

MEMORANDUM

OKLAHOMA TAX COMMISSION
TAX POLICY AND RESEARCH

DATE: April 26, 2002

SUBJECT: LR File 02-036 Income Tax - Credit For Taxes Paid to Another State

TO:

FROM: Michael C. Kaufmann, Tax Policy Analyst

This memorandum is in response to your request of April 8, 2002. In that opinion request, you asked that we issue an opinion concerning the credit for taxes paid another state available to Oklahoma residents who must report income from territories and possessions of the United States, specifically at issue is income tax paid to Puerto Rico.

Analysis:

68 O.S. § 2357 (B) states in part “that there shall be allowed a credit against the tax imposed under 68 O.S. § 2355 for the amount of tax paid to another state by a resident individual”. There are two general conditions on the granting of this credit. 1) The tax that generates the credit must be a tax on income from compensation for personal services in the other state and 2) the credit is not allowed with respect to income specified under 4 U.S.C. §114. The income specified in 4 U.S.C. § 114 is certain pension income that states are prohibited from imposing an income tax upon.

68 O.S. § 2353 (14) specifies that “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States or any political subdivision thereof...’

Puerto Rico, unlike Texas, does impose an income tax on income from compensation for personal services. The federal income tax treatment for Puerto Rico is of no consequence in determining the eligibility for the Oklahoma credit for taxes paid to another state.

Conclusion:

Regardless of the equity issues, the Oklahoma income tax credit for taxes paid to another state is available to residents of Oklahoma that receive income for personal services that are subject to Puerto Rico’s income tax.

It must be pointed out that I had a conversation with _____ prior to the request for this opinion in which I advised her that the credit for taxes paid to another state is available for Puerto Rico income tax. It is my recommendation that you immediately cease denying these claims and issue refunds to those claims previously denied.

If I can be of any additional assistance, please feel free to call me at 522-5927.


