

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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



July 1, 2002

Re: Our file number LR 02-91: Income Tax - Non Resident Working in Oklahoma

Dear

This is in response to your inquiry of June 17, 2002 wherein you inquired as to the income tax treatment of a non Oklahoma resident working in Oklahoma. Specifically, you are not a resident of Oklahoma who works on a contract basis part-time for the in Oklahoma. You appear to have been advised that your income tax withholding will be based on your state of domicile.

Under Oklahoma law (68 O.S. § 2368) non residents are required to file Oklahoma income tax returns and report their gross income earned in Oklahoma if the amount is in excess of one thousand dollars (\$1,000.00). In most cases, the taxpayer's state of domicile will also tax that income. To prevent the double taxation of the income on the state tax level, many states offer their *residents* a credit for taxes paid to another state. Please note that the credit for the taxes paid to another state is to be claimed on the return for the state in which you are a resident. Under the facts presented in your letter, if you have Oklahoma source income from compensation for personal services, you will be required to file a non resident Oklahoma income tax return, form 511NR (68 O.S. § 2362).

As to the withholding question, 68 O.S. § 2385.1 et seq. does not require employers that do not have offices or places of business in Oklahoma to withhold Oklahoma income tax for their employees who work in Oklahoma. It appears, in your case, that your employer does not have an office in Oklahoma, so it appears to be exempt from the withholding requirements. This does not absolve the employee from filing the appropriate Oklahoma income tax return. If your employer does have an office in Oklahoma, the facts would be changed and withholding would be required.

This response applies only to the circumstances set out in your request of June 17, 2002. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon **only**

2501 NORTH LINCOLN BOULEVARD • OKLAHOMA CITY • OKLAHOMA 73194

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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 long horizontal stroke at the end.

Michael C. Kaufmann
Tax Policy Analyst