

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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



October 20, 2003

Re: Our file number LR 03-186; Income Tax - Withholding on pass-through entities

Dear

This is in response to your inquiry of September 26, 2003; wherein you requested clarification of the newly enacted withholding on pass-through entities (68 O.S. § 2385.31 et seq.).

The Oklahoma share of income distributed follows the normal allocation or apportionment methodology outlined in 68 O.S. § 2358.

With regards to the situations where withholding on royalty income has already occurred (6.75% per 68 O.S. § 2385.25 et seq.) it is the position of the Tax Policy Division that the withholding requirements on pass-through entities under 68 O.S. § 2385.29 et seq. does not apply to those entities that have withheld tax on royalty interest income under 68 O.S. § 2385.25 et seq. Pass-through entities are not required to withhold income tax under 68 O.S. § 2385.29 for any distribution of royalty income on which the 6.75% royalty interest income tax has already been withheld. This position has been recommended to and adopted by the Tax Commission through the promulgation of an emergency rule under the Administrative Procedures Act. [Rule 710:90-3-11 was adopted by the Commission on October 7, 2003]. This rule is not yet in effect since not yet signed by the Governor, but it is the intended policy of the Oklahoma Tax Commission

This response applies only to the circumstances set out in your request of September 26, 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