JURISDICTION: OKLAHOMA TAX COMMISSION
CITE: 2006-07-25-03
ID: P-05-126-K
DATE: JULY 25, 2006
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NONE TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Protestant, PROTESTANT, appears pro se. The Account Maintenance Division of the Tax Commission (hereinafter "Division") is represented by the General Counsel's Office of the Tax Commission, OTC ATTORNEY 1 and OTC ATTORNEY 2, Assistant General Counsels.

STATEMENT OF THE CASE

On February 3, 2005, Protestant filed Form 511, a resident 2004 State of Oklahoma Income Tax Return, reporting federal and Oklahoma Adjusted Gross Income of "None", but claiming a refund in the amount of $41,342.00, which amount was allegedly attributable to Oklahoma income tax withholding of $3,000.00, a Low Income Property Tax Credit of $200.00, a Sales Tax Relief Credit of $40.00, and a Tornado Tax Credit of $38,102.00. By letters dated April 29, 2005, June 13, 2005 and July 21, 2005, the Division requested documentation to substantiate the claim for refund. Although Protestant responded to each of the letters, Protestant did not submit any documentary proof to show Oklahoma withholding or entitlement to the credits claimed on the return.

By Letter dated August 13, 2005, the Division essentially denied Protestant's refund request, writing: "In light of your refusal to provide documentation or a reasonable explanation, we cannot process your request" and advising Protestant that she could "provide the requested documentation or pursue your protest before an Administrative Law Judge" by responding "within thirty days of the date of [the] letter". By correspondence dated August 29, 2005, Protestant responded to the Division's letter. Protestant has not requested an oral hearing before the Tax Commission in any of the correspondences.

On September 7, 2005, the Division forwarded its file in this matter to the Office of the Administrative Law Judges ("ALJ's Office") for further proceedings pursuant to the Uniform Tax Procedure Code[1] and the Rules of Practice and Procedure Before the Oklahoma Tax Commission[2]. The case was docketed as Case No. P-05-126-K.[3]

A pre-hearing conference was scheduled in this cause for November 1, 2005, by *Notice of Prehearing Conference* issued October 6, 2005.[4] Protestant by letter dated October 26, 2005 and

[1] 68 O.S. 2001, § 201 et seq.

[2] Rules 710:1-5-20 through 710:1-5-47 of the Oklahoma Administrative Code ("*OAC*")

[3] *OAC*, 710:1-5-22(b).

[4] *OAC*, 710:1-5-28.

marked received November 2, 2005, responded to the *Notice*, but did not appear at the pre-hearing conference. Protestant did not request a hearing in the letter of October 26, 2005. By letter dated November 2, 2005, the parties were notified 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.[5]

The *Division's Verified Response* was filed December 1, 2005. Attached to the *Verified Response* were Exhibits A through I. Protestant did not file a reply to the *Division's Verified Response*. On January 20, 2006, the record in this cause was closed and the case was submitted for decision.

FINDINGS OF FACT

Upon review of the file and records, including the correspondences from Protestant and attachments, and the *Division's Verified Response* and attached Exhibits, the undersigned finds:

1. On February 3, 2005, Protestant filed Form 511, a resident 2004 State of Oklahoma Income Tax Return, reporting federal and Oklahoma Adjusted Gross Income of "None", but claiming a refund in the amount of $41,342.00. Exhibit A.

2. The refund of $41,342.00 is allegedly attributable to Oklahoma income tax withholding of $3,000.00, a Low Income Property Tax Credit of $200.00, a Sales Tax Relief Credit of $40.00, and a Tornado Tax Credit of $38,102.00. Exhibit A.

3. Protestant did not attach any documentation to the return showing Oklahoma income tax withheld from any source of income. Exhibit A.

4. Form 509, October 9, 2001 Tornado Tax Credit, reports $47,627.00 as the amount of ad valorem property tax paid on certain property and improvements located at 123 FAKE STREET in the County of COUNTY, the first year after the improvement was completely or fully repaired or rebuilt (tax year 2003) and "None" as the amount of ad valorem property tax paid on the property and improvements for tax year 2000. Exhibit A. The amount of refundable credit available for tax year 2004 is reported as $38,102.00.

