

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)
2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 336

By: Williams (Don) and Weedn
of the Senate

and

Begley of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to corporations, public finance and revenue and taxation; amending 18 O.S. 1991, Section 1142, which relates to filing and other service fees, 62 O.S. 1991, Section 193, as amended by Section 1, Chapter 396, O.S.L. 1992 (62 O.S. Supp. 1992, Section 193), which relates to the Ad Valorem Reimbursement Fund and 68 O.S. 1991, Sections 607, which relates to motor fuel taxes, 1001, as amended by Section 1, Chapter 30, O.S.L. 1992 (68 O.S. Supp. 1992, Section 1001), which relates to gross production taxes, 2358, as last amended by Section 25 of Enrolled Senate Bill No. 459 of the 1st Session of the 44th Oklahoma Legislature, 2367, 2368 and 2375, as amended by Section 2, Chapter 172, O.S.L. 1992 (68 O.S. Supp. 1992, Section 2375), which relate to income taxes, 2816, 2822, as amended by Section 1, Chapter 366, O.S.L. 1992, 2902, as last amended by Section 1 of Enrolled Senate Bill No. 86 of the 1st Session of the 44th Oklahoma Legislature and 2947 (68 O.S. Supp. 1992, Section 2822), which relate to ad valorem taxes; deleting certain limitation on amount of reimbursement to counties from Ad Valorem Reimbursement Fund; modifying definition; modifying conditions under which five-year ad valorem tax exemption may be granted; modifying method of calculation of number of employees; requiring certain affidavit; providing conditions for new, acquired or expanded manufacturing facility to qualify for certain ad valorem tax exemption and specifying requirements related thereto; defining term; providing exception to requirement to file certain applications by certain dates; providing procedures for filing, examination and approval or disapproval of such applications; modifying production which is exempt from gross production taxes; specifying dates of projects to which such exemption applies; modifying procedure and specifying requirements for calculation of project payback and project payback indicators; deleting certain procedure for requesting exemption; modifying procedure for approval of exemption; providing that certain election be binding unless released by Oklahoma Tax Commission; specifying procedure for determination of certain income, loss or deductions; requiring Tax Commission to promulgate certain rules and regulations; modifying date upon which tax becomes delinquent; extending certain time period under certain circumstances; providing procedures if amount of taxable income under Internal Revenue Code is changed or

corrected; requiring filing of amended return or notice to Tax Commission within certain time period; requiring Tax Commission to make assessment or refund within certain time period; providing procedures in event of failure of taxpayer to comply with certain provisions; specifying authority of Tax Commission to audit certain items of return; providing effective date of certain provisions; modifying date by which certain persons must complete advanced accreditation; providing that certain funds must be separate from certain other funds and providing that certain allocation not decrease other funds allocated to office of county assessor; requiring Oklahoma Tax Commission to take certain action; modifying fee for acting as registered agent; modifying time period for which certain permit valid; modifying fee for issuance of temporary permit and specifying apportionment thereof; abolishing Ad Valorem Task Force; transferring duties, property, personnel and rules of Task Force to Ad Valorem Division of Oklahoma Tax Commission; providing procedures relating to transfer of personnel; creating Ad Valorem Transition Oversight Committee; providing for membership and reimbursement of certain expenses; specifying duties; providing for staffing of committee; changing reference; modifying time period for net operating loss carryforward; providing for codification; repealing 68 O.S. 1991, Sections 2946.1 and 2948, which relate to the Ad Valorem Task Force and the Computer Assisted Mass Appraisal Local Assistance Revolving Fund; providing effective dates; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 1991, Section 193, as amended by Section 1, Chapter 396, O.S.L. 1992 (62 O.S. Supp. 1992, Section 193), is amended to read as follows:

Section 193. A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be designated the "Ad Valorem Reimbursement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. Monies apportioned to this fund shall be expended to reimburse counties of this state for loss of revenue due to exemptions of ad valorem taxes for new or expanded manufacturing or research and development facilities. ~~Provided, for each year an exemption is granted pursuant to Section 2902 of Title 68 of the Oklahoma Statutes, reimbursement shall not be made for the amount of ad valorem tax assessed on the increased valuation of the facility which is directly attributable to its construction, acquisition or expansion but shall only be made for an amount equal to the average of the ad valorem tax assessed on the value of the~~

~~property for the three tax years immediately preceding the first tax year of the five-year exemption granted for the construction, acquisition or expansion of a facility.~~ Provided further that it shall be the duty of the Oklahoma Tax Commission to assess the valuation of all property for new or expanded manufacturing or research and development facilities which are exempt from ad valorem taxes. Monies apportioned to this fund also may be transferred to other state funds as directed by the Legislature by law.

B. The county commissioners of each county seeking reimbursement for lost revenue from the Ad Valorem Reimbursement Fund shall make one claim for reimbursement on forms prescribed by the Oklahoma Tax Commission prior to April 30 of each year. Provided, the assessed valuation of a school district as stated in the claim for reimbursement shall be the same as reported to the State Department of Education on the Estimate of Need and shall include the total valuation of property exempt from taxation pursuant to Section 2902 of Title 68 of the Oklahoma Statutes. Said claims shall be either approved or disapproved in whole or in part by the Commission by June 15 of each year. If the Commission determines that an exemption has been erroneously or unlawfully granted, it shall notify the appropriate county assessor who shall immediately value and assess the property and place it on the rolls for ad valorem taxation. Disbursements from the fund shall be made on warrants issued by the State Treasurer against claims filed by the Commission with the Office of State Finance for payment. For the fiscal year ending June 30, 1988, and for each fiscal year thereafter, such disbursements shall be exempt from all agency expenditure ceilings. The county treasurer shall apportion or disburse such funds for expenditures in the same manner as other ad valorem tax collections.

C. In the event monies apportioned to the Ad Valorem Reimbursement Fund are insufficient to pay all claims for reimbursement made pursuant to subsection B of this section, the available funds shall be distributed proportionally among the

counties making claims according to the amount of the claim made by each county.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2902, as last amended by Section 1 of Enrolled Senate Bill No. 86 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 2902. A. A qualifying manufacturing concern, as defined by Section 6B of Article X of the Oklahoma Constitution, and as further defined herein, shall be exempt from the levy of any ad valorem taxes upon new, expanded or acquired manufacturing facilities, including facilities engaged in research and development, for a period of five (5) years. Such facilities are hereby classified for the purposes of taxation as provided in Section 22 of Article X of the Constitution of the State of Oklahoma.

B. For purposes of this section, the following definitions shall apply:

1. "Manufacturing facilities" shall mean facilities engaged in the mechanical or chemical transformation of materials or substances into new products and shall include:

- a. establishments as defined or classified under Division D of the Standard Industrial Classification (SIC) Manual, latest revision,
- b. facilities, including repair and replacement parts, primarily engaged in aircraft repair, building and rebuilding whether or not on a factory basis,
- c. establishments primarily engaged in computer services and data processing as defined under Industrial Group Numbers 7372 and 7373 of the SIC Manual, latest revision, and which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and as defined under Industrial Group Number 7374 of the SIC Manual, latest revision, which derive at least eighty percent (80%) of their annual gross revenues from

the sale of a product or service to an out-of-state buyer or consumer. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Oklahoma Tax Commission stating that the facility so qualifies and such other information as required by the Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer, or

d. establishments primarily engaged in distribution as defined under Industrial Group Number 4221, 4222, 4225 or 4226 or Major Group Number 50 or 51 of the SIC Manual, latest revision, and which were constructed with an initial capital investment of at least Five Million Dollars (\$5,000,000.00) and which employ at least one hundred (100) full-time-equivalent employees, as certified by the Employment Security Commission. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Oklahoma Tax Commission stating that the facility so qualifies and such other information as required by the Commission. The exemption provided for in this subparagraph shall apply only to an establishment for which construction of the facility has commenced prior to October 1, 1993.

Provided, eating and drinking places, as well as other retail establishments, shall not qualify as manufacturing facilities for purposes of this section, nor shall publicly regulated utilities.

2. For tax years beginning after December 31, 1992, "manufacturing facilities" shall mean those facilities as defined in paragraph 1 of this subsection for which the investment cost of the construction, acquisition or expansion of the manufacturing

facility is Two Hundred Fifty Thousand Dollars (\$250,000.00) or more;

3. "Facility" and "facilities" shall mean and include the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process; and

4. "Research and development" shall mean activities directly related to and conducted for the purpose of discovering, enhancing, increasing or improving future or existing products or processes or productivity.

C. For applications for a five-year exemption ~~in tax years beginning on or before December 31, 1992~~ submitted on or before December 31, 1993, the exemption herein provided for shall apply to new or acquired manufacturing facilities as defined by Section 6B of Article X of the Oklahoma Constitution and to the expansion of existing facilities on the same site. Any exemption as to expansions of existing facilities shall be limited to the increase in ad valorem taxes directly attributable to the expansion. Provided further, any exemption as to equipment used in the manufacturing process for manufacturing facilities which qualify pursuant to subparagraph b of paragraph 1 of subsection B of this section shall be granted only if such equipment results in a net increase in the number of full-time-equivalent employees of the facility in the year for which the exemption is initially granted and in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year. Calculation of the number of new employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit.

D. For applications for a five-year exemption ~~in tax years beginning after December 31, 1992~~ submitted after December 31, 1993, the following provisions shall apply:

1. A manufacturing concern shall be entitled to the exemption herein provided for each new manufacturing facility constructed, each existing manufacturing facility acquired and the expansion of existing manufacturing facilities on the same site, as such terms

are defined by Section 6B of Article X of the Oklahoma Constitution and by this section;

2. No manufacturing concern shall receive more than one five-year exemption for any one manufacturing facility unless the expansion which qualifies the manufacturing facility for an additional five-year exemption meets the requirements of paragraph 4 of this subsection, provided the employment level established for any previous exemption is maintained;

3. Any exemption as to the expansion of an existing manufacturing facility shall be limited to the increase in ad valorem taxes directly attributable to the expansion; ~~and~~

4. ~~Any~~ Except as provided in paragraph 5 of this subsection, any exemption for a new, acquired or expanded manufacturing facility shall be granted only if:

- a. the construction, acquisition or expansion results in a net increase of ~~twenty-five (25)~~ fifteen (15) or more full-time-equivalent employees of said manufacturing facility in the year for which the exemption is initially granted and in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year, and
- b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment, a basic health benefits plan which meets the requirements of Section 6506 of Title 36 of the Oklahoma Statutes, or which is certified by the Oklahoma Basic Health Benefits Board as being substantially equivalent to meeting such requirements, to the full-time-equivalent employees of the facility.

