OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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November 19, 2014

[redacted]

Re: LR-14-70 (Withholding Inquiry)

Dear [redacted]

This is in response to your request for a determination of whether your company must withhold income tax for your Oklahoma employee. Set forth verbatim are the facts presented in your correspondence of September 15, 2014, along with the question posed and our response thereto.

Facts

[redacted] is a Texas Corporation and we have hired a resident of Oklahoma to work in Texas. He will be working 100% of his time in Texas.

Question:

Do we need to withhold Oklahoma income taxes for taxes for the work he does in Texas? If so would you provide some documentation on rules for withholding for residents and nonresidents working in your state an in other states.

Response:

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

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(4)] 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)].

[redacted] is not required to withhold Oklahoma income tax, so long as, [redacted] does not do business in or derive any income from sources within the State of Oklahoma. However, the employee will still be responsible for filing and paying any Oklahoma income tax that is due.

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

This response applies only to the circumstances discussed in your request of September 15, 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