OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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June 21, 2000

Re: Our file number LR 00-75 - Income Tax Withholding Resident Individual Working Outside of Oklahoma.

Dear

This is in response to your inquiry of April 5, 2000 wherein you requested a ruling regarding two Oklahoma income tax withholding issues. Following is a restatement of your questions and our responses thereto.

Issue 1 Oklahoma State Income Tax Withheld for Resident Individuals Working Outside of Oklahoma.

Question

When an Oklahoma resident individual receives income from personal services performed in another income-taxing state, is the individual subject to Oklahoma state income tax withholding?

Response

Oklahoma income tax withholding with respect to wage is required under 68 O.S. § 2385.1 et seq. Oklahoma residents are required to have income tax withheld regardless if they work in Oklahoma or in another state, provided the employer also has a place of business in Oklahoma or has sources of income in Oklahoma. There are some cases of nonresident employers that have Oklahoma resident employees voluntarily withholding Oklahoma income tax on behalf of their employees.

Question

If the individual above is subject to Oklahoma state income tax withholding, is the amount of Oklahoma state income tax withholding based on the full amount of wages earned outside of Oklahoma (based on Oklahoma state income tax withholding table) less credits for other state's income tax withholding?

Response

The Oklahoma withholding is calculated with no credit for the other states income tax withholding. The statutory reference you relied on in your letter (68 O.S. § 2357) relates to how Oklahoma withholding taxes are applied to offset Oklahoma income tax upon filing of the tax return. The reference to credit for taxes paid to another state is the mechanism that avoids a resident individual working in another state to avoid being taxed in both jurisdictions. I have enclosed a copy of Oklahoma Form 511 and Oklahoma Schedule E for your review.

This response applies only to the circumstances set out in your request of April 5, 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