~~Calculation~~ For purposes of this section, calculation of the number of new employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit measured from the start of initial construction or expansion to the completion of such construction or expansion or for three (3) years from the start of initial construction or

expansion, whichever occurs first. The manufacturing concern shall submit an affidavit to the Oklahoma Tax Commission, signed by an officer, stating that the construction, acquisition or expansion of the facility will result in a net increase in the number of full-time-equivalent employees as required by this paragraph and that such employees are or will be offered a basic health benefits plan as required by this paragraph. If, after the completion of such construction or expansion or after three (3) years from the start of initial construction or expansion, whichever occurs first, the construction, acquisition or expansion has not resulted in a net increase in the number of full-time-equivalent employees or has not met any other qualification specified in this paragraph, the manufacturing concern shall pay an amount equal to the amount of any exemption granted, including penalties and interest thereon, to the county treasurer, who shall cause such amount to be remitted to the Oklahoma Tax Commission for deposit to the Ad Valorem Reimbursement Fund; and

5. Any new, acquired or expanded automotive final assembly manufacturing facility which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if the investment costs of the construction, acquisition or expansion of the manufacturing facility is Seventy-five Million Dollars (\$75,000,000.00) or more and the manufacturing facility retains employment of two thousand five hundred (2,500) or more full-time-equivalent employees in the year in which the exemption is initially granted and in each of the four (4) subsequent years only if employment of two thousand five hundred (2,500) or more full-time-equivalent employees is maintained in the subsequent year. Calculation of the number of employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit. As used in this paragraph, "expand" and "expansion" shall mean and include any increase to the size or scope of a facility as well as any renovation, restoration, replacement or remodeling of a facility which permits the manufacturing of a new or redesigned product.

E. Any person, firm or corporation claiming the exemption herein provided for shall file each year for which exemption is claimed, an application therefor with the county assessor of the county in which the new, expanded or acquired facility is located. Said application shall be on a form or forms prescribed by the Oklahoma Tax Commission, and shall be filed before March 15, except as provided in Section 3 of this act, of each year in which the facility desires to take the exemption or within thirty (30) days from and after receipt by such person, firm or corporation of notice of valuation increase, whichever is later. In a case where completion of the facility or facilities will occur after January 1 of a given year, a facility may apply to claim the ad valorem tax exemption for said year. If such facility is found to be qualified for exemption, the ad valorem tax exemption provided for herein shall be granted for that entire year and shall apply to the ad valorem valuation as of January 1st of that given year. For applicants which qualify under the provisions of subparagraph b of paragraph 1 of subsection B of this section, the application shall include a copy of the affidavit and any other information required to be filed with the Oklahoma Tax Commission pursuant to said provisions.

F. Said application shall be examined by the county assessor and approved or rejected by him in the same manner as provided by law for approval or rejection of claims for homestead exemptions. The taxpayer shall have the same right of review by and appeal from the county board of equalization, in the same manner and subject to the same requirements as provided by law for review and appeals concerning homestead exemption claims. Approved applications shall be filed by the county assessor with the Oklahoma Tax Commission no later than June 15, except as provided in Section 3 of this act, of the year in which the facility desires to take the exemption. Incomplete applications and applications filed after said date will be declared null and void by the Commission.

G. Nothing herein shall in any manner affect, alter or impair any law relating to the assessment of property, and all property,

real or personal, which may be entitled to exemption hereunder shall be valued and assessed as is other like property and as provided by law. The valuation and assessment of property for which an exemption is granted hereunder shall be performed by the Oklahoma Tax Commission.

H. The Oklahoma Tax Commission shall have the authority and duty to prescribe forms and to promulgate rules and regulations as may be necessary to carry out and administer the terms and provisions of this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2902.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

In order to administer subsection C of Section 2902 of Title 68 of the Oklahoma Statutes, the following dates and activities shall apply:

1. Any person, firm or corporation claiming the exemption herein provided pursuant to subsection C of Section 2902 of Title 68 of the Oklahoma Statutes shall file, each year for which the exemption is claimed, an application therefor with the county assessor of the county in which the new, expanded or acquired facility is located. Said application shall be on a form or forms prescribed by the Oklahoma Tax Commission and shall be filed before July 1, 1993; and, thereafter subsequent years of application for the exemption shall be filed by March 15 of the calendar year in which the facility desires to take the exemption.

Provided, for those person, firms or corporations qualifying pursuant to subsection C of Section 2902 of Title 68 of the Oklahoma Statutes, the exemption from ad valorem taxes shall continue in effect for the four (4) following years upon application as long as all requirements in subsection C of Section 2902 of Title 68 of the Oklahoma Statutes are met; and

2. Said application shall be examined by the county assessor and approved or rejected by him in the same manner as provided by law for approval or rejection of claims for homestead exemptions. Any applicants rejected by him whose applications were received before July 1, 1993, may protest any rejection to the county

equalization board which shall conduct hearings to protest in the manner prescribed pursuant to Title 68 of the Oklahoma Statutes. In the event the county equalization board has adjourned and so is unable to conduct a review of the county assessor's rejection in tax year 1993, the board shall hear the protest in 1994.

Provided, applicants must appeal within thirty (30) days of rejection. The applicant shall not be required to pay the tax until appeal is heard by the county equalization board. In the event payment is determined to be due by the county equalization board, the company shall pay said tax, but no interest or penalty shall be assessed or due. Approved applications shall be filed by the county assessor with the Oklahoma Tax Commission no later than August 1, 1993. Incomplete applications and applications filed after said date will be declared null and void by the Commission.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 1001, as amended by Section 1, Chapter 30, O.S.L. 1992 (68 O.S. Supp. 1992, Section 1001), is amended to read as follows:

Section 1001. (a) There is hereby levied upon the production of asphalt, ores bearing lead, zinc, jack, gold, silver and copper a tax equal to three-fourths of one percent ($3/4$ of 1%) on the gross value thereof.

(b) Except as otherwise exempted pursuant to subsections (d) and (e) of this section, there is hereby levied upon the production of oil a tax equal to seven percent (7%) of the gross value of the production of oil based on a per barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit and a tax equal to seven percent (7%) of the gross value of the production of gas.

(c) The tax hereby levied shall also attach to, and is levied on, what is known as the royalty interest; and the amount of such tax shall be a lien on such interest.

(d) (1) Any incremental production attributable to the working interest owners which results from an enhanced recovery project shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until

project payback is achieved for new enhanced recovery projects or until project payback is achieved but not to exceed a period of thirty-six (36) months for tertiary enhanced recovery projects existing on ~~the effective date of this act~~ July 1, 1988. This exemption shall take effect July 1, 1988 and shall apply to enhanced recovery projects approved or having a project beginning date prior to July 1, 1993. Project payback pursuant to this paragraph for enhanced recovery projects qualifying for this exemption on or after July 1, 1990, and on or before June 30, 1993, shall be determined by appropriate payback indicators, ~~as established by the Oklahoma Corporation Commission and approved by the Oklahoma Tax Commission~~ which will not include any expenses beyond the completion date of the well. Project payback pursuant to this paragraph for enhanced recovery projects qualifying for this exemption on or after October 17, 1987, and on or before June 30, 1990, shall be determined by appropriate payback indicators as previously established and allowed by the Oklahoma Tax Commission for projects qualifying during such period.

(2) For secondary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 1998, any incremental production attributable to the working interest owners which results from such secondary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved but not to exceed a period of ten (10) years. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and fifty percent (50%) of operating expenses, in determining project payback.

(3) For tertiary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 1998, any incremental production attributable to the working interest owners which results from such tertiary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved, but not to exceed a period of ten (10) years.

Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and operating expenses, excluding administrative expenses, in determining project payback. The capital expenses of pipelines constructed to transport carbon dioxide to a tertiary recovery project shall not be included in determining project payback pursuant to this paragraph.

(4) The provisions of this subsection shall also not apply to any enhanced recovery project using fresh water as the primary injectant, except when using steam.

~~(3)~~ (5) For purposes of this subsection:

- (i) Incremental production means the amount of crude oil or other liquid hydrocarbons which is produced during an enhanced recovery project and which is in excess of the base production amount of crude oil or other liquid hydrocarbons. The base production amount shall be the average monthly amount of production for the twelve-month period immediately prior to the project beginning date minus the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the project beginning date. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the project beginning date as determined by the Corporation Commission based on the production history of the field, its current status, and sound reservoir engineering principles.
- (ii) Project beginning date means the date on which the injection of liquids, gases, or other matter begins on an enhanced recovery project.

~~(4)~~ (6) The Oklahoma Corporation Commission shall promulgate rules for the qualification for this exemption which shall include, but not be limited to, procedures for determining incremental production as defined in subparagraph (i) of paragraph

Req. No. 1299Page 13

~~(3)~~ (5) of subsection (d) of this section, and the establishment of appropriate payback indicators ~~which will not include any expenses beyond the completion date of the well as approved by the Oklahoma Tax Commission for the determination of project payback for each of the exemptions authorized by this subsection.~~

~~(5)~~ (7) Any person requesting such exemption for projects existing on the effective date of this act shall file an application for qualification for such exemption with the Oklahoma Corporation Commission which, upon finding that the enhanced recovery project meets the requirements of this subsection, shall approve the application for qualification. For new enhanced secondary recovery projects and tertiary recovery projects approved by the Oklahoma Corporation Commission on or after the effective date of this act July 1, 1993, and before July 1, 1998, such approval shall constitute qualification for ~~the~~ an exemption.

~~(6)~~ (8) Any person seeking ~~such an~~ exemption shall file an application for such exemption with the Oklahoma Tax Commission which, upon determination of qualification by the Oklahoma Corporation Commission, shall approve the application for such exemption.

~~(7)~~ (9) The Tax Commission may require any person requesting such exemption to furnish information or records concerning the exemption as is deemed necessary by the Commission.

