

JURISDICTION: OKLAHOMA TAX COMMISSION DECISION
CITE: 87-03-31-11 / NON-PRECEDENTIAL
ID: P-86-473
DATE: MARCH 21, 1987
DISPOSITION: DENIED
TAX TYPE: INCOME
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above styled cause comes on for consideration pursuant to assignment regularly made to ALJ, Administrative Law Judge, by the Oklahoma Tax Commission, and hearing had, at which hearing PROTESTANT, Protestant herein, appeared not nor was he represented by counsel, and the Income Tax Division of the Oklahoma Tax Commission appeared by and through its legal representative, OTC ATTORNEY, of the General Counsel's Office of the Oklahoma Tax Commission. Notice of said hearing was originally mailed by certified mail, return receipt requested, to the Protestant, setting said hearing, for November 24, 1986, but that the Protestant notified the Administrative Law Judge's Office and requested that the matter be passed. Following acquiescence by the General Counsel's Office concerning the continuance, this matter was rescheduled to be heard on February 27, 1987 with certified notice being forwarded to the Protestant and of which he received notice of such. There was no testimony taken at the hearing and the case was submitted following opening statement by the attorney representing the Income Tax Division of the Oklahoma Tax Commission and exhibits, not itemized herein, were received and admitted into evidence.

STATEMENT OF FACTS

Based upon the exhibits and briefs filed by the respective parties in this case, it appears that on or about April 13, 1982 and April 10, 1983, the Protestant did in fact file his 1981 and 1982 State of Oklahoma individual income tax returns, Form 511, respectively. The Protestant's Oklahoma individual income tax return for 1981 reflected a reported income of Twenty Thousand Six Hundred Ten Dollars (\$20,610.00) as Oklahoma taxable income and the Protestant's 1982 Oklahoma individual income tax return reflected a reported income of Thirty-Six Thousand Two Hundred and Seventy-One Dollars (\$36,271.00) as Oklahoma taxable income.

Subsequent to receipt of the Protestant's 1981 and 1982 Oklahoma individual income tax returns, the Income Tax Division of the Oklahoma Tax Commission received notice from a Revenue Agent's Report of the Internal Revenue Service, dated November 14, 1985, that the Protestant's 1981 and 1982 Oklahoma individual income tax returns were incorrect in regard to the taxable income stated thereon. As a result of the Revenue Agent's Report and review of the information received from the Internal Revenue Service, the Income Tax Division of the Oklahoma Tax Commission did in fact, on September 12, 1986, issue an assessment of additional Oklahoma income tax and interest against the Protestant in the amount of Two Thousand Seventy Dollars (\$2,070.00), representing 1981 additional income tax due the State of Oklahoma and interest in the amount of One Thousand Four Hundred Thirty-Nine Dollars

(\$1,439.00), creating a total aggregate amount of Three Thousand Five Hundred Nine Dollars (\$3,509.00) for tax year 1981; and, for tax year 1982, additional Oklahoma income tax of Two Thousand Two Hundred Twenty-Nine Dollars (\$2,229.00), and interest in the amount of One Thousand Four Hundred Six Dollars (\$1,406.00), for a total aggregate amount of Three Thousand Six Hundred Thirty-Five Dollars (\$3,635.00) for tax year 1982.

The Protestant did in fact, on October 12, 1986, protest the assessment, basing his argument on the challenge to the jurisdiction of the Oklahoma Tax Commission over his person and his property and therein, the Income Tax Division of the Oklahoma Tax Commission did in fact accept this as a protest to the assessment of additional Oklahoma income tax and interest for tax years 1981 and 1982.

ISSUES AND CONTENTIONS

It is the contention of the Protestant that the Oklahoma Tax Commission does not have jurisdiction over his person and/or property, Protestant having filed a Notice of Want of Jurisdiction and Notice of Bar, as well as a Notice to Abate to the State Revenue Authority filed with the General Counsel's Office of the Oklahoma Tax Commission.

It is the position of the Income Tax Division and that of the General Counsel's Office of the Oklahoma Tax Commission that the Oklahoma Tax Commission does in fact have jurisdiction over the Protestant as such relates to the Oklahoma individual income tax due the State of Oklahoma for tax years 1981 and 1982.

