OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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November 28, 2006

Re: Our file number LR 06-201 - Income Tax – Application of a Net Operating Loss

Dear

This is in response to your inquiry of April 3, 2006 regarding and the treatment of net operating losses. Following is a restatement of the facts in your letter, the ruling requested and our response thereto.

FACTS

first became taxable in Oklahoma in the 2004 tax year.

An affiliated member of federal consolidated group, has been filing Oklahoma tax returns for several years. In fact, has incurred Oklahoma net operating losses in years 1996-2004. During the 1996-2003 tax years filed separate company Oklahoma returns.

For the 2004 tax year, and filed an Oklahoma nexus consolidated return as authorized by 68 O.S. § 2367 (2) and (3). Pursuant to Oklahoma statutes and regulations (§ 2367 and Oklahoma Regulation, Rule 710:50-17-34), and separately computed their income , loss, and deductions in accordance with the provisions of Sections 2358 and 2362 and separately applied their respective apportionment factors in preparation of their consolidated return.

After applying the provisions above for the 2004 tax year and before applying any credits or net operating losses, had taxable income and incurred a tax loss.

RULING REQUESTED AND OTC RESPONSE

Based on the facts outlined above, can use prior year separate company net operating loss to offset its income?

Yes, provided elected to carry over the 1996-2003 losses. Those losses will be used to arrive at 2004 net taxable income (loss) for That net result (loss) can be combined with 2004 net taxable income.

This response applies only to the circumstances set out in your request of April 3, 2006. 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