CHAPTER 90. WITHHOLDING

SUBCHAPTER 1. GENERAL PROVISIONS

710:90-1-5. Employee—exemption—certificates— and Employee's withholding allowances allowance certificate

The marital status and number of withholding allowances an employee may claim in determining Oklahoma Income Tax to be withheld shall be the same as that claimed on a valid employee—exemption employee's withholding allowance certificate (Federal Form W-4) as required by the Internal Revenue Service, provided Federal Form W-4 was executed prior to March 1, 2018. If changes to Oklahoma withholding should be made, or employment begins after February 28, 2018, employees shall submit a completed Oklahoma Form W-4 to their employer, except for certain special or additional allowances an employee may claim. An employer should advise an employee to decrease the number of allowances claimed on Federal Form W-4 by one for Oklahoma withholding purposes for each of the following allowances claimed to assist in the computation of adequate tax to be withheld:

(1) Any special allowance claimed by a single person with only one job;
(2) Any special allowance claimed by a married person whose spouse is not working;
(3) Any special allowance claimed by a person with two jobs where only one job pays more than $2,500.00;
(4) Any special allowance claimed by a married person with two jobs or a working spouse if only one job paid more than $2,500.00; or;
(5) Any additional allowance claimed by each person entitled to Head of Household status.

710:90-1-6. Supplemental wages
(a) Treatment of supplemental wages combined with regular wages. An employer who pays supplemental wages combined with regular wages and does not specify or separate the amount of each should withhold Income Tax as if the total payment were a single payment for a regular payroll period. Supplemental wages include bonuses, commissions, overtime pay, vacation pay, sick leave pay, back pay, retroactive wage increases or payment for nondeductible moving expenses.

(b) Treatment of supplemental wages paid separately or combined in single payment. Supplemental wages which are paid separately or combined in a single payment and the amount of each is specified, are subject to withholding according to one of the following methods:

(1) If you withhold tax from the regular wages use one of these two methods for supplemental wages:

(A) Withhold at the highest applicable rate set out in 68 O.S. Section 2355(B)(1) for Oklahoma Income Taxes for the taxable year, or;
(B) Add the supplemental and regular wages for the most recent payroll period. Calculate the tax as if the total constitutes a single payment. Subtract the tax already withheld from the regular wages. Withhold the remaining tax from the supplemental wages.

(2) If tax was not withheld from an employee's regular wages, the provisions set out in (1)(B) of this subsection should be used. This situation would occur, for example, when the value of the employee's withholding allowances claimed on Form W-4 is more than the wages.

(c) Treatment of overtime, vacation, and sick pay. Overtime pay, vacation pay, and sick pay
are subject to Withholding Tax as if a regular wage payment. If paid in addition to the regular wage, it is considered a supplemental wage.

710:90-1-7. Computation of tax to be withheld
(a) Every employer making payment of wages subject to withholding shall deduct and withhold from the wages paid each employee, a tax in an amount determined in accordance with the table fixing graduated rates of tax to be withheld, unless otherwise provided. However, if the computer formula is used, the amounts for the federal-personal exemption and for the federal Oklahoma standard deduction may be updated as necessary annually to coincide with amounts allowed by the Internal Revenue Service for the ensuing tax year.
(b) Available to all employers filing Withholding Tax Returns are withholding tables:
   (1) An optional table for married persons who file joint returns and both spouses work; and,
   (2) A general table for all other categories of filing status. The Oklahoma Withholding Tax tables are based on gross wages and the standard deduction.
(c) If an employee determines that his or her Oklahoma Income Tax liability for the year will be more than the amount to be withheld, the employee may authorize an employer, if agreed, to withhold more tax than is required. This must be in writing and may be in any form.
(d) Married persons with working spouses may elect to have Oklahoma Income Tax withheld based on the optional tables devised for such persons.
(e) An employer has a duty to inform all employees of the measures and options available to ensure sufficient tax is withheld.
(f) If an employee fails to provide the employer either a Federal Form W-4 or Oklahoma Form W-4, the employer must withhold tax as if the employee were a single person who has claimed no withholding allowances.

710:90-1-11. Records
(a) Required records described in this Section shall be kept accurately, but no particular form is required for keeping the records. Such forms and systems of accounting shall be used as will enable the Commission to determine whether liability for tax is incurred, and if so, the amount thereof.
(b) An employer must maintain required records for at least four years after the due date of such withholding tax for the return period to which the records relate, or the date the tax is paid, whichever is the later.
(c) The specific records required to be kept are:
   (1) The employer's identification number;
   (2) Copies of all returns, reports, and other documents concerning Oklahoma Withholding Tax to include the business registration, employer's return of tax withheld, annual reconciliation and appropriate wage and tax statements.
   (3) Copies of Internal Revenue Service Forms 940 and 941, Oklahoma Employment Security Commission Form OES-3, and Oklahoma Employer's Return of Income Tax Withheld, Form 30003;
   (4) The dates and amounts of Oklahoma Withholding Tax payments made and copies of cancelled checks;
   (5) Each employee's name, address, occupation, social security number, and periods of employment;
   (6) The total amount of and date of each wage payment and the period of time the payment covers;
(7) For each wage payment, the amount subject to withholding;
(8) The amount of Withholding Tax collected on each payment and the date it was collected;
(9) The employee's withholding allowance exemption certificate (Federal Form W-4 executed prior to March 1, 2018 or Oklahoma Form W-4) filed by each employee;
(10) Any agreement between the employer and the employee for the voluntary withholding of additional amounts of tax or of amounts which are not required to be withheld;
(11) A chart of accounts;
(12) Copies of filed Federal and State Income Tax Returns and supporting schedules; and
(13) Books of original entry, ledgers, and any other information necessary to substantiate the amount of tax withheld and paid or to support any reason the employer may have for not withholding Income Tax.