

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
TONY MASTIN, DIRECTOR

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October 31, 2002

Re: Our file number LR 02-162; Income Tax - Withholding for Oil and Gas Royalty Income

Dear

This is in response to your inquiry of September 20, 2002 wherein you inquired as to the withholding requirement outlined in 68 O.S. § 2385.25 and 2385.26. Specifically, these sections provide for the withholding of Oklahoma income tax on Oklahoma oil and gas royalty income paid to non-Oklahoma residents.

The issue presented in your letter is whether the aforementioned withholding requirements apply to royalty payments made to an Oklahoma limited partnership. This limited partnership may have partners that are not Oklahoma residents.

The withholding requirement outlined in 68 O.S. § 2385.25 and 2385.26 do not apply if the entity to which the royalty payments are made is a "resident" of Oklahoma. While the term "resident partnership" is not defined statutorily, it is the position of the Oklahoma Tax Commission that if a partnership's principal place of business is Oklahoma that partnership is a resident partnership when determining if withholding is required for oil and gas royalty payments. Based on the information in your letter, oil and gas royalty payments made to the Oklahoma limited partnership would not be subject to Oklahoma withholding.

The non-Oklahoma resident partners would, of course, be required to file Oklahoma income tax returns reporting their distributive share of Oklahoma income.

This response applies only to the circumstances set out in your request of September 20, 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

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