OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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May 20, 2004

Re: Our File No. LR-04-076

Dear

I am writing in response to your inquiry whether as a member of the
who is employed and resides within the boundaries of the tribal land, you qualify for the tribal income exclusion.

Pursuant to McClanahan v. State Tax Commission of Arizona, 411 U.S. 164 (1973), the state is without jurisdiction to subject a tribal member who is residing and working on Indian Country, within the jurisdiction of the member's tribe, to a state income tax. "Indian Country" includes formal and informal reservations, dependent Indian communities, and Indian allotments, whether restricted or held in trust by the United States, the Indian titles to which have not been extinguished. 18 U.S.C. §1151.

However, the term "Indian Country" does not automatically include all lands located within the original boundaries of a former or reduced Indian reservation, South Dakota v. Yankton Sioux Tribe, 522 U.S. 329 (1998), nor does the mere fact that one's place of employment or residence is located within what was once part of a Indian tribe's original treaty lands, mean that one works or lives in Indian Country as defined by 18 U.S.C. §1151.

From the information contained in your letter, it does not appear that you work or live in Indian Country and therefore that your income is not excludable from Oklahoma income taxation. If you wish further consideration of this question, please provide the documentation referenced in your correspondence of April 30, 2004. This response applies only to the circumstances discussed in your aforementioned correspondence. 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.

Sincerely,

Christy J. Caesar

Christy J. Caesar
Tax Policy Analyst