~~(8)~~ (10) Upon the expiration of the exemption granted pursuant to this subsection, the Tax Commission shall collect the gross production tax levied pursuant to this section.

(e) (1) The production of oil, gas or oil and gas from a horizontally drilled well producing prior to July 1, 1994 which production commenced after the effective date of this act, shall be exempt from the gross production tax levied pursuant to subsection (b) of this section from the project beginning date until project payback is achieved but not to exceed a period of twenty-four (24) months commencing with the month of initial production from the horizontally drilled well. Provided, any incremental production which results from a horizontally drilled well producing prior to July 1, 1994, shall be exempt from the

gross production tax levied pursuant to subsection (b) of this section from the project beginning date until project payback is achieved but not to exceed a period of twenty-four (24) months commencing with the month of initial production from the horizontally drilled well. For purposes of subsection (d) of this section and this subsection, project payback shall be determined as of the date of the completion of the well and shall not include any expenses beyond the completion date of the well, and subject to the approval of the Oklahoma Tax Commission.

(2) As used in this subsection, "horizontally drilled well" shall mean an oil, gas or oil and gas well drilled or recompleted in a manner which encounters and subsequently produces from a geological formation at an angle in excess of seventy (70) degrees from vertical and which laterally penetrates a minimum of one hundred fifty (150) feet into the pay zone of said formation.

(3) The Corporation Commission and the Oklahoma Tax Commission shall promulgate joint rules for the qualification for this exemption and such rules shall contain provisions for verification of any horizontally drilled wells.

(4) Any person requesting such exemption shall file an application for qualification for such exemption with the Oklahoma Corporation Commission which, upon finding that the horizontally drilled well meets the requirements of this subsection, shall approve the application for qualification.

(5) Any person seeking such exemption shall file an application for such exemption with the Oklahoma Tax Commission which, upon determination of qualification by the Oklahoma Corporation Commission, shall approve the application for such exemption.

(6) The Tax Commission shall require any person requesting such exemption to furnish necessary financial and other information or records in order to determine and justify the exemption and to determine the project payback.

(7) Upon the expiration of the exemption granted pursuant to this subsection, the Tax Commission shall collect the gross production tax levied pursuant to this section.

(f) All persons shall only be entitled to either the exemption granted pursuant to subsection (d) of this section or the exemption granted pursuant to subsection (e) of this section for each oil, gas or oil and gas well drilled or recompleted in this state. However, any person who qualifies for the exemption granted pursuant to subsection (e) of this section shall not be prohibited from qualification for the exemption granted pursuant to subsection (d) of this section, if the exemption granted pursuant to subsection (e) of this section has expired.

(g) The Tax Commission shall have the power to require any such person engaged in mining or the production or the purchase of such asphalt, mineral ores aforesaid, oil, or gas, or the owner of any royalty interest therein to furnish any additional information by it deemed to be necessary for the purpose of correctly computing the amount of said tax; and to examine the books, records and files of such person; and shall have power to conduct hearings and compel the attendance of witnesses, and the production of books, records and papers of any person.

(h) Any person or any member of any firm or association, or any officer, official, agent or employee of any corporation who shall fail or refuse to testify; or who shall fail or refuse to produce any books, records or papers which the Tax Commission shall require; or who shall fail or refuse to furnish any other evidence or information which the Tax Commission may require; or who shall fail or refuse to answer any competent questions which may be put to him by the Tax Commission, touching the business, property, assets or effects of any such person relating to the gross production tax imposed by this article or exemption authorized pursuant to subsection (d) of this section or other laws, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or imprisonment in the jail of the county where such offense shall have been committed, for not more than one (1) year, or by both such fine and imprisonment; and each day of such refusal on the part of such person shall constitute a separate and distinct offense.

(i) The Tax Commission shall have the power and authority to ascertain and determine whether or not any report herein required to be filed with it is a true and correct report of the gross products, and of the value thereof, of such person engaged in the mining or production or purchase of asphalt and ores bearing minerals aforesaid and of oil and gas. If any person has made an untrue or incorrect report of the gross production or value or volume thereof, or shall have failed or refused to make such report, the Tax Commission shall, under the rules prescribed by it, ascertain the correct amount of either, and compute said tax.

(j) The payment of the taxes herein levied shall be in full, and in lieu of all taxes by the state, counties, cities, towns, school districts and other municipalities upon any property rights attached to or inherent in the right to said minerals, upon producing leases for the mining of asphalt and ores bearing lead, zinc, jack, gold, silver or copper, or for oil, or for gas, upon the mineral rights and privileges for the minerals aforesaid belonging or appertaining to land, upon the machinery, appliances and equipment used in and around any well producing oil, or gas, or any mine producing asphalt or any of the mineral ores aforesaid and actually used in the operation of such well or mine. The payment of gross production tax shall also be in lieu of all taxes upon the oil, gas, asphalt or ores bearing minerals hereinbefore mentioned during the tax year in which the same is produced, and upon any investment in any of the leases, rights, privileges, minerals or other property described herein. Any interest in the land, other than that herein enumerated, and oil in storage, asphalt and ores bearing minerals hereinbefore named, mined, produced and on hand at the date as of which property is assessed for general and ad valorem taxation for any subsequent tax year, shall be assessed and taxed as other property within the taxing district in which such property is situated at the time.

(k) No equipment, material or property shall be exempt from the payment of ad valorem tax by reason of the payment of the gross production tax except such equipment, machinery, tools, material or property as is actually necessary and being used and

Req. No. 1299Page 17

in use in the production of asphalt or of ores bearing lead, zinc, jack, gold, silver or copper or of oil or gas. It is expressly declared that no ice plants, hospitals, office buildings, garages, residences, gasoline extraction or absorption plants, water systems, fuel systems, rooming houses and other buildings, nor any equipment or material used in connection therewith, shall be exempt from ad valorem tax.

(l) The exemption from ad valorem tax set forth in subsections (j) and (k) of this section shall continue to apply to all property from which production of oil, gas or oil and gas is exempt from gross production tax pursuant to subsections (d) and (e) of this section.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 2367, is amended to read as follows:

Section 2367. The provisions of the Internal Revenue Code, 26 U.S.C., Section 1 et seq., applicable to consolidated corporate income tax returns, shall not apply to taxpayers under this act, except that:

1. If two or more corporations file federal income tax returns on a consolidated basis, and if all of such corporations derive all of their income from sources within Oklahoma, then such corporations shall be required to file consolidated returns for purposes of determining their Oklahoma income tax liability.

2. If two or more corporations file federal income tax returns on a consolidated basis, and if one or more of such corporations derive a portion of their income from sources outside the State of Oklahoma, then such corporations shall not be required to file consolidated returns for purposes of determining their Oklahoma income tax liability except as hereinafter provided in subsection 3 of this section.

3. The Oklahoma Tax Commission shall permit an affiliated group of corporations described in subsection 2 of this section to elect to file a consolidated return for Oklahoma income tax purposes provided such group files an appropriate election in accordance with regulations to be promulgated by the Tax Commission. If an affiliated group of corporations elects to file

a consolidated Oklahoma income tax return under the provisions of this section, such election shall be binding and the affiliated group of corporations shall be required to file a consolidated Oklahoma income tax return for future tax years unless the Oklahoma Tax Commission releases the affiliated group of corporations from such election. If an affiliated group of corporations elects to file a consolidated Oklahoma income tax return under the provisions of this subsection, the group's consolidated income, loss or deductions shall be determined on a component member by component member basis in accordance with the provisions of Sections ~~8~~ 2358 and ~~12~~ 2362 of this ~~act~~ title.

SECTION 6. AMENDATORY 68 O.S. 1991, Section 2368, is amended to read as follows:

Section 2368. A. The following individuals shall each make a return stating specifically the taxable income and, where necessary, the adjusted gross income and the adjustments provided in this article to arrive at Oklahoma taxable income and, where necessary, Oklahoma adjusted gross income.

1. Every resident individual having a gross income, or gross receipts, for the taxable year in an amount sufficient to require the filing of a federal income tax return, if single, or if married and not living with husband or wife;

2. Every resident individual having a gross income, or gross receipts, for the taxable year in an amount sufficient to require the filing of a federal income tax return, if married and living with husband or wife; and

3. Provided however, every resident individual who does not meet the requirements sufficient to file a federal return, but has Oklahoma withholding, may file a claim for refund for all Oklahoma income taxes withheld and shall not be subject to the provisions of Section 2358 of this title.

4. Every nonresident individual having Oklahoma gross income for the taxable year of One Thousand Dollars (\$1,000.00), or over.

B. If a husband and wife, living together, have an aggregate gross income or gross receipts, for such year, in an amount sufficient to require the filing of a federal income tax return:

1. Each shall make a return; or

2. The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate net income.

C. If the individual is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such individual.

D. Every partnership shall make a return for each taxable year, stating the taxable income and the adjustments to arrive at Oklahoma income. The Oklahoma return shall include a schedule showing the distribution to partners of the various items of income as per the federal return and the adjustments required by this article for Oklahoma. The return shall be signed by one of the partners. If a partnership has elected pursuant to the provisions of Internal Revenue Code Section 761, or any provision comparable thereto, not to file partnership income tax returns, that partnership shall not be required to file an Oklahoma partnership return. The Oklahoma Tax Commission shall promulgate rules and regulations for purposes of partnership returns when multiple partners would otherwise be required to file a nonresident return. The rules and regulations shall provide a specific number of partners in a partnership above which a composite return may be filed. The return shall be in such form as prescribed by the Commission.

E. Every corporation shall make a return for each taxable year stating the taxable income and the adjustments provided in this article to arrive at Oklahoma taxable income. In addition, corporations electing subchapter S treatment pursuant to the Internal Revenue Code and this article, shall include a schedule showing the distribution to shareholders of the various items of income as per the federal return and the adjustments for Oklahoma. All corporation returns shall be signed by the president, vice president, or other principal officer and the corporate seal impressed. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations,

such receivers, trustees, or assignees shall make a return for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

F. Every resident estate and trust shall make a return for each taxable year stating the taxable income and the adjustments to arrive at Oklahoma taxable income. Every nonresident estate or trust having Oklahoma taxable income as provided in Section 2362 of the Oklahoma Income Tax Act, Section 2351 et seq. of this title, shall make a return for each taxable year stating the taxable income and the adjustments to arrive at Oklahoma taxable income. The Oklahoma return shall include a schedule showing the distribution to beneficiaries, if any, of the various items of income as per the federal return and the adjustments for Oklahoma. The fiduciary shall be responsible for making the return and the return shall be signed by the fiduciary, or by one fiduciary if there is more than one. The Oklahoma Tax Commission shall promulgate rules and regulations for purposes of estate and trust returns when multiple returns would otherwise be required of nonresident beneficiaries of estates or trusts. The return shall be in such form as prescribed by the Commission.

