahoma Tax Commission***, 1999 OK 41, 982 P.2d 1071, 1073 (Okla. 1999); ***Matlock v. Oklahoma Tax Commission***, 2001 OK CIV APP 104, 29 P.3d 614 (Okla.App. 2001); and that here, the evidence shows Protestants' 1998 return was filed more than three (3) years from the date the income taxes were deemed paid, Oklahoma Tax Commission Order Nos. 92-12-29-024 and 92-03-26-033; accordingly, Protestants' refund is barred.

## DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it is determined that the protest 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.