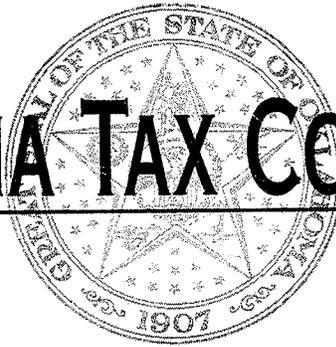


OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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



October 20, 2003

Re: Our file number LR 03-188; Income Tax - Withholding on pass-through entities

Dear

This is in response to your inquiry of September 22, 2003; wherein you requested clarification of the newly enacted withholding on pass-through entities (68 O.S. § 2385.31 et seq.) Following is a restatement of the facts outlined in your letter, the questions posed, and our response thereto.

FACTS:

Your client is a decedent trust with eight (8) beneficiaries, six (6) of whom live outside of Oklahoma. The trust is subject to the new five percent (5%) pass-through entity withholding [68 O.S. § 2385.29 et seq.].

The trust was created by Oklahoma residents and the trustee is located in Oklahoma. The trust receives most of its income from Arkansas royalties which are not taxable in the State of Oklahoma. The trust has some Oklahoma royalties, interest and dividends taxable to Oklahoma.

QUESTION:

Is the basis for the five percent (5%) withholding the distributions allocable to Oklahoma source income or the total distribution including the Arkansas source income?

RESPONSE:

Withholding under the pass-through entity withholding statute is only required on the Oklahoma source income distributed to the non-resident beneficiaries.

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

A handwritten signature in black ink, appearing to read "Michael C. Kaufmann". The signature is written in a cursive style with a large initial "M".

Michael C. Kaufmann
Tax Policy Analyst