G. All returns, except corporate returns, made on the basis of the calendar year shall be made on or before the 15th day of April following the close of the taxable year. Calendar year corporation returns shall be due on or before the 15th day of March following the close of the taxable year. All returns, except corporation returns, made on the basis of a fiscal year shall be made on or before the 15th day of the fourth month following the close of the fiscal year. Fiscal year corporation returns shall be made on or before the 15th day of the third month following the close of the fiscal year. In the case of complete liquidation, or the dissolution, of a corporation the return of such corporation shall be made on or before the 15th day of the fourth month following the month in which the corporation is

completely liquidated. A corporation which has terminated its business activities, satisfied or made provision for all of its liabilities or has distributed all of its assets, even though not formally dissolved under state law, is deemed to have completely liquidated for purposes of this subsection.

H. Returns by individuals, fiduciaries, partnerships, corporations or any other person or entity required, or that may hereafter be required to file a return, shall contain or be verified by a written declaration that such return is made under the penalties of perjury and the fact that any individual's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by him. Provided, the Oklahoma Tax Commission shall promulgate rules and regulations to provide procedures for verification of signatures on returns which are filed electronically.

I. Every return required by this article shall be in such form as the Tax Commission may, from time to time, prescribe. Each return shall be filed with the Tax Commission and forms shall be furnished by the Tax Commission on application therefor, but failure to secure or receive the form of a return prescribed shall not relieve any taxpayer from the obligation of making and filing any return herein required.

SECTION 7. AMENDATORY 68 O.S. 1991, Section 2375, as amended by Section 2, Chapter 172, O.S.L. 1992 (68 O.S. Supp. 1992, Section 2375), is amended to read as follows:

Section 2375. A. At the time of transmitting the return required hereunder to the Tax Commission, the taxpayer shall remit therewith to the Tax Commission the amount of tax due under the applicable provisions of this article, ~~and failure.~~ Failure to pay such tax at the time of filing the return on or before the date the return is due shall cause said tax to become delinquent.

B. If any tax due under this article, except a deficiency determined under Section 221 of this title, is not paid on or before the date such tax becomes delinquent, a penalty of five percent (5%) of the total amount of the tax due shall be added thereto, collected and paid.

C. If any part of deficiency, arbitrary or jeopardy assessment made by the Tax Commission is based upon or occasioned by the refusal of any taxpayer to file with the Tax Commission any return as required by this article, within ten (10) days after a written demand for such report or return has been served upon any taxpayer by the Tax Commission by registered letter with a return receipt attached, the Tax Commission may assess and collect, as a penalty, twenty-five percent (25%) of the amount of the assessment. In the exercise of the authority granted by subsection (c) of Section 223 and Section 224 of this title, the Oklahoma Tax Commission shall assess the tax as an estimated tax on the basis of its own determination of the Oklahoma taxable income of the taxpayer, to be adjusted if and when Oklahoma taxable income is ascertained under the provisions of this act.

D. If any part of any deficiency was due to negligence or intentional disregard, without the intent to defraud, then ten percent (10%) of the total amount of the deficiency, in addition to such deficiency, including interest as authorized by law, shall be added, collected and paid.

E. If any part of any deficiency was due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency, in addition to such deficiency, including interest as herein provided, shall be added, collected and paid.

F. The provisions in this section for penalties shall supersede all other provisions for penalties on income taxes. The provisions in this section for penalties shall supersede the provisions in the Uniform Tax Procedure Code, Section 201 et seq. of this title, only to the extent of conflict between such provisions and the penalty provisions in this section.

G. All taxes, penalties and interest levied under this article must be paid to the Tax Commission at Oklahoma City, in the form or remittance required by and payable to it.

H. 1. ~~Where, before the expiration of the time prescribed in Section 223 of this title for the assessment of the tax, the taxpayer and the Internal Revenue Service have consented in writing to an extension of time in which the federal income tax~~

~~may be assessed, the tax imposed under this law may be assessed, or refunded, at any time prior to the expiration of time agreed upon.~~

~~2. Assessment of income tax or refund of income tax may be made after the expiration of the period prescribed by subsection (a) of Section 223 of this title if the amount of the net income for any year of the taxpayer under this law, and as returned to the United States Treasury Department, is changed or corrected by the Internal Revenue Service. Assessment or refund shall be made only after the amount of such net income has been finally ascertained. In such instance, the taxpayer, within one (1) year after final determination of the corrected net income, shall file an amended return reporting the corrected net income, or notify the Tax Commission by letter that the information is available, and the Tax Commission shall make assessment or refund within two (2) years from the date the return or notice required by this section is filed and not thereafter, unless a waiver is agreed to and signed by the Tax Commission and the taxpayer.~~

~~3. In the event of failure by a taxpayer to comply with the provisions of paragraph 2 of this subsection, the statute of limitations shall be tolled for a period of time equal to the time between the date the amended return or notice under this section is required until such return or notice is actually furnished.~~

~~I. In administering the provisions of subsection H of this section, the Commission shall have the authority to audit each and every item of taxable income, expense, credits or any other matters related to the return where such items are matters of allocation and/or apportionment between Oklahoma and some other state even if such items were not affected by revisions made by the Internal Revenue Service. Where items are not matters of allocation and/or apportionment between Oklahoma and some other state, the Commission shall be bound by the consequences of the assessment of income tax or refund of income tax made by the Internal Revenue Service after the amount of such net income has been finally ascertained.~~

The period of time prescribed in Section 223 of this title, in which the procedures for the assessment of income tax may be commenced by the Oklahoma Tax Commission, shall be tolled and extended until the amount of taxable income for any year of a taxpayer under the Internal Revenue Code has been finally determined under applicable federal law and for the additional period of time hereinafter provided in this subsection.

2. If, in such final determination, the amount of taxable income for any year of a taxpayer under the Internal Revenue Code is changed or corrected from the amounts included in the federal return of the taxpayer for such year and such change or correction affects the Oklahoma taxable income of the taxpayer for such year, the taxpayer, within one (1) year after such final determination of the corrected taxable income, shall file an amended return under this article reporting the corrected Oklahoma taxable income, or notify the Tax Commission by letter that the information is available, and the Tax Commission shall make assessment or refund within two (2) years from the date the return or notice required by this paragraph is filed and not thereafter, unless a waiver is agreed to and signed by the Tax Commission and the taxpayer.

3. In the event of failure by a taxpayer to comply with the provisions of paragraph 2 of this subsection, the statute of limitations shall be tolled for a period of time equal to the time between the date the amended return or notice under this subsection is required until such return or notice is actually furnished.

4. In administering the provisions of this subsection, the Tax Commission shall have the authority to audit each and every item of income, deduction, credit or any other matter related to the return where such items or matters relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government even if such items or matters were not affected by revisions made in such final determination. Where such items or matters do not relate to allocation or apportionment between the State of Oklahoma and some other state or the federal

government, the Tax Commission shall be bound by the revisions made in such final determination.

5. The provisions of this subsection shall be effective on September 1, 1993, and except in the case of tax years which are the subject of closing, settlement or resolution agreements entered into by taxpayers and the Tax Commission, keep open all tax years beginning after June 30, 1988, and all tax years beginning on or before June 30, 1988, for which extensions of the statute of limitations have been executed by the taxpayer, but only to the extent such extensions remain open on the date of enactment hereof.

SECTION 8. AMENDATORY 68 O.S. 1991, Section 2816, is amended to read as follows:

Section 2816. A. The Director of the Ad Valorem Division of the Oklahoma Tax Commission, the first deputy within such division, all field analysts or equalization and assessment analysts within such division, each elected county assessor assuming office on or after January 1, 1991, all first deputies within such assessors' offices and all personnel involved in the actual appraisal of real property shall be required to achieve educational accreditation as prescribed by this section. Such accreditation shall be achieved within the time prescribed. Failure to achieve such accreditation shall result in forfeiture of office or termination of employment. A vacancy in a public office created for failure to achieve such accreditation shall be filled in the manner provided by law.

B. Accreditation for persons designated in subsection A of this section shall consist of initial accreditation and advanced accreditation as follows:

1. Within one (1) year from the date an assessor is elected to office, the assessor shall be required to successfully complete initial accreditation. If the assessor does not successfully complete testing or some part of the requirement, initial accreditation shall be completed within eighteen (18) months from the date of the assessor's election to office. Initial accreditation shall consist of successful completion of two (2)

academic units. The first academic unit shall consist of basic ad valorem taxation law, legal responsibilities of the assessor's office, the role of the county assessor, valuation requirements and assessment administration. The second academic unit shall consist of basic appraisal and assessment processes.

2. Within one (1) year from the completion date of initial accreditation, the assessor shall be required to successfully complete advanced accreditation. If the assessor does not successfully complete advanced accreditation testing or some part of the requirement, advanced accreditation shall be completed by July 1, 1995, for persons holding office on the effective date of this act, or for persons assuming office after the effective date of this act, within eighteen (18) months from the date initial accreditation is completed. Advanced accreditation shall consist of successful completion of four (4) academic units. Each unit shall consist of one of the following topics:

- a. appraisal procedures,
- b. valuation of personal property,
- c. valuation of agricultural property, and
- d. mass appraisal procedures.

3. A county assessor's deputy not previously accredited pursuant to paragraphs 1 and 2 of this subsection shall be subject to the same requirements as the county assessor. Failure to complete the accreditations within the times prescribed shall result in dismissal of the deputy.

4. For any person required to achieve accreditation pursuant to this section and for whom the period of time to complete the accreditation is not otherwise prescribed, the accreditation shall be completed within eighteen (18) months of January 1, 1991 or within eighteen (18) months of the beginning date of employment if such person is initially employed after January 1, 1991.

