

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION  
RICK MILLER, DIRECTOR

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June 20, 2014

Re: LR-14-012 / Income Tax

Dear [REDACTED]

This is in response to your letter dated March 3, 2014, in which you requested a letter ruling regarding nonresident withholding. The basic facts presented in your request are as follows:

I'm writing to inquire about sources of income taxable to a nonresident of Oklahoma. I am an employee at the [REDACTED] but have been working remotely for [REDACTED] since 2010. After moving from Oklahoma in August 2010, I have filed taxes as a nonresident of Oklahoma and continue to withhold state income taxes. In preparation for our 2013 return, I began to wonder what my status is as a remote employee working out of state (and also filing state income taxes in my current state of residence). As a remote employee, my work is not performed in Oklahoma. Will you please advise me and/or help me understand if I should continue withholding state income tax for the state of Oklahoma?

Every employer making payment of wages is required to deduct and withhold from the wages paid each employee a tax in an amount determined by the Oklahoma Tax Commission [68 O.S. § 2385.2] and pay over the amount so withheld as taxes to the Oklahoma Tax Commission. [68 O.S. § 2385.3]

The term "**employer**" shall mean any person transacting business in or deriving any income from sources within the State of Oklahoma. [68 O.S. § 2385.1(b)]

The term "**employee**" shall mean any "resident individual," [68 O.S. § 2353] performing services for an employer, either within or without the State of Oklahoma, and every other individual performing services within the State of Oklahoma. [68 O.S. § 2385.1(c)]

The term "**wages**" shall have the same meaning as used in the Internal Revenue Code, but shall not include remuneration paid for services performed in Oklahoma by a person who is not a "resident individual," whose income in any calendar quarter is not more than Three Hundred Dollars (\$300.00). [68 O.S. §2385.1(e)(4)]

You requested an opinion as to whether your wages are subject to Oklahoma withholding tax. As a nonresident whose salaries, wages and commissions are for work performed outside of Oklahoma, and who derives no income from sources within the state of Oklahoma, it is the opinion of the Tax Policy Division that your employer is not required to deduct and withhold Oklahoma withholding tax from your wages.

This response applies only to the circumstances set out in your request dated March 3, 2014. This letter ruling may be generally relied upon only by the entity to whom it is issued, provided that all facts have been accurately and completely stated, and that there has been no change in applicable law. *See* Okla. Admin. Code § 710:1-3-73(e). Furthermore, this letter ruling does not preclude the Commission from conducting an audit or examination under 68 O.S. 2011, § 206 of any report or return claiming an exemption for the transactions outlined in this letter ruling. The Commission reserves the right to issue any assessment, correction, or adjustment authorized under 68 O.S. 2011, § 221.

Sincerely,

*Oklahoma Tax Commission*



Lisa Haws

Tax Policy & Research Division