OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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October 10, 2014

[redacted]

Re: LR-14-50 (Franchise Tax Inquiry)

Dear [redacted]

This is in response to your request for a determination of whether your company must pay Oklahoma Franchise Tax. Set forth verbatim are the facts presented in your correspondence of July 30, 2014, along with the question posed and our response thereto.

Facts

Our business conducts national and international training and consulting service for management systems. In 2003 we contemplated moving our office to Oklahoma and asked our attorney, [redacted] to review the Oklahoma Statutes relating to the Oklahoma Franchise Tax. After a review of SOS Form 12-10/98, [redacted] deemed had exception to participate in the Franchise Tax, as stated in SOS Form 12-10/98. We moved to [redacted] OK in 2014.

Question:

Is the subject to Franchise Tax?

Response:

"There is hereby levied and assessed upon every corporation, association, joint-stock company and business trust, organized and existing by virtue of the laws of some other state, territory or country, now or hereafter doing business in this state . . . a franchise or excise tax. . . ." 68 O.S. § 1204. The Oklahoma Statutes broadly define "doing business" as "includ[ing] each and every act, power or privilege exercised or enjoyed in this state." 68 O.S. § 1202.

Based upon this definition of "doing business," the
would be subject to Oklahoma Franchise Tax, because the Corporation is registered with the Oklahoma Secretary of State and has a place of business within Oklahoma, therefore meeting the definition of "doing business."

However, if the resulting Franchise Tax liability is $250.00 or less, the Corporation would still have to report the tax, but would be exempt from remitting the tax. *See* 68 O.S. § 1205(B).

Attached are copies of the above-referenced Oklahoma Tax Commission administrative rule provisions and forms.

This response applies only to the circumstances discussed in your request of July 30, 2014. Pursuant to Oklahoma Administrative Code 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 there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION

Morgan E. Lankford

Morgan E. Lankford
Tax Policy Analyst