C. Each county assessor who has successfully completed initial accreditation shall be required to complete a continuing education requirement of twenty (20) hours per year. Failure to complete the continuing education requirement shall result in forfeiture of any travel reimbursement until the requirement is

completed. Continuing education shall consist of successful completion of academic units on changes in Oklahoma Statutes affecting ad valorem taxation, real estate or appraisal, valuation and appraisal methods, mass appraisal methods or other topics appropriate to the improvement of county assessor's offices. A deputy who has completed initial accreditation as required by this section shall be subject to the continuing education requirement.

D. The Oklahoma State University Center for Local Government Technology, in cooperation with the Oklahoma Tax Commission and the County Assessors' Association, shall develop educational requirements, curriculum materials, appropriate study resources and examinations for an education program for accreditation purposes established in this section. The Center for Local Government Technology shall provide necessary classes, seminars and materials in support of the accreditation requirements. Nothing in this section shall be construed to prohibit use of the International Association of Assessing Officers' course work, where applicable, or any of its professional designations, as a substitute for or supplement to the accreditation program requirements.

E. For purposes of the administration of the accreditation requirements, the Oklahoma State University Center for Local Government Technology shall be responsible for keeping an official record as to the accreditation of individual county assessors and deputies and others who are required to achieve accreditation. Such record shall be the sole responsibility of Oklahoma State University and shall be defined as an open record under Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. The Oklahoma State University Center for Local Government Technology shall be responsible for forwarding only the pass/fail results of individual testing to the Oklahoma Tax Commission. The Oklahoma Tax Commission shall issue the accreditations to all persons who have so qualified. The university may charge a reasonable fee to defray the cost of sponsoring the educational accreditation academic units required by this section.

SECTION 9. AMENDATORY 68 O.S. 1991, Section 2822, as amended by Section 1, Chapter 366, O.S.L. 1992 (68 O.S. Supp. 1992, Section 2822), is amended to read as follows:

Section 2822. A. Each county assessor in budgets submitted to the county excise board or county budget board shall make adequate provision to effect countywide visual inspections of real property during the four-year cycle.

B. Each jurisdiction within a county which receives revenue from an ad valorem mill rate shall receive a copy of the budget for the countywide visual inspection program for that county. Such jurisdictions shall have the opportunity to appear before the county excise board or the county budget board to provide comments, information and documentation concerning the budgets submitted by the county assessor pursuant to subsection A of this section.

C. The several county excise and budget boards, in passing upon budgets submitted by the several assessors, shall authorize and levy amounts which will suffice to carry out the countywide visual inspection program as approved by the Oklahoma Tax Commission under Section 2820 of this title. Such amounts shall be separate from other funds allocated to the office of county assessor and shall be used exclusively to carry out the countywide visual inspection program. The allocation of such amounts shall not serve to decrease other funds allocated to the office of county assessor by the county excise board or the county budget board. Any disputes as to the amount authorized to carry out the countywide visual inspection program shall be resolved by the county excise board; provided, the Oklahoma Tax Commission shall take such action as may be necessary to ensure that such amounts are used exclusively to carry out the countywide visual inspection program and that the allocation of such amounts does not serve to decrease other funds allocated to the office of county assessor.

SECTION 10. AMENDATORY 18 O.S. 1991, Section 1142, is amended to read as follows:

Section 1142.

FILING AND OTHER SERVICE FEES

A. The Secretary of State, for services performed in the office of the Secretary of State and for expense of mailing, shall charge and collect the following fees:

1. For any report, document or other paper required to be filed in the Office of the Secretary of State, a fee of Ten Dollars (\$10.00) shall be paid;

2. For reservation of corporate name, a fee of Five Dollars (\$5.00) shall be paid;

3. For issuing extra copies of any certificate not requiring any extra filing of papers or documents of any kind, a fee of Ten Dollars (\$10.00) shall be paid;

4. For issuing any other certificate, a fee of Ten Dollars (\$10.00) shall be paid;

5. For receiving a filing and/or indexing the annual certificate of a foreign corporation doing business in this state, a fee of Ten Dollars (\$10.00) shall be paid;

6. For preclearance of any document for filing, a fee of Ten Dollars (\$10.00) shall be paid;

7. For each service of process made upon and accepted by the Secretary of State, a fee of Ten Dollars (\$10.00) shall be paid;

8. For preparing and providing a written report of a record search, a fee of Five Dollars (\$5.00) shall be paid;

9. For filing and issuing certificates of incorporation, the fee shall be one-tenth of one percent (1/10 of 1%) of the authorized capital stock of such corporation; provided, that the minimum fee for any such service shall be Fifty Dollars (\$50.00); provided further, that not for profit corporations shall only be required to pay a fee of Twenty-five Dollars (\$25.00);

10. For filing and issuing amended certificates of incorporation or certificates of consolidation, if the resulting corporation is a domestic corporation, merger, if the surviving corporation is a domestic corporation, restatement, reorganization, revival, extension or dissolution, the fee shall be Fifty Dollars (\$50.00); provided, however, not for profit corporations shall only be required to pay a fee of Twenty-five Dollars (\$25.00). If an amendment shall provide for an increase

in authorized capital in excess of Fifty Thousand Dollars (\$50,000.00), the filing fee shall be an amount equal to one-tenth of one percent (1/10 of 1%) of such increase;

11. For issuing a certificate to a foreign corporation to do business in this state, and filing a certificate and statement of such corporation required pursuant to the provisions of Section 1130 of this title, the fee shall be one-tenth of one percent (1/10 of 1%) of the maximum amount of capital invested by such corporation in the state at any time during the fiscal year such certificate is issued to any such foreign corporation; provided, that the minimum fee for any such service shall be Three Hundred Dollars (\$300.00); provided further, that no such corporation shall be required to pay a fee on an amount in excess of its authorized capital;

12. For amended certificate of qualification of a foreign corporation, or certificate of consolidation, if the resulting corporation is a foreign corporation, merger, if the surviving corporation is a foreign corporation, or withdrawal to a foreign corporation doing business in this state, a fee of Two Hundred Dollars (\$200.00) shall be paid; provided, however, for a certificate solely reflecting a change of mailing address, a fee of Ten Dollars (\$10.00) shall be paid;

13. Every foreign corporation on the anniversary of its qualification in this state each year, shall cause to be filed with the Secretary of State a certificate of its president, vice-president or other managing officers, in which shall be stated and shown the maximum amount of capital the corporation had invested in the state at any time subsequent to the issuance to it of a certificate to do business in this state and the amount of capital previously paid upon. If the amount of capital so invested as shown by said certificate exceeds the amount formerly paid upon, the corporation, at the time of filing said certificate, shall pay to the Secretary of State an additional fee equal to one-tenth of one percent (1/10 of 1%) of the amount of such excess capital so invested by the corporation in the state; provided, that no such corporation shall be required to pay a

filing fee on an amount in excess of its authorized capital, or to file the certificate provided for in this paragraph after it shall have paid a filing fee on its total authorized capitalization;

14. For acting as the registered agent, a fee of ~~Forty Dollars (\$40.00)~~ One Hundred Dollars (\$100.00) shall be paid on the first day of July each year, and if not paid before the next ensuing September 1st, the Oklahoma Tax Commission shall suspend and forfeit the charter of the delinquent corporation pursuant to the procedures prescribed in Section 1212 of Title 68 of the Oklahoma Statutes. The Oklahoma Tax Commission shall collect and audit the registered agent fee authorized pursuant to this paragraph in conjunction with the collection and audit of franchise taxes as provided for in Sections 1201 through 1214 of Title 68 of the Oklahoma Statutes. All monies received by the Oklahoma Tax Commission pursuant to the provisions of this paragraph shall be paid to the State Treasurer for deposit in the General Revenue Fund; and

15. For responding to telephone inquiries regarding any corporate record required to be maintained by the Secretary of State, a fee of Three Dollars (\$3.00) per telephone call shall be paid; provided that a maximum of three (3) inquiries regarding any such corporate record shall be answered per telephone call. Fees collected pursuant to this paragraph shall be deposited in the Revolving Fund for the Office of the Secretary of State.

B. Except as otherwise provided by law, fees paid to the Secretary of State in accordance with the provisions of the Oklahoma General Corporation Act shall be properly accounted for and shall be paid monthly to the State Treasurer for deposit in the General Revenue Fund.

C. For any certificate supplied by the county clerk, such clerk shall receive a fee of One Dollar (\$1.00). Such fees shall be properly accounted for and shall be paid into the county treasury in the same manner as other fees collected by the county clerk for the filing and recording of mortgages and deeds.

D. In any court proceeding pursuant to the provisions of the Oklahoma General Corporation Act requiring the filing of any

decree, order, report or other document in the Office of the Secretary of State or in the office of any county clerk, in addition to the usual court costs and the costs for filing in the office of the clerk of the court, fees equal to the amounts provided for in this section for such required filing shall be collected as costs in such proceedings and such amount shall be forwarded to the Secretary of State and the county clerk with the papers to be filed.

E. The provisions contained in this section relating to the payment of incorporation fees by foreign corporations are not intended and shall not be construed to relieve such corporations, where applicable, of the payment of the annual corporate franchise tax to the Oklahoma Tax Commission.

F. For the purposes of computing the fees to be collected by the Secretary of State pursuant to the provisions of this section, each share without par value shall be treated the same as a share with a par value of Fifty Dollars (\$50.00), and the fees thereon shall be collected accordingly.

SECTION 11. AMENDATORY 68 O.S. 1991, Section 607, is amended to read as follows:

Section 607. (a) Before any person imports gasoline or diesel fuel into the state in the fuel supply tank or tanks of any motor vehicle, or in any other container for use on the highways of this state, such person shall file application for and obtain a Motor Fuel/Diesel Fuel Importer for Use License. Such requirement shall be complied with notwithstanding the tax levied by Sections 501 et seq. of this title has been paid on such gasoline or diesel fuel. Provided, however, persons exempted by Section 605 of this title from the tax herein levied shall not be required to obtain such license. The application required by this section shall be verified and filed on a form prescribed and furnished by the Tax Commission showing the name and address and kind of business of the applicant, a designation of the principal place of business and such other information as the Tax Commission may require. Such application must also contain, as a condition to the issuance of the license, an agreement by the applicant to comply with the

Req. No. 1299Page 33

requirements of this article and the rules and regulations of the Tax Commission.

