

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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March 28, 2003

Sent Via Facsimile to Fax

Re: Our file number LR 03-043; Income Tax - Withholding on 401K Contributions

This is in response to your inquiry of February 19, 2003 wherein you requested guidance concerning Oklahoma income tax withholding on wage income. Specifically you asked whether contributions to 401K plans were subject to Oklahoma income tax withholding. You were advised by your employer that beginning in 2003 withholding is required.

Please be advised that there has been no change on the basis on which Oklahoma income tax withholding is calculated. Wage income, to the extent subject to federal withholding, is subject to Oklahoma income tax withholding. Contributions to 401K's to the extent not subject to federal income tax withholding is not subject to Oklahoma income tax withholding. Perhaps some of the confusion that is causing your employer to withhold Oklahoma income tax is a change in the basis for State Unemployment Tax. This is administered by the Oklahoma Employment Security Commission and they do include 401K contributions in their calculations.

This response applies only to the circumstances set out in your request of February 19, 2003. 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