OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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February 27, 2007

Re: Our file number LR 07-035; Income Tax - Severance Pay

Dear

This is in response to your inquiry of February 9, 2007 wherein you requested a letter ruling concerning the taxability of income from a severance package received while a specific person was not an Oklahoma resident. Following is a restatement of the facts as outlined in your letter, the ruling requested and our response thereto.

FACTS:

Taxpayer, ("Taxpayer"), served as the president of Local Oklahoma Bank until its purchase by , a bank, in 2004. At that time, Taxpayer was a resident of the state of Oklahoma.

In the purchase, Taxpayer was granted severance pay to continue until July, 2007. After purchase, Taxpayer was no longer in the active employment of the acquiring bank.

In late 2004, Taxpayer moved his residence from Oklahoma to Texas. Although he retained his residence in , Taxpayer met all of the necessary requirements to effectively change his residence to Texas, including revocation of homestead on his property in . The move was not tax motivated, only done so Taxpayer could be closer to his family. Taxpayer has had residence in Texas since January 1, 2005 (date provided only for ease of determination and transition).

RULING REQUESTED AND OTC RESPONSE:

We respectfully request the Commission determine whether severance pay received since taxpayer's change of residence to Texas is taxable in the state of Oklahoma. Further, we ask if the payer of such severance is required to withhold Oklahoma income tax on such payments since the move.

The issue of when income is taxable is determined by when the payment (income) is received. If a person becomes a non resident after termination, any severance payments received after termination of Oklahoma residency is not taxable in Oklahoma. Further, Oklahoma income tax withholding is not required on severance payments made to non-residents.

This response applies only to the circumstances set out in your request of February 9, 2007. 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