OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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August 13, 2004

Re: Our file number LR 04-114; Income Tax Withholding - Oklahoma Resident Employed in Texas

Dear

This is in response to your inquiry of June 16, 2004 wherein you inquired as to the Oklahoma income tax withholding requirements for wages earned by an Oklahoma resident who works in the state of Texas. Following is a restatement of the example in your letter, the question posed, and our response thereto.

Example:

An Oklahoma resident who works in the state of Texas (doesn't require state withholding taxes)

Question:

Do you require withholding of Oklahoma withholding tax on an Oklahoma resident if they work in a state that does not have a state withholding tax? If so, how is it reported on the W-2 form?

Response:

Oklahoma income tax withholding on wages is generally required under the provisions 68 O.S. § 2385.1 et seq. Oklahoma income tax withholding is required for resident individuals that perform services for an employer, if the employer has an office, warehouse or place of business in Oklahoma. If the employer has no connection i.e. an office, warehouse or place of business in Oklahoma, then Oklahoma income tax is not required to be withheld. The Oklahoma resident individual working for a non-resident employer is subject to Oklahoma income tax, even if no Oklahoma income tax is withheld. Many nonresident employers voluntarily withhold Oklahoma income tax in these instances. I have enclosed a copy of 68 O.S. § 2385.1-6 for your review. Oklahoma income and income tax withheld is reported on the W-2 form box 20.

This response applies only to the circumstances set out in your request of June 16, 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