(b) Before any such application may be approved by the Tax Commission, the applicant must fully comply with the contribution requirements pursuant to Section 607.2 of this title. In addition, prior to said approval, the Commission may require the applicant to file a bond payable to the State of Oklahoma conditioned upon compliance with the provisions of this article and the rules and regulations of the Tax Commission in a sum of not more than Ten Thousand Dollars (\$10,000.00), the amount thereof to be fixed by an order of the Tax Commission. During the license year, the amount of any such bond required may be increased or reduced by the Tax Commission at its discretion, and the Tax Commission may in its discretion, waive the filing of a bond by any person who regularly purchases sufficient gasoline or diesel fuel on which the motor fuel or diesel fuel excise tax has been paid to the State of Oklahoma when said tax equals or exceeds the amount of the tax levied against such person under this article.

(c) Upon approval of such application and bond, the Tax Commission shall issue to the applicant a nontransferable Motor Fuel/Diesel Fuel Importer for Use License bearing a distinctive number, at no charge to the applicant. Such license shall be issued on an annual basis and shall remain in full force and effect until surrendered, suspended, or canceled in the manner provided by law. Each such license shall be valid only for the operation of motor vehicles on the highways of this state by the person to whom it is issued including motor vehicles transporting persons or property in furtherance of the business of said licensee under a lease, a contract or any other arrangement, whether permanent or temporary in nature. The Oklahoma Tax Commission may issue one (1) license credential to evidence the compliance of the applicant with the provisions of this section and the provisions of Section 1120 of Title 47 of the Oklahoma Statutes.

(d) In consideration of the use of the highways of this state, and in addition to all other taxes levied for such purposes, all persons who import motor fuel/diesel fuel into the state in the fuel supply tank or tanks of motor vehicles for use in propelling said vehicles on said highways for commercial purposes may receive a temporary motor fuel/diesel fuel permit from the Oklahoma Tax Commission. This permit shall be recognized in lieu of licensing requirements in this state. The permit shall indicate the time and date of its issuance and shall be valid for a period not to exceed ~~seventy-two (72)~~ one hundred twenty (120) hours from such indicated time.

- (1) A fee of ~~Ten Dollars (\$10.00)~~ Twenty-five Dollars (\$25.00) shall be charged for the issuance of the temporary permit. Eight Dollars (\$8.00) of the fee shall be apportioned in the same manner as other motor fuel/diesel fuel revenue. Two Dollars (\$2.00) of the fee shall be retained by the Tax Commission and deposited in its revolving fund. Fifteen Dollars (\$15.00) of the fee shall be paid to the State Treasurer for deposit in the General Revenue Fund.
- (2) Any person importing motor fuel/diesel fuel into this state for use while in possession of an expired, altered or undated temporary fuel permit shall be deemed to be operating without proper licensing and shall be subject to licensing and penalties as provided for in the Motor Fuel/Diesel Fuel Importer for Use Tax Code.
- (3) The Tax Commission may prescribe an application form for the temporary permit and such other forms as it deems appropriate. The Tax Commission, without notice, may suspend the issuance of temporary permits to any person found to be in violation of the Motor Fuel/Diesel Fuel Importer for Use Tax Code or similar laws of this state.

(e) In lieu of the requirements as provided for in this article in respect to licensing, bonding, reporting and auditing, the Tax Commission may, when in the best interests of this state and its residents, enter into the International Fuel Tax Agreement or other cooperative compacts or agreements with another state or other states or provinces to permit base state or base jurisdiction licensing of persons importing motor fuel or diesel fuel into this state and liable for the tax levied pursuant to this article and provide for the cooperation and assistance among the member states and provinces in the administration and collection of motor fuels consumption and use taxes.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2946.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Ad Valorem Task Force is hereby abolished, effective July 1, 1993.

B. All powers, duties, responsibilities, property, assets, liabilities, fund balances, encumbrances and obligations of the Ad Valorem Task Force are hereby transferred to the Ad Valorem Division of the Oklahoma Tax Commission.

C. The coordinator position of the Task Force shall cease to exist on July 1, 1993. Such employees of the Ad Valorem Task Force as may be needed may be employed by the Ad Valorem Division of the Oklahoma Tax Commission. Such employees shall be transferred in the same status and shall remain exempt from the provisions of the merit system of personnel administration as provided in the Oklahoma Personnel Act, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes. The employees so transferred shall be exempt from any examination or other employment requirements required for new employees without reduction in base pay.

D. All rules of the Ad Valorem Task Force pertaining to the functions and powers herein transferred and assigned to the Ad Valorem Division of the Oklahoma Tax Commission, in force at the time of such transfer, shall continue in force and effect as rules

Req. No. 1299Page 36

of the Ad Valorem Division of the Oklahoma Tax Commission until duly modified or abrogated by the appropriate body.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2946.3 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is created the Ad Valorem Transition Oversight Committee. The Committee shall be composed as follows:

1. The State Auditor and Inspector or designee;
2. The Director of the Oklahoma State University Center for Local Government Technology;
3. The Director of the Ad Valorem Division of the Oklahoma Tax Commission;
4. The President of the County Assessor's Association of Oklahoma;
5. The State Superintendent of Public Instruction; and
6. Two members appointed by the Governor, two members appointed by the President Pro Tempore of the Senate, one of whom shall be a member of the Senate, and two members appointed by the Speaker of the House of Representatives, one of whom shall be a member of the House of Representatives. One member appointed by the Governor, one member appointed by the President Pro Tempore of the Senate and one member appointed by the Speaker of the House of Representatives shall have a professional appraiser designation from at least one of the following organizations: American Institute of Real Estate Appraisers, American Society of Appraisers, American Society of Farm Managers and Rural Appraisers, International Association of Assessing Officers, International Right-of-Way Association, National Association of Independent Fee Appraisers, National Society of Real Estate Appraisers, and the Society of Real Estate Appraisers, or experience with computer-assisted mass appraisal systems.

B. The chairman of the Committee shall be the State Auditor and Inspector. The vice-chairman of the Committee shall be elected by the membership of the Committee. The Committee shall meet quarterly.

C. No member of the Ad Valorem Transition Oversight Committee shall receive a salary for duties performed as a member of the Committee. Reimbursement for necessary travel expenses incurred in the performance of their official duties as a member of the Committee shall be paid by the appointing authority in accordance with the provisions of the State Travel Reimbursement Act.

D. The Committee shall work together as required to:

1. Monitor the progress of and coordinate the transition of the Ad Valorem Task Force's operations to the Ad Valorem Division of the Oklahoma Tax Commission;

2. Review and make recommendations concerning state-appropriated funds for the implementation and continued operation of the computer-assisted mass appraisal system in the counties of the state;

3. Receive suggestions, complaints or other information from county assessors or other county officers pertaining to the operation of the system and to make recommendations pertaining thereto to the Oklahoma Tax Commission or the Legislature; and

4. Perform such other duties as provided by law.

E. Staff for the Committee shall be provided by the Ad Valorem Division of the Oklahoma Tax Commission.

F. The Committee shall be terminated as of January 1, 1995.

SECTION 14. AMENDATORY 68 O.S. 1991, Section 2947, is amended to read as follows:

Section 2947. There is hereby created in the State Treasury a revolving fund for the ~~Office of the State Auditor and Inspector~~ Oklahoma Tax Commission, to be designated the "Computer-Assisted Mass Appraisal Implementation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriations made by the Legislature. Monies appropriated to the fund shall be expended by the Ad Valorem ~~Task Force~~ Division of the Oklahoma Tax Commission for the purpose of implementing the visual inspection program and the computer-assisted system of mass appraisal as required by law.

SECTION 15. AMENDATORY 68 O.S. 1991, Section 2358, as last amended by Section 25 of Enrolled Senate Bill No. 459 of the Req. No. 1299Page 38

1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 2358. For all tax years beginning after December 31, 1981, taxable income and adjusted gross income shall be adjusted to arrive at Oklahoma taxable income and Oklahoma adjusted gross income as required by this section.

A. The taxable income of any taxpayer shall be adjusted to arrive at Oklahoma taxable income for corporations and Oklahoma adjusted gross income for individuals, as follows:

1. There shall be added interest income on obligations of any state or political subdivision thereto which is not otherwise exempted pursuant to other laws of this state, to the extent that said interest is not included in taxable income and adjusted gross income.

2. There shall be deducted amounts included in such income that the state is prohibited from taxing because of the provisions of the Federal Constitution, the State Constitution, federal laws or laws of Oklahoma.

3. The amount of any federal net operating loss deduction shall be adjusted as follows:

- a. For carryovers and carrybacks to taxable years beginning before January 1, 1981, the amount of any net operating loss deduction allowed to a taxpayer for federal income tax purposes shall be reduced to an amount which is the same portion thereof as the loss from sources within this state, as determined pursuant to this section and Section 2362 of this title, for the taxable year in which such loss is sustained is of the total loss for such year;
- b. For carryovers and carrybacks to taxable years beginning after December 31, 1980, the amount of any net operating loss deduction allowed for the taxable year shall be an amount equal to the aggregate of the Oklahoma net operating loss carryovers and carrybacks to such year. Oklahoma net operating losses shall be separately determined by reference

to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, as modified by the Oklahoma Income Tax Act, Section 2351 et seq. of this title, and shall be allowed without regard to the existence of a federal net operating loss. The years to which such losses may be carried shall be determined by reference to Section 172 of the Internal Revenue Code, except that losses which are not actually utilized shall not reduce the carryover; provided, for net operating losses incurred for tax years beginning after December 31, 1992, and before December 31, 1993, the loss carryback shall be for a period of three (3) years; for tax years beginning after December 31, 1993, and before December 31, 1994, the carryback period shall be two (2) years; for tax years beginning after December 31, 1994, and before December 31, 1995, the carryback period shall be one (1) year; and for tax years beginning after December 31, 1995, no net operating loss carryback shall be allowable. For net operating losses incurred for tax years beginning after December 31, 1992, and before December 31, 1993, the loss carryforward shall be for a period of fifteen (15) years; for tax years beginning after December 31, 1993, and before December 31, 1994, the carryforward period shall be fourteen (14) years; for tax years beginning after December 31, 1994, and before December 31, 1995, the carryforward period shall be thirteen (13) years; for tax years beginning after December 31, 1995, and before December 31, 1996, the carryforward period shall be twelve (12) years; for tax years beginning after December 31, 1996, and before December 31, 1997, the carryforward period shall be eleven (11) years; for tax years beginning after December 31, 1997, ~~and before December 31, 1998,~~ the carryforward period shall be ten (10)

