

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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October 22, 2003

Re: Our file number LR 03-213; Income Tax - Pass-through Entity Withholding.

This is in response to your inquiry of October 7, 2003 wherein you requested guidance concerning the recently enacted Pass-through Entity Withholding statute (68 O.S. § 2385.29 et. seq.). Specifically you had some concerns regarding the interaction between the Pass-through Entity Withholding statute and the withholding requirement for Royalty Income to non-residents (68 O.S. § 2385.25 et. seq.).

It is the position of the Tax Policy Division that the withholding requirements on pass-through entities under 68 O.S. § 2385.29 et seq. **does not** apply to those entities that have withheld tax on royalty interest income under 68 O.S. § 2385.25 et seq. Pass-through entities are not required to withhold income tax under 68 O.S. § 2385.29 for any distribution of royalty income on which the 6.75% royalty interest income tax has already been withheld. This position has been recommended to and adopted by the Tax Commission through the promulgation of an emergency rule under the Administrative Procedures Act. [Rule 710:90-3-11 was adopted by the Commission on October 7, 2003]. This rule is not yet in effect since not yet signed by the Governor, but it is the intended policy of the Oklahoma Tax Commission.

This response applies only to the circumstances set out in your request of October 7, 2003. 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

Tony Mastin, Director
Tax Policy and Research Division

CC: Thomas E. Kemp, Jr., Chairman
Oklahoma Tax Commission

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IT IS OUR MISSION TO SERVE THE PEOPLE OF OKLAHOMA BY PROMOTING TAX COMPLIANCE THROUGH QUALITY SERVICE AND FAIR ADMINISTRATION