OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

June 22, 2000

Re: Our file number LR 00-60; Income Tax - Small Business Capital Formation Incentive Act.

Dear

This is in response to your inquiry of February 29, 2000 wherein you requested guidance as to the income tax credits available under Small Business Capital Formation Incentive Act. (68 O.S. § 2357.60 et seq.) Specifically, you inquired as to the treatment of the available credits for Oklahoma Limited Liability Companies (LLC).

You are correct that the income tax credit authorized under the Small Business Capital Formation Incentive Act is generally non-transferable. However, in the case of flow-through entities, such as LLC's, partnerships, and Sub S corporations, the credit is generally distributed to either the appropriate partner or shareholder. The Tax Commission has historically allowed the distributing entity to determine the amount of credits distributed so long as the following two conditions are met. One, the amount distributed does not exceed the amount of available credit and two, distribution must be made to a shareholder or partner of the flow through entity that has generated the credit.

This response applies only to the circumstances set out in your request of February 29, 2000 and may not be relied upon by any entity other than the addressee. In the event of any change in the facts surrounding the transaction described, this letter ruling would no longer be applicable. You are further advised that subsequent statutory or administrative rule changes or judicial construction of the statutes or rules upon which this advice is based may yield a different result from that which is expressed here.

If I can be of further assistance, please feel free to call me at (405) 521-3133.

Sincerely,

FOR THE OKLAHOMA TAX COMMISSION

Michael C. Kaufmann
Tax Policy Analyst