5. Form 538-H, Oklahoma Claim for Credit or Refund of Property Tax, reports 2004 real estate taxes paid of $715.00 on the property and improvements located at 123 FAKE STREET in the County of COUNTY and requests a refund or credit of $200.00, the maximum amount allowed. Exhibit A. Protestant reported "None" as the "Total gross household income" for 2004. Attached to the Form was the Tulsa County Treasurer Tax Bill for 2003 Real Estate Tax showing taxes assessed of $636.00 of which Protestant paid one-half on September 30, 2004 and an individual by the name of INDIVIDUAL paid the remaining one-half on January 8, 2004.

6. Form 538-S, Oklahoma Claim for Credit or Refund of Sales Tax, reports "Total gross household income" of "None" and requests a credit of $40.00. Exhibit A.

[5] *OAC*, 710:1-5-28(c).

7. By letters dated April 29, 2005, June 13, 2005 and July 21, 2005, the Division requested documentation to substantiate the withholding claimed on the Oklahoma return, a copy of her 2004 Federal income tax return and all W-2's, 1099's etc., and a statement showing the ad valorem property tax paid on the property and improvements in 2002. Exhibits C, E and F.

8. Protestant's 2004 U.S. Individual Income Tax Return reports adjusted gross income of "None" and claims a refund in the amount of $10,275.00, which is attributable to a "standard deduction" of $6,050.00, the zero-bracket exemption for a single individual of $3,100.00 and a "Credit for the Elderly or Disabled" of $1,125.00. Exhibit B.

9. Protestant did not submit any documentary proof of Oklahoma withholding or entitlement to the credits claimed on the return. Exhibits D, G and I.

10. The Division denied Protestant's income tax refund by letter dated August 16, 2005. Exhibit H.

11. Protestant protested the Division's denial by letter dated August 29, 2005, asserting that the amount claimed as withholding is withheld credit owed to her by the government, that she is not required to provide proof of the ad valorem taxes paid on the property in tax year 2000 and that the documents or reasonable explanation of her refund and credits is in the business, facilities, books and records of the government. Exhibit I.

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law that:

1. The Tax Commission is vested with jurisdiction over the parties and subject matter of this action. 68 O.S. 2001, § 207(c). *See*, OTC Order No. 2000-09-19-041.

2. The burden of proof in all administrative proceedings is on the taxpayer to show in what respect the action or proposed action of the Tax Commission is incorrect. *OAC*, 710:1-5-47. *See*, *Enterprise Management Consultants, Inc. v. Oklahoma Tax Commission*, 1988 OK 91, 768 P.2d 359. If the taxpayer fails to prove a prima facie case, the protest may be denied solely upon the grounds of failure to prove sufficient facts which would entitle the taxpayer to the requested relief. *Id.*

3. Taxpayers are required to file tax forms in processible form. 68 O.S. 2001, § 247. If a return does not contain sufficient information to properly determine the accuracy and correctness of any and all claims, the return shall be considered to be in "not processible form". *OAC*, 710:50-3-21(a). A taxpayer is required to furnish upon request or demand any information the Tax Commission deems necessary to determine the amount of any income tax liability or the requirement to file any tax return, whether such return indicates an amount of tax due or not. 68 O.S. 2001, § 248. *See, OAC*, 710:50-3-22.

4. Here, Protestant failed to come forward with any evidence to substantiate the refund or to show entitlement to the credits claimed on the 2004 Oklahoma income tax return. The 2004

tax return filed by Protestant is a mockery. Further, Protestant's assertions are gibberish, illogical and ludicrous.

5. Protestant's protest to the Division's denial of the credits and refund claimed on her 2004 Oklahoma income tax return should be denied.

DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it is ORDERED that the protest of Protestant, PROTESTANT, be denied.

OKLAHOMA TAX COMMISSION

CAVEAT: This decision was NOT deemed precedential by the Commission. This means that the legal conclusions are 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.