OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

October 23, 2003

Re: Our file number LR 03-149 - Income Tax; Withholding by Pass Through Entities

Dear

This is in response to your inquiry of July 16, 2003 wherein you inquired as to the withholding requirements for pass through entities per the enactment of HB 1356 (68 O.S. §2385.29 et seq.) Following is a restatement of the facts outlined in your letter, the specific questions you posed and our responses thereto.

FACTS:

is a National Bank located in the state of Arkansas exercising Trust Powers. We administer multiple trusts that own Oklahoma property which produces income for both Oklahoma residents and non-residents. The trusts we administer include both Oklahoma trusts and trusts that have situs and governing law elsewhere.

QUESTION 1.

Does this new statute apply to us since we are located in Arkansas? (If so please elaborate on the Oklahoma vs. Non-Oklahoma Trusts).

RESPONSE:

The withholding required by pass through entities is applicable to trusts, regardless of where the trust is located. Withholding is required on the Oklahoma source income distributed to any person who is not a resident of Oklahoma.

QUESTION 2.

On the topic of oil and gas revenues, the operators of Oklahoma properties have been withholding from our revenues. Do we need to duplicate this withholding at our level or are we exempt?

RESPONSE:

No need to duplicate the withholding.

QUESTION 3.

Finally, if in your opinion you find us in need of compliance under your jurisdiction please forward to us your set of forms and instructions for reporting.

RESPONSE:

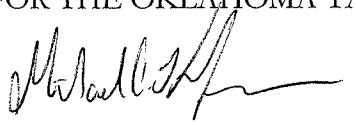
Based on the facts outlined in your letter, you are required to withhold on the Oklahoma source income distributed to any person who is not a resident of Oklahoma. Please find enclosed a copy of a letter scheduled to be mailed on September 19, 2003 to all pass through entities that have filed income tax returns with the Oklahoma Tax Commission. This letter directs you to how to obtain forms and instructions.

This response applies only to the circumstances set out in your request of July 16, 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