

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
TONY MASTIN, DIRECTOR

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July 8, 2002

Re: Our file number LR 02-106; Income Tax - Retirement Benefits

Dear

Your inquiry of April 24, 2002 to Senator Inhofe's office was recently forwarded to me for a response. In your letter, you asked about the income tax treatment of pension income, particularly the treatment of military retirement pay and retirement pay received by retirees from state and local governments.

Please be advised that in 1989, the Oklahoma legislature amended 68 O.S. § 2358, to allow the same amount (\$5,500) to be exempt from Oklahoma income tax for both federal retirement (both U.S. Military and federal civil service) and Oklahoma government retirees. This was in response to the U.S. Supreme Court decision in *Davis v. Michigan*. Prior to the law change, Oklahoma taxed retirement benefits from federal sources different than Oklahoma sourced retirement benefits.

As to refund claims, the Oklahoma Supreme Court, in the *Strezlecki* decision ruled that refunds were applicable for tax years 1985 through 1988, provided the claims were timely filed. The Oklahoma Tax Commission issued over 68,000 refunds to affected taxpayers having made timely claims. Under the statute of limitations, refunds are now barred for tax years 1985 through 1988.

If I can be of further assistance, please feel free to call me at (405) 521-3123.

Sincerely,

FOR THE OKLAHOMA TAX COMMISSION



Tony Mastin  
Director, Tax Policy

Cc: Craig J. Smith, Governors Office  
Larry Shropshire, Administrator - Oklahoma Tax Commission

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IT IS OUR MISSION TO SERVE THE PEOPLE OF OKLAHOMA BY PROMOTING TAX COMPLIANCE THROUGH QUALITY SERVICE AND FAIR ADMINISTRATION