~~years; for tax years beginning after December 31, 1998, and before December 31, 1999, the carryforward period shall be nine (9) years; for tax years beginning after December 31, 1999, and before December 31, 2000, the carryforward period shall be eight (8) years; for tax years beginning after December 31, 2000, and before December 31, 2001, the carryforward period shall be seven (7) years; for tax years beginning after December 31, 2001, and before December 31, 2002, the carryforward period shall be six (6) years; and for tax years beginning after December 31, 2002, the carryforward period shall be five (5) years.~~

4. Items of the following nature shall be allocated as indicated. Allowable deductions attributable to items separately allocable in subparagraphs a, b and c of this paragraph, whether or not such items of income were actually received, shall be allocated on the same basis as those items:

- a. Income from real and tangible personal property, such as rents, oil and mining production or royalties, and gains or losses from sales of such property, shall be allocated in accordance with the situs of such property;
- b. Income from intangible personal property, such as interest, dividends, patent or copyright royalties, and gains or losses from sales of such property, shall be allocated in accordance with the domiciliary situs of the taxpayer, except that:
 - (1) where such property has acquired a nonunitary business or commercial situs apart from the domicile of the taxpayer such income shall be allocated in accordance with such business or commercial situs; a resident trust or resident estate shall be treated as having a separate commercial or business situs insofar as undistributed income is concerned, but shall not

be treated as having a separate commercial or business situs insofar as distributed income is concerned,

(2) income from such property which is required to be allocated pursuant to the provisions of paragraph 5 of this subsection shall be allocated as herein provided;

c. Net income or loss from a business activity which is not a part of business carried on within or without the state of a unitary character shall be separately allocated to the state in which such activity is conducted;

d. In the case of a manufacturing or processing enterprise the business of which in Oklahoma consists solely of marketing its products by:

(1) sales having a situs without this state, shipped directly to a point from without the state to a purchaser within the state, commonly known as interstate sales,

(2) sales of the product stored in public warehouses within the state pursuant to "in transit" tariffs, as prescribed and allowed by the Interstate Commerce Commission, to a purchaser within the state,

(3) sales of the product stored in public warehouses within the state where the shipment to such warehouses is not covered by "in transit" tariffs, as prescribed and allowed by the Interstate Commerce Commission, to a purchaser within or without the state,

the Oklahoma net income shall, at the option of the taxpayer, be that portion of the total net income of the taxpayer for federal income tax purposes derived from the manufacture and/or processing and sales everywhere as determined by the ratio of the sales defined in this section made to the purchaser within the state to the

total sales everywhere. The term public warehouse as used in this subparagraph means a licensed public warehouse, the principal business of which is warehousing merchandise for the public;

e. In the case of insurance companies, Oklahoma taxable income shall be taxable income of the taxpayer for federal tax purposes, as adjusted for the adjustments provided pursuant to the provisions of paragraphs 1 and 2 of this subsection, apportioned as follows:

(1) except as otherwise provided by division (2) of this subparagraph, taxable income of an insurance company for a taxable year shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the direct premiums written for insurance on property or risks in this state, and the denominator of which is the direct premiums written for insurance on property or risks everywhere. For purposes of this subsection, the term direct premiums written means the total amount of direct premiums written, assessments and annuity considerations as reported for the taxable year on the annual statement filed by the company with the Oklahoma Insurance Commissioner in the form approved by the National Association of Insurance Commissioners, or such other form as may be prescribed in lieu thereof,

(2) if the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the taxable income of such company shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the sum of (a) direct premiums written for insurance on property or

risks in this state, plus (b) premiums written for reinsurance accepted in respect of property or risks in this state, and the denominator of which is the sum of (c) direct premiums written for insurance on property or risks everywhere, plus (d) premiums written for reinsurance accepted in respect of property or risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risks in this state, whether or not otherwise determinable, may at the election of the company be determined on the basis of the proportion which premiums written for insurance accepted from companies commercially domiciled in Oklahoma bears to premiums written for reinsurance accepted from all sources, or alternatively in the proportion which the sum of the direct premiums written for insurance on property or risks in this state by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.

5. The net income or loss remaining after the separate allocation in paragraph 4 of this subsection, being that which is derived from a unitary business enterprise, shall be apportioned to this state on the basis of the arithmetical average of three factors consisting of property, payroll and sales or gross revenue enumerated as subparagraphs a, b and c of this paragraph. Net income or loss as used in this paragraph includes that derived from patent or copyright royalties, purchase discounts, and interest on accounts receivable relating to or arising from a business activity, the income from which is apportioned pursuant to this subsection, including the sale or other disposition of such property and any other property used in the unitary

enterprise. Deductions used in computing such net income or loss shall not include taxes based on or measured by income.

a. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property everywhere owned or rented and used during the tax period.

- (1) Property, the income from which is separately allocated in paragraph 4 of this subsection, shall not be included in determining this fraction. The numerator of the fraction shall include a portion of the investment in transportation and other equipment having no fixed situs, such as rolling stock, buses, trucks and trailers, including machinery and equipment carried thereon, airplanes, salesmen's automobiles and other similar equipment, in the proportion that miles traveled in Oklahoma by such equipment bears to total miles traveled,
- (2) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer, less any annual rental rate received by the taxpayer from subrentals,
- (3) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the Tax Commission may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property;

- b. The payroll factor is a fraction, the numerator of which is the total compensation for services rendered in the state during the tax period, and the denominator of which is the total compensation for services rendered everywhere during the tax period. Compensation as used in this subsection means those paid-for services to the extent related to the unitary business but does not include officers' salaries, wages and other compensation.
- (1) In the case of a transportation enterprise, the numerator of the fraction shall include a portion of such expenditure in connection with employees operating equipment over a fixed route, such as trainmen, airline pilots, or bus drivers, in this state only a part of the time, in the proportion that mileage traveled in Oklahoma bears to total mileage traveled by such employees,
- (2) In any case the numerator of the fraction shall include a portion of such expenditures in connection with itinerant employees, such as traveling salesmen, in this state only a part of the time, in the proportion that time spent in Oklahoma bears to total time spent in furtherance of the enterprise by such employees;
- c. The sales factor is a fraction, the numerator of which is the total sales or gross revenue of the taxpayer in this state during the tax period, and the denominator of which is the total sales or gross revenue of the taxpayer everywhere during the tax period. Sales as used in this subsection does not include sales or gross revenue which are separately allocated in paragraph 4 of this subsection.
- (1) Sales of tangible personal property have a situs in this state if the property is delivered or shipped to a purchaser other than the United

States Government, within this state regardless of the FOB point or other conditions of the sale; or the property is shipped from an office, store, warehouse, factory or other place of storage in this state and (a) the purchaser is the United States Government or (b) the taxpayer is not doing business in the state of the destination of the shipment.

- (2) In the case of a railroad or interurban railway enterprise, the numerator of the fraction shall not be less than the allocation of revenues to this state as shown in its annual report to the Oklahoma Corporation Commission.
- (3) In the case of an airline, truck or bus enterprise or freight car, tank car, refrigerator car or other railroad equipment enterprise, the numerator of the fraction shall include a portion of revenue from interstate transportation in the proportion that interstate mileage traveled in Oklahoma bears to total interstate mileage traveled.
- (4) In the case of an oil, gasoline or gas pipeline enterprise, the numerator of the fraction shall be either the total of traffic units of the enterprise within Oklahoma or the revenue allocated to Oklahoma based upon miles moved, at the option of the taxpayer, and the denominator of which shall be the total of traffic units of the enterprise or the revenue of the enterprise everywhere as appropriate to the numerator. A "traffic unit" is hereby defined as the transportation for a distance of one (1) mile of one (1) barrel of oil, one (1) gallon of gasoline or one thousand (1,000) cubic feet of natural or casinghead gas, as the case may be.

(5) In the case of a telephone or telegraph or other communication enterprise, the numerator of the fraction shall include that portion of the interstate revenue as is allocated pursuant to the accounting procedures prescribed by the Federal Communications Commission; provided that in respect to each corporation or business entity required by the Federal Communications Commission to keep its books and records in accordance with a uniform system of accounts prescribed by such Commission, the intrastate net income shall be determined separately in the manner provided by such uniform system of accounts and only the interstate income shall be subject to allocation pursuant to the provisions of this subsection. Provided, further, that the gross revenue factors shall be those as are determined pursuant to the accounting procedures prescribed by the Federal Communications Commission.

In any case where the use of the arithmetical average of three factors prescribed in this paragraph attributes to Oklahoma a portion of net income of the enterprise out of all appropriate proportion to the property owned and/or business transacted within this state, because of the fact that one or more of the factors so prescribed are not employed to any appreciable extent in furtherance of the enterprise; or because one or more factors not so prescribed are employed to a considerable extent in furtherance of the enterprise; or because of other reasons, the Tax Commission is empowered to permit, after a showing by taxpayer that an excessive portion of net income has been attributed to Oklahoma, or require, when in its judgment an insufficient portion of net income has been attributed to Oklahoma, the elimination, substitution, or use of additional factors, or reduction or increase in the weight of such prescribed factors.

Provided, however, that any such variance from such prescribed factors which has the effect of increasing the portion of net income attributable to Oklahoma must not be inherently arbitrary, and application of the recomputed final arithmetical average ratio to the net income of the enterprise must attribute to Oklahoma only a reasonable portion thereof.

