

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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September 20, 2002

Re: Our file number LR 02-107; Income Tax - Applicability of Small Business Capital Formation Incentive Act

Dear

This is in response to your inquiry of June 28, 2002 wherein you inquired as to whether the holders of certain equity note certificates qualify as an investment in a qualified small business capital company under 68 O.S. § 2357.62 (E). Following is an outline of the facts presented in your letter, the question posed and our response thereto.

Facts:

is an Oklahoma non-profit organization and is recognized as a public charity under IRC Section 501 (c) (3). In addition, is organized to provide direct investment of equity and near equity funds to companies within this state, has its principal place of business as Oklahoma and has approximately \$10,000,000 in capitalization.

Financial lending institutions hold equity like interests in in the form of equity note certificates. Since is a Section 501 (c) (3) non-profit corporation, it does not have traditional shareholders or partners.

Question:

Do equity note certificates held by financial lending institutions satisfy the requirement in 68 O.S. § 2357.62 (E) that financial lending will not be eligible to claim the credit except with respect to amounts invested in a small business capital company in which the financial lending institution is a shareholder or partner?

Response:

Under 68 O.S. § 2357.62 (E) no financial lending institutions shall be eligible for the qualified small business capital credit except with respect to the amount the financial lending institution has invested in a small business capital company. It is the view of this office that the structure of the investment of equity notes certificates between _____ and the Equity Note Holders satisfies the requirement under 68 O.S. § 2357.62 (E) that a financial lending institution has invested in a qualified small business capital company. This letter ruling does not, however, certify that _____ is a qualified small business capital company since no request was made for such determination and no documentation substantiating that the qualifications under 68 O.S. § 2357.61 (7) were submitted.

This response applies only to the circumstances set out in your request of June 28, 2002. 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



Michael C. Kaufmann
Tax Policy Analyst