

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

January 8, 2002

Re: Our file number LR 01-187; Income Tax Withholding - Non Resident Employee

Dear

This is in response to your inquiry of November 30, 2001 wherein you requested guidance concerning the need to withhold Oklahoma income tax for a non-resident employee. Following is a restatement of the facts outlined in your letter, your question, and our response thereto.

FACTS:

has hired an employee who lives in the state of Texas. His job requires him to travel to all parts of the country for the FAA. He never works in the state of Oklahoma. He receives travel orders from the FAA stating that he leaves from Texas and returns to Texas. He is paid for his travel expenses directly from the government and pays him a salary for hours worked.

QUESTIONS:

Since his wages are not earned in Oklahoma and he does not live in Oklahoma, are his wages considered Oklahoma taxable income? Should we withhold Oklahoma income tax from his paycheck?

RESPONSE:

Generally, a non-resident individual must earn income in the state of Oklahoma before that income becomes taxable in Oklahoma. Some examples of ways through which this occurs include; earn wages from performing services in Oklahoma, owning Oklahoma oil and gas interests or owning Oklahoma rental property. None of these are applicable to the facts

outlined in your letter, so the income outlined above is not Oklahoma taxable. As such, no income tax withholding is required.

This response applies only to the circumstances set out in your request of November 30, 2001. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon **only** by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

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

Sincerely,

FOR THE OKLAHOMA TAX COMMISSION

A handwritten signature in black ink, appearing to read "Michael C. Kaufmann". The signature is written in a cursive style with a large, sweeping initial "M".

Michael C. Kaufmann
Tax Policy Analyst