

JURISDICTION: OKLAHOMA TAX COMMISSION
CITE: 2019-03-05-28 / NON-PRECEDENTIAL
ID: P-18-030-H
DATE: MARCH 5, 2019
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NONE

ORDER

The above matter comes on for entry of a final order of disposition by the Oklahoma Tax Commission. Having reviewed the files and records herein, the Commission hereby adopts the Findings of Fact, Conclusions of Law and Recommendation made and entered by the Administrative Law Judge on the 4th day of February, 2019, appended hereto, together herewith shall constitute the Order of the Commission.

SO ORDERED

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION

NOW on this 4th day of February 2019, the above-styled and numbered cause comes on for consideration under assignment regularly made by the Oklahoma Tax Commission to ALJ, Administrative Law Judge. PROTESTANT (“Protestant”) appears pro se. The Compliance Division (“Division”), Oklahoma Tax Commission, appears through AGC, Assistant General Counsel, Office of General Counsel, Oklahoma Tax Commission.

PROCEDURAL HISTORY

On February 28, 2018, the Office of Administrative Law Judges received the protest letter for further proceedings consistent with the *Uniform Tax Procedure Code*¹ and the *Rules of Practice and Procedure Before the Office of Administrative Law Judges*.² On February 28, 2018, the Court Clerk mailed the Introductory Letter to the Protestant that ALJ, Administrative Law Judge (“ALJ”) had been assigned to this matter, and docketed as Case Number P-18-030-H.

¹ OKLA. STAT. ANN. tit. 68, § 201 *et seq.* (West 2014).

² OKLA. ADMIN. CODE §§ 710:1-5-20 through 710:1-5-49.

On May 1, 2018, the ALJ issued the Scheduling Order to submit this matter on stipulations and briefs. On May 11, 2018, the Protestant filed his Brief, with attachments. On May 31, 2018, the parties filed Joint Stipulation of Facts and Issues, with Exhibits A and B.

On June 28, 2018, the Division filed its Response Brief. On July 11, 2018, the Protestant filed his Reply Brief. The ALJ closed the record and submitted this matter for decision.

JOINT STIPULATION OF FACTS AND ISSUES

On May 31, 2018, the parties filed Joint Stipulation of Facts and Issues:³

1. Protestant, during the 2014 calendar year, donated to St. Jude Children's Research Hospital in Memphis, Tennessee.
2. Protestant has taken the Charitable Federal Deduction on his Federal 1040 Income Tax Return for 2014.
3. St. Jude Children's Research Hospital's mission statement is to "advance cures, and means of prevention, for pediatric catastrophic diseases through research and treatment."

STIPULATED STATEMENT OF ISSUES

1. Whether St. Jude Children's Research Hospital is a Qualified Cancer Research Center under Oklahoma Administrative Code 710:50-15-113 and Oklahoma Statute Title 68 Section 2357.45[A](4) [sic].

³ The ALJ omitted any references to Stipulated Exhibits herein.

CONCLUSIONS OF LAW

1. The Legislature vested the Oklahoma Tax Commission with jurisdiction over the parties and subject matter of this proceeding.⁴

2. For tax years, beginning after December 31, 2004, there shall be allowed against the tax imposed by Section 2355 of Title 68, a credit for any taxpayer who makes a donation to an independent biomedical research institute and for tax years beginning after December 31, 2010, a credit for any taxpayer who makes a donation to a cancer research institute.⁵

3. “Cancer Research Institute” means an organization which is exempt from taxation pursuant to the Internal Revenue Code and whose primary focus is raising the standard of cancer clinical care in Oklahoma through peer-reviewed cancer research and education or a not-for-profit supporting organization, as that term is defined by the Internal Revenue Code, affiliated with a tax-exempt organization whose primary focus is raising the standard of cancer clinical care in Oklahoma through peer-reviewed cancer research and education. The tax-exempt organization whose primary focus is raising the standard of cancer clinical care in Oklahoma through peer-reviewed cancer research and education shall:

- a. either be an independent research institute or a program that is part of a state university which is a member of The Oklahoma State System of Higher Education, and
- b. receive at least Four Million Dollars (\$4,000,000.00) in National Cancer Institute funding each year.⁶

⁴ OKLA. STAT. ANN. tit. 68, § 221(C) (West 2014).

⁵ OKLA. STAT. ANN. tit. 68, § 2357.45(A)(1) (West 2017).

⁶ OKLA. STAT. ANN. tit. 68, § 2357.45(A)(4) (West 2017).

