

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION  
RICK MILLER, DIRECTOR

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August 15, 2012

[REDACTED]

RE: LR-12-068

Dear [REDACTED]:

This letter ruling is in response to your inquiry dated August 2, 2011, received by the Tax Policy Division via email on August 15, 2012, wherein you requested clarification and confirmation regarding the Oklahoma income tax treatment of gains from the exercise of non-qualified stock options. You also requested confirmation that Oklahoma allows a credit for taxes paid to another state, as well as confirmation as to the period of time in which the taxpayer can file amended returns and seek a refund of income taxes paid in Oklahoma. Following a verbatim restatement of the facts as outlined in your letter, are our responses to the ruling requests.

## FACTS:

1. Our client is a resident of Oklahoma as that term is defined in 68 O.S. § 2353(4) and Rule 710:50-3-36 of the Rules of the Oklahoma Tax Commission.
2. The gain realized on the exercise of the stock options is properly classified as Taxable Income and Oklahoma taxable Income as defined in 68 O.S. § 2353(10) and (12) respectively.
3. An Oklahoma resident individual is taxed on all income reported on their federal return, except income from real and tangible personal property in another state.
4. In addition, residents are taxed on all income from dividends, salaries, commissions and other pay for personal services regardless of where earned under 68 O.S. § 2355.
5. Oklahoma law does provide for a credit to Oklahoma income tax for income taxes paid in another Jurisdiction under 68 O.S. § 2357.B.1, but if no taxes were paid it would be inappropriate to report any taxes until actually paid to the taxing jurisdiction.
6. Pursuant to the Oklahoma Supreme Court case of *Neer v. Oklahoma Tax Commission*, 1999 OK 41, in the absence of any consent extending the limitations period during which

tax may be assessed, any taxes paid in Oklahoma become final and nonrefundable pursuant to 68 O.S. §2373 within three years of the filing of the return.

**RESPONSE:**

The gain realized on the exercise of the non-qualified stock options described above is properly classified as "taxable income" and "Oklahoma taxable income" as those terms are defined in 68 O.S. 2353(10) and (12) respectively. An Oklahoma resident individual is taxed on all income reported on the Federal return, except income from real and tangible personal property located in another state, income from business activities in another state, or the gains/losses from the sales or exchange of real property in another state.

Oklahoma law provides for a credit against Oklahoma income tax for income taxes paid in another jurisdiction pursuant to 68 O.S. § 2357(B)(1).

The period in which a taxpayer may file an amended return and seek a refund of any taxes previously paid is generally three (3) years from the date of filing of the original return as set forth in 68 O.S. § 2373, unless there is a consent in place extending the limitations period during which taxes may be assessed.

This response applies only to the circumstances set out in your request dated August 2, 2011. 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 and its investors, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

Please be advised that the issuance of this ruling does not preclude the Oklahoma Tax Commission from conducting an audit or examination under 68 Okla. Stat. §206 of any report or return claiming a credit for the transactions outlined in this letter ruling. The Commission reserves the right to issue any assessment, correction, or adjustment authorized under 68 Okla. Stat. §221.

Sincerely,

OKLAHOMA TAX COMMISSION



Joseph P. Gappa, Deputy Director  
Tax Policy & Research Division