OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

May 14, 2004

Re: Our file number LR 04-078; Income Tax - Withholding by Non Resident Corporation

Dear

This is in response to your inquiry of April 21, 2004; wherein you requested guidance concerning Oklahoma income tax withholding. Following is a restatement of the facts outlined in your letter, your requested ruling, and our response thereto.

FACTS:

The only representation that our Company has in Oklahoma is through our outside sales force. Their function is to solicit advertising from local businesses which are to be included in the area's yellow page ads. The sales force is temporary in nature lasting no more than eight weeks per project and at no time will a local office be used for this solicitation but rather this function is performed in area motels via the telephone. The corporation,
is a foreign listed company registered in the state of Missouri. All contracts are accepted in Missouri. None of the employees are residents of Oklahoma.

REQUESTED RULING

Under Oklahoma Statutes Title 68 - Section 2385.1, we believe that our company meets these requirements for exemption from withholding state income taxes for our employees.

RESPONSE:

68 O.S. § 2385.1 et seq. requires employers to withhold Oklahoma income tax from wages paid to their employees. In order for Oklahoma income tax withholding to be required, an employer / employee relationship must exist. Further, the employee must be a resident of Oklahoma performing services for the employer either within or without the state of Oklahoma, or in the case of individuals who are non residents, they must be performing services within the state of Oklahoma. Employers are not required to withhold Oklahoma income taxes if they are "nonresident" employers who have no office, warehouse, or place of business in Oklahoma and

whose transactions are limited to the solicitation of orders for merchandise, which orders are filled from a point outside the state.

Based on the facts outlined in your letter, is not required to withhold Oklahoma income tax on behalf of it employees.

This response applies only to the circumstances set out in your request of April 21, 2004. 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