4. The rules promulgated pursuant to the Administrative Procedures Act are presumed to be valid and binding on the persons they affect and have the force of law.⁷

5. The Tax Commission Rule defines:

- (1) “Qualified Cancer Research Institute” means an organization which is exempt from taxation pursuant to the Internal Revenue Code whose primary focus is raising the standard of cancer clinical care in Oklahoma through peer-reviewed cancer research and education. The organization must be either an independent research institute or a program that is part of a state university, which is a member of the Oklahoma State System of Higher Education and must receive at least Four Million Dollars (\$4,000,000) in National Cancer Institute funding per year.⁸

6. The goal of any inquiry into the meaning of a legislative act is to ascertain and give effect to the intent of the legislature. The law-making body is presumed to have expressed its intent in a statute’s language and to have intended what the text expresses. Hence, where a statute is plain and unambiguous, it will not be subject to judicial construction, but will be given the effect its language dictates. Only where the intent cannot be ascertained from a statute’s text, as occurs when ambiguity or conflict (with other statutes) is shown to exist, may rules of statutory construction be employed. Statutes that provide an exemption from taxation are to be strictly construed against the claimant.⁹ Statutory construction presents a question of law.¹⁰

⁷ OKLA. STAT. ANN. tit. 75, § 250 *et seq.* (West 2018).

⁸ OKLA. ADMIN. CODE § 710:50-15-113 (June 1, 2011).

⁹ *Blitz U.S.A., Inc. v. Oklahoma Tax Com’n*, 2003 OK 50, ¶ 14, 75 P.3d 883.

¹⁰ *Id.* at ¶ 6.

7. Tax exemptions, deductions, and credits depend entirely on legislative grace and are strictly construed against the exemption, deduction, or credit.¹¹

8. Words used in any statute are to be understood in their ordinary sense, except when a contrary intention plainly appears, and except also that the words hereinafter explained are to be understood as thus explained.¹²

9. Whenever the meaning of a word or phrase is defined in any statute, such definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears.¹³

10. In all proceedings before the Tax Commission, the taxpayer has the burden of proof.¹⁴ A proposed assessment is presumed correct and the taxpayer bears the burden of showing that it is incorrect and in what respects.¹⁵

DISCUSSION

The Protestant contends that the statute does not address the advancements of cancer research, i.e. computers and the internet, nor does the statute specifically state that a “Qualified Cancer Research Institute” must be in the State of Oklahoma.

¹¹ *TPQ Inv. Corp. v. State ex rel. Oklahoma Tax Com’n*, 1998 OK 13, ¶ 8, 954 P.2d 139. (Citations omitted).

¹² OKLA. STAT. ANN. tit. 25, § 1 (West 2008).

¹³ OKLA. STAT. ANN. tit. 25, § 2 (West 2008).

¹⁴ OKLA. ADMIN. CODE § 710:1-5-47 (June 25, 1999). OKLA. ADMIN. CODE § 710:1-5-77(b) (June 25, 1999).

¹⁵ See *Enterprise Management Consultants, Inc. v. State ex rel. Oklahoma Tax Com’n*, 1988 OK 91, 768 P.2d 359.

The Division relies on the portion of the Statute and Tax Commission Rule, which states that a “Qualified Cancer Research Institute” means “...whose primary focus is raising the standard of cancer clinical care in Oklahoma...” *See* 68 O.S. § 2357.45(A)(4) and 710:50-15-113.

For the 2014 Tax Year, the Protestant stipulated he donated to St. Jude Children’s Research Hospital in Memphis, Tennessee. The language of the statute is plain and unambiguous. For the Protestant to claim the credit, the “Qualified Cancer Research Institute” must be in Oklahoma.

CONCLUSION

The Protestant has failed to meet his burden of proof, by preponderance of the evidence, that St. Jude Children’s Research Hospital is a Qualified Cancer Research Center under Oklahoma Administrative Code 710:50-15-113 and Oklahoma Statute Title 68 Section 2357.45(A)(4).

RECOMMENDATIONS

The ALJ recommends denying the protest, as set forth.

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.

NOTE: The distinction between a Commission Order designated as “Precedential” or “Non-Precedential” has been blurred because all OTC Orders resulting from cases heard by the Office of Administrative Law Judges are now published, not just “Precedential” Orders. *See* OKLA. STAT. ANN. tit.68, § 221(G) (West 2014) and OKLA. STAT. ANN. tit. 75, § 302 (West 2002).