The sole issue to be determined at this hearing is whether or not the Oklahoma Tax Commission, as an administrative agency, does in fact have jurisdiction over the Protestant's person and property and jurisdiction of the subject matter of this controversy, being the 1981 and 1982 additional Oklahoma income tax.

Review of the documents filed by the Protestant entitled Notice of Want of Jurisdiction and Notice of Bar, as well as the Notice to Abate to the State Revenue Authority, does not support the Protestant's contention that the Oklahoma Tax Commission does not in fact have jurisdiction over the Protestant concerning the subject matter of the controversy, being the 1981 and 1982 Oklahoma individual income tax. But for the sake of argument, assuming *arguendo* that there is some validity to the Protestant's contention, the General Counsel's Office directs attention to 73A C.J.S., Public Administrative Law and Procedure, Section 116, which states that a public administrative body, as that of the Oklahoma Tax Commission, has such adjudicatory jurisdiction as is conferred on it by statute. See also Southern Pacific Communication Company v. Corporation Commission, 586 P.2d 327 (Okla. 1978).

The Oklahoma Legislature has, pursuant to Section 203 of Title 68 of the Oklahoma Statutes, provided that the Oklahoma Tax Commission is granted authority to enforce the provisions of the tax code and may at all times exercise such authority as may be necessary to administer and enforce each and every provision of the state tax laws as enacted by the Oklahoma Legislature. Section 2355 of Title 68 of the Oklahoma Statutes provides that a tax shall be and is imposed upon the Oklahoma taxable income of every resident or nonresident

individual, a resident individual is defined as a natural person who is domiciled in the State of Oklahoma; see specifically Section 2352 of Title 68 of the Oklahoma Statutes.

Review of the Protestant's 1981 and 1982 Oklahoma individual income tax returns reflect that his domicile is CITY, Oklahoma; therefore, being a resident individual, the Protestant is subject to the Oklahoma income tax laws and the Oklahoma Tax Commission likewise has the authority to administer and enforce the Oklahoma Income Tax Code. The Oklahoma Tax Commission does in fact have jurisdiction over the Protestant's person and the subject matter of the protest herein.

The Oklahoma Tax Commission, as a creature of the Legislature, has been entrusted and empowered with the authority to enforce the provisions of the state tax laws and as an administrative agency, it has the inherent power to determine the controversy presented to it as an administrative body to determine such controversy.

This authority and power having been promulgated by the Oklahoma Legislature under the Uniform Tax Procedures Code, Section 201 et seq. of Title 68 of the Oklahoma Statutes, the issue that has arisen is one that falls within the general class of controversies which the Oklahoma Tax Commission has the competency and jurisdiction to hear and determine, in view of the fact it involves the protest of Oklahoma individual income tax for tax years 1981 and 1982.

CONCLUSIONS

In view of the above and foregoing findings of fact and conclusions of law applicable thereto, the undersigned Administrative Law Judge concludes as follows:

- (1) That the Oklahoma Tax Commission has jurisdiction in this matter.
- (2) That the assessment by the Income Tax Division of the Oklahoma Tax Commission of additional Oklahoma individual income tax and interest in the amount of Three Thousand Five Hundred Nine Dollars (\$3,509.00) for tax year 1981 is correct and proper and likewise, the assessment for additional individual income tax and interest for tax year 1982 in the amount of Three Thousand Six Hundred Thirty-Five Dollars (\$3,635.00) is correct and proper.
- (3) That the protest of PROTESTANT should in fact be denied in view of the fact that the Oklahoma Tax Commission does in fact have jurisdiction to entertain the issue presented relating to his 1981 and 1982 Oklahoma individual income tax.

DISPOSITION

It is the ORDER of the OKLAHOMA TAX COMMISSION that the income tax protest of PROTESTANT be denied; that the assessment of the Income Tax Division of the Oklahoma Tax Commission for tax years 1981 and 1982 be sustained and that the Protestant be required to pay the amount of additional Oklahoma individual income tax for tax years 1981 and 1982, plus any additional interest that may accrue thereon from the date due until paid.

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.