

TESTIMONY BEFORE THE KANSAS SENATE

SB339

By

Lee Butler
Andover, KS

February 14, 2012

Thank you for the opportunity to express my concerns for the Income Tax situation in Kansas. I completely support Governor Brownback's proposal to eliminate state income tax on IRS Form 1040, line 17 income, (Schedule E income), which effects S corps, royalty, small business and trusts.

I am currently professionally employed in the aerospace industry, but have significant income from a Texas source, and am also in the process of starting a business in Butler County, KS. My dilemma is where will I reside because of the income taxes that I am paying in Kansas and the amount I will be paying in the future? Thus, I am actively seeking to relocate to either Texas or Oklahoma, where the tax climate is more pro-business. Texas because it is a non-income tax state and Oklahoma because it does not tax out of state income (Please see the attached policy letter from the State of Oklahoma).

What does Kansas lose if I relocate to Oklahoma or Texas? I currently pay yearly \$3000+ in general property taxes, \$1000+ in automobile taxes, approximately \$2200 in sales taxes. This is in addition to the thousands of dollars I provide in charitable contributions to locale organizations. Kansas will also lose the potential of me investing several million dollars over the next several years in several new business concepts, sales taxes of future purchases and in charitable giving.

Recently, a friend of mine with a \$2.5M business (several employees) moved his business from Wichita this past summer to Texas due to the taxes he was paying to Kansas: income, property, and vehicle.

Kansas is a wonderful place to live and raise a family, but I cannot justify paying \$40k-\$60K in state income tax. The state of Kansas taxing me on out of state income when Kansas did not provide any economic benefit to earning this money is simply wrong. Kansas did not provide the roads, the infrastructure, the regulatory climate for the interest I have in Texas, yet because of my residence, I am being taxed: this is poor tax policy, especially when compared to the tax policies of Oklahoma. Thus, in my situation, it would be unwise to keep my residence in Kansas and pay this amount of income tax when I could better utilize these resources in another state to build businesses and provide to charitable organizations.

I believe Kansas has a powerhouse potential. We have an entrepreneur spirit, and an educated workforce. If this is combined with a pro-business tax structure, business will stay, will come and will grow.

Attachment

Sn. Assmnt & Tax
2-14-12
Attachment # 4

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

PHONE (405) 521-3133
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August 23, 2011

Lee T. Butler
812 E. Woodstone Circle
Andover, KS 67002

Re: LR 11-086; Income Tax - Oil Royalty Income

Dear Mr. Butler:

This is in response to your inquiry of August 4, 2011 wherein you requested a ruling concerning Oklahoma's income tax treatment of oil royalty income. What follows is verbatim your facts and requested ruling and our response thereto.

FACTS:

I am currently a resident of Kansas, but due to their state income tax policy on out of state income I will need to relocate to either Texas or Oklahoma.

I reviewed the OK income tax form and from what I understand, out of state income is not subject to state income tax... basically, only income and wages earned in OK are taxable.

QUESTIONS./ OTC RESPONSES:

1. If I move to Oklahoma and become an Oklahoma resident and I have Oil royalty income from land that I own in Texas, will that income be subject to Oklahoma state income tax or any other tax?

OTC Response:

No. Oklahoma residents are taxed based on their federal adjusted gross income. To the extent that oil royalty income is included in federal adjusted gross income **and** it is derived from oil production outside of Oklahoma, then that net amount is excluded to arrive at Oklahoma taxable income. 68 O.S. § 2358.

2. If question #1 is true and OK does tax it, will OK recognize royalty/severance tax paid to Texas... in other words, if I make \$1M a year in royalty income, and I pay Texas \$70K in royalty tax and OK says you owe us income tax in the amount of \$50K would they recognize

the \$70K paid to Texas, thus I would owe zero taxes?

OTC Response:

Since the response to question #1 is that no Oklahoma income tax is due for out of state oil royalty income, this question is moot.

This response applies only to the circumstances set out in your request of August 4, 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, 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.

If I can be of further assistance, please feel free to call me at (405) 521-3133.

Sincerely,

OKLAHOMA TAX COMMISSION



Michael C. Kaufmann
Tax Policy Analyst