

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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September 27, 2002

Re: Our file number LR 02-161; Income Tax Withholding - Non Resident

Dear

This is in response to your inquiry of September 17, 2002 wherein you inquired as to the income tax withholding requirements of a non-resident individual. Following is a restatement of the facts outlined in your correspondence, the question posed and our response thereto.

Facts:

You are a resident of Georgia employed by a training school at _____ in _____ Oklahoma. You do not perform any services for compensation in the state of Oklahoma. _____ is currently withholding Oklahoma income tax.

Question:

Is _____ correct in withholding Oklahoma income tax from your pay?

Response:

Withholding of Oklahoma income tax is generally required by every employer paying wages to their employees in Oklahoma. (68 O.S. § 2385.2) Employers are defined as "any person (including any individual, fiduciary, estate, trust, partnership limited liability company or corporation) transacting business in or deriving income from sources within the state of Oklahoma for whom an individual performs or performed any service..." (68 O.S. § 2385.1 (b). Employees are defined as ... "any 'resident individual' as defined by Section 2353 of this title, performing services for an employer, either within or without or both within and

without the State of Oklahoma, and every other individual performing services within the State of Oklahoma, the performance of which services constitutes, establishes, and determines the relationship between the parties as that of employer and employee.

Based on the information that you submitted you are not performing services in Oklahoma. As such, Oklahoma income tax withholding is not required.

This response applies only to the circumstances set out in your request of September 17, 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