

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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



October 14, 2003

Re: LR03-198; Income Tax: Pass-through Entity Withholding

Dear

This letter is in response to your fax of October 14, 2003, wherein you requested a ruling regarding pass-through entity withholding [68 O.S. § 2385.29 et seq.]. Specifically, you raised the issue if withholding is required for quarterly distributions made by a publicly traded partnership. Following is a restatement of the facts outlined in your letter, your requested ruling and our response thereto.

Facts:

is a publicly traded limited partnership and is traded on the Nasdaq under the symbol makes quarterly cash distributions to its unitholders (partners). Such quarterly distributions are not taxable income for either federal or Oklahoma income tax purposes. Additionally, there is no effective way to “withhold” on such quarterly distributions, as the quarterly number of our unitholders and their identities change constantly and are predominantly known only to numerous brokerages, banks, and similar institutions and are not available to

Ruling Requested:

We request a private letter ruling under the provisions of Oklahoma Tax Commission Rule 710:90-3-11, subsection (f)(2) that is not subject to pass-through entity withholding on quarterly distributions.

Response:

Based on your analysis, [as a Publicly Traded Partnership] makes quarterly distributions that are not taxable for federal income tax purposes during the year. 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 any distributions not subject to Oklahoma income tax. 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. Therefore, if your representation that the quarterly distributions are not taxable under the federal income tax provisions is correct, no Oklahoma income tax withholding will be required from those distributions.

This response applies only to the circumstances set out in your request of October 14, 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.

I trust this information is helpful to you. If you need any additional 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", written over a horizontal line.

Michael C. Kaufmann
Tax Policy Analyst