B. The taxable income of any corporation shall be further adjusted to arrive at Oklahoma taxable income, except those corporations electing treatment as provided in subchapter S of the Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section 2365 of this title, deductions pursuant to the provisions of the Accelerated Cost Recovery System as defined and allowed in the Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C., Section 168, for depreciation of assets placed into service after December 31, 1981, shall not be allowed in calculating Oklahoma taxable income. Such corporations shall be allowed a deduction for depreciation of assets placed into service after December 31, 1981, in accordance with provisions of the Internal Revenue Code, 26 U.S.C., Section 1 et seq., in effect immediately prior to the enactment of the Accelerated Cost Recovery System. The Oklahoma tax basis for all such assets placed into service after December 31, 1981, calculated in this section shall be retained and utilized for all Oklahoma income tax purposes through the final disposition of said assets.

Notwithstanding any other provisions of the Oklahoma Income Tax Act, Sections 2351 et seq. of this title or of the Internal Revenue Code to the contrary, this subsection shall control calculation of depreciation of assets placed into service after December 31, 1981, and before January 1, 1983.

For assets placed in service and held by a corporation in which accelerated cost recovery system was previously disallowed, an adjustment to taxable income is required in the first taxable year beginning after December 31, 1982, to reconcile the basis of said assets to the basis allowed in the Internal Revenue Code. The purpose of this adjustment is to equalize the basis and

allowance for depreciation accounts between that reported to the Internal Revenue Service and that reported to Oklahoma.

C. 1. For taxable years beginning after December 31, 1987, the taxable income of any corporation shall be further adjusted to arrive at Oklahoma taxable income for transfers of technology to qualified small businesses located in Oklahoma. Such transferor corporation shall be allowed an exemption from taxable income of an amount equal to the amount of royalty payment received as a result of such transfer; provided, however, said amount shall not exceed ten percent (10%) of the amount of gross proceeds received by such transferor corporation as a result of the technology transfer. Such exemption shall be allowed for a period not to exceed ten (10) years from the date of receipt of the first royalty payment accruing from such transfer. No exemption may be claimed for transfers of technology to qualified small businesses made prior to January 1, 1988.

2. For purposes of this subsection:

- a. "Qualified small business" means an entity, whether organized as a corporation, partnership, or proprietorship, organized for profit with its principal place of business located within this state and which meets the following criteria:
 - (1) Capitalization of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
 - (2) Having at least fifty percent (50%) of its employees and assets located in Oklahoma at the time of the transfer, and
 - (3) Not a subsidiary or affiliate of the transferor corporation;
- b. "Technology" means a proprietary process, formula, pattern, device or compilation of scientific or technical information which is not in the public domain;
- c. "Transferor corporation" means a corporation which is the exclusive and undisputed owner of the technology at the time the transfer is made; and

- d. "Gross proceeds" means the total amount of consideration for the transfer of technology, whether the consideration is in money or otherwise.

D. The Oklahoma adjusted gross income of any individual taxpayers shall be further adjusted as follows to arrive at Oklahoma taxable income:

- 1. a. In the case of individuals, there shall be added or deducted, as the case may be, the difference necessary to allow personal exemptions of One Thousand Dollars (\$1,000.00) in lieu of the personal exemptions allowed by the Internal Revenue Code.
- b. There shall be allowed an additional exemption of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is blind at the close of the tax year. For purposes of this subparagraph, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200, but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.
- c. For taxable years beginning after December 31, 1987, there shall be allowed an additional exemption of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is sixty-five (65) years of age or older at the close of the tax year based upon the filing status and federal adjusted gross income of the taxpayer. Taxpayers with the following filing status may claim this exemption if the federal adjusted gross income does not exceed:
 - (1) Twenty-five Thousand Dollars (\$25,000.00) if married and filing jointly;
 - (2) Twelve Thousand Five Hundred Dollars (\$12,500.00) if married and filing separately;

(3) Fifteen Thousand Dollars (\$15,000.00) if single;
and

(4) Nineteen Thousand Dollars (\$19,000.00) if a
qualifying head of household.

d. For taxable years beginning after December 31, 1990,
and beginning before January 1, 1992, there shall be
allowed a one-time additional exemption of Four
Hundred Dollars (\$400.00) for each taxpayer or
spouse who is a member of the National Guard or any
reserve unit of the Armed Forces of the United
States and who was at any time during such taxable
year deployed in active service during a time of war
or conflict with an enemy of the United States.

2. In the case of individuals who use the standard deduction
in determining taxable income, there shall be added or deducted,
as the case may be, the difference necessary to allow a standard
deduction in lieu of the standard deduction allowed by the
Internal Revenue Code, in an amount equal to the larger of fifteen
percent (15%) of the Oklahoma adjusted gross income or One
Thousand Dollars (\$1,000.00), but not to exceed Two Thousand
Dollars (\$2,000.00), except that in the case of a married
individual filing a separate return such deduction shall be the
larger of fifteen percent (15%) of such Oklahoma adjusted gross
income or Five Hundred Dollars (\$500.00), but not to exceed the
maximum amount of One Thousand Dollars (\$1,000.00).

3. In the case of resident individuals having adjusted gross
income from sources both within and without the state, the
itemized or standard deductions and personal exemptions shall be
reduced to an amount which is the same portion of the total
thereof as Oklahoma adjusted gross income is of adjusted gross
income. To the extent itemized deductions include allowable
moving expense, proration of moving expense shall not be required
or permitted but allowable moving expense shall be fully
deductible for those taxpayers moving within or into Oklahoma and
no part of moving expense shall be deductible for those taxpayers
moving without or out of Oklahoma. All other itemized or standard

deductions and personal exemptions shall be subject to proration as provided by law.

4. A resident individual with a physical disability constituting a substantial handicap to employment may deduct from Oklahoma adjusted gross income such expenditures to modify a motor vehicle, home or workplace as are necessary to compensate for his handicap. A veteran certified by the Veterans Administration of the federal government as having a service-connected disability shall be conclusively presumed to be an individual with a physical disability constituting a substantial handicap to employment. The Oklahoma Tax Commission shall promulgate rules containing a list of combinations of common disabilities and modifications which may be presumed to qualify for this deduction. The Commission shall prescribe necessary requirements for verification.

5. In any taxable year the first One Thousand Five Hundred Dollars (\$1,500.00) received by any person from the United States as salary or compensation in any form, other than retirement benefits, as a member of any component of the Armed Forces of the United States shall be deducted from taxable income. Whenever the filing of a timely income tax return by a member of the Armed Forces of the United States is made impracticable or impossible of accomplishment by reason of:

- a. absence from the United States, which term includes only the states and the District of Columbia;
 - b. absence from the State of Oklahoma while on active duty; or
 - c. confinement in a hospital within the United States for treatment of wounds, injuries or disease,
- the time for filing a return and paying an income tax shall be and is hereby extended without incurring liability for interest or penalties, to the fifteenth day of the third month following the month in which:

- (1) Such individual shall return to the United States if the extension is granted pursuant to subparagraph (a) of this paragraph, return to the State of Oklahoma if the extension is

granted pursuant to subparagraph (b) of this paragraph or be discharged from such hospital if the extension is granted pursuant to subparagraph (c) of this paragraph; or

- (2) An executor, administrator, or conservator of the estate of the taxpayer is appointed, whichever event occurs the earliest.

Provided, that the Tax Commission may, in its discretion, grant any member of the Armed Forces of the United States an extension of time for filing of income tax returns and payment of income tax without incurring liabilities for interest or penalties. Such extension may be granted only when in the judgment of the Tax Commission a good cause exists therefor and may be for a period in excess of six (6) months. A record of every such extension granted, and the reason therefor, shall be kept.

6. The salary or any other form of compensation, received from the United States by a member of any component of the Armed Forces of the United States, shall be deducted from taxable income during the time in which the person is detained by the enemy in a conflict, is a prisoner of war or is missing in action and not deceased.

7. Notwithstanding anything in the Internal Revenue Code or in the Oklahoma Income Tax Act to the contrary, it is expressly provided that, in the case of resident individuals, amounts received as dividends or distributions of earnings from savings and loan associations or credit unions located in Oklahoma, and interest received on savings accounts and time deposits from such sources or from state and national banks or trust companies located in Oklahoma, shall qualify as dividends for the purpose of the dividend exclusion, and taxable income shall be adjusted accordingly to arrive at Oklahoma taxable income; provided, however, that the dividend, distribution of earnings and/or interest exclusion provided for hereinabove shall not be cumulative to the maximum dividend exclusion allowed by the Internal Revenue Code. Any dividend exclusion already allowed by said Code and reflected in the taxpayer's Oklahoma taxable income

together with exclusion allowed herein shall not exceed the total of One Hundred Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00) per couple filing a joint return.

8. a. An individual taxpayer, whether resident or nonresident, may deduct an amount equal to the federal income taxes paid by said taxpayer during the taxable year.
- b. Federal taxes as described in subparagraph a of this paragraph shall be deductible by any individual taxpayer, whether resident or nonresident, only to the extent they relate to income subject to taxation pursuant to the provisions of the Oklahoma Income Tax Act. The maximum amount allowable in the preceding paragraph shall be prorated on the ratio of the Oklahoma adjusted gross income to federal adjusted gross income.
- c. For the purpose of this paragraph, federal income taxes paid shall mean federal income taxes, surtaxes imposed on incomes or excess profits taxes, as though the taxpayer was on the accrual basis.
- d. The provisions of this paragraph shall apply to all taxable years ending after December 31, 1978.

9. Retirement benefits not to exceed Five Thousand Five Hundred Dollars (\$5,500.00), which are received by an individual from the civil service of the United States, any component of the Armed Forces of the United States, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the employee retirement systems created by counties pursuant to Sections 951 et seq. of Title 19 of the Oklahoma Statutes, the Uniform Retirement System for Justices and Judges, the Oklahoma Wildlife Conservation Department Retirement Fund, the Oklahoma Employment Security Commission Retirement Plan, or the employee retirement systems created by

municipalities pursuant to Sections 48-101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt from taxable income.

10. In taxable years beginning after December 31, 1984, Social Security benefits received by an individual shall be exempt from taxable income, to the extent such benefits are included in the federal adjusted gross income pursuant to the provisions of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

SECTION 16. REPEALER 68 O.S. 1991, Sections 2946.1 and 2948, are hereby repealed.

SECTION 17. Sections 4, 12, 13, 14 and 16 of this act shall become effective July 1, 1993. Sections 5 and 6 of this act shall become effective September 1, 1993.

SECTION 18. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-1299

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