

ENGROSSED SENATE
BILL NO. 509

By: Wilkerson, Ford and
Rubottom of the Senate

and

Steidley of the House

[revenue and taxation - estate tax exemption -
income tax exemptions, deductions and credits -
tuition rebates - Property Tax Deferral Act -
repeal of franchise tax - effective date -
emergency]

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 809, is
amended to read as follows:

Section 809. If any portion of said net estate, as herein
determined, in excess of the deductions allowed in Section 808 of
this title passes to the father, mother, child, child of husband or
wife, adopted child or any lineal descendant of decedent or of such
adopted child, there shall be deducted from such net estate the
portion of said net estate passing to said person or persons to the
extent of and not exceeding a total aggregate exemption of ~~One
Hundred Seventy-five Thousand Dollars (\$175,000.00)~~ Six Hundred
Thousand Dollars (\$600,000.00), and the tax shall be paid on the
remainder at the rates herein set out. It is declared to be
intended by this section that where a portion of the net estate
passes to any of the parties named herein, no greater amount shall
be deducted from the net estate than passes to said person or
persons combined and that said exemption shall in no event exceed

the amount of ~~One Hundred Seventy-five Thousand Dollars~~
~~(\$175,000.00)~~ Six Hundred Thousand Dollars (\$600,000.00), regardless
of the amount of the estate that may pass to any or all of said
person or persons;

provided, that when the property comprising the estate of the decedent consists of property within and property without the state, only such percentage of the exemptions and deductions enumerated in this section, and in the preceding section, shall be allowed as the ratio of the value of the estate within this state bears to the value of the entire estate.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2357, is amended to read as follows:

Section 2357. A. The withheld taxes and estimated taxes paid shall be allowed as credits as provided by law.

B. 1. There shall be allowed as a credit against the tax imposed by Section 2355 of this title the amount of tax paid another state by a resident individual, as defined in Section 2353, paragraph 4, of this title, upon income received as compensation for personal services in such other state. The credit shall not exceed such proportion of the tax payable under Section 2355 of this title as the compensation for personal services subject to tax in the other state and also taxable under Section 2355 bears to the Oklahoma adjusted gross income as defined in Section 2353, paragraph 13, of this title.

2. For tax years beginning after December 31, 1975, there shall be allowed to a resident individual or part-year resident individual as a credit against the tax imposed by Section 2355 of this title twenty percent (20%) of the credit for child care expenses allowed under the Internal Revenue Code of the United States. The credit shall not exceed the tax imposed by Section 2355 of this title. The maximum child care credit allowable on the Oklahoma income tax return shall be prorated on the ratio that Oklahoma adjusted gross income bears to the federal adjusted gross income.

C. 1. Every taxpayer who operates a manufacturing establishment in the state shall be allowed a direct credit against income taxes owed by such taxpayer to the state, the amount of which

credit shall be proportioned to the amount of gas used or consumed in Oklahoma by such taxpayer in the operation of a manufacturing establishment, at a rate of three (3) mills per thousand (1,000) cubic feet of gas used or consumed after May 1, 1971, and during each taxable year of such taxpayer provided that the credit allowed herein shall not apply to the first twenty-five thousand (25,000) MCF of gas used or gas used to generate electricity or consumed after May 1, 1971, and during each taxable year of such taxpayer.

2. As used in this subsection:

- a. "manufacturing establishment" means a plant or establishment which engages in the business of working raw materials into wares suitable for use or which gives new shapes, new qualities or new combinations to matter which has already gone through some artificial process~~-.L~~
- b. "gas used or consumed" shall include all natural or casinghead gas used in the operation of the manufacturing establishment for whatever purposes, but shall not include the following:
 - (1) gas which, after being severed from the earth, is subsequently injected into a formation in the state for the purpose of storing, recycling, repressuring or pressure maintenance~~-.L~~
 - (2) gas vented or flared directly into the atmosphere~~-.L~~
 - (3) gas used for fuel in connection with the operation and development for or production of oil or gas in the field where produced~~-.L~~, and
 - (4) gas, any part of which is resold by the manufacturing establishment, except as to that part and quantity of the gas which is actually used by the establishment and not resold~~-.L~~, and

c. "one thousand (1,000) cubic feet of gas" (MCF) means that quantity of gas which, measured at a pressure of fifteen and twenty-five thousandths (15.025) pounds per square inch absolute and at a temperature of sixty-nine (69) degrees Fahrenheit, would have the volume of one thousand (1,000) cubic feet.

D. No additions to tax shall be made in Oklahoma income tax returns by reason of the recapture or restoration of credits under the Internal Revenue Code, and no other credits against tax shall be allowed in Oklahoma income tax returns except as follows:

1. Those credits provided in this section ~~;~~ and

2. Those credits authorized by ~~Sections 921 through 925 of Title 82, or Sections 2001 1-1801 through 2008 1-1808 of Title 63 of the Oklahoma Statutes,~~ which have been, or may hereafter be, certified pursuant to applications therefor made on or before March 22, 1971. Provided, the total amount of the credits referred to in this ~~subparagraph 2~~ paragraph to be taken by taxpayer shall not exceed the certified net investment cost of the facilities or processes to which such credits pertain, reduced by the greater of:

a. the reduction in federal income tax of taxpayer as the result of deducting depreciation on such facilities or processes, or deducting nondepreciable costs for which credit has been so certified ~~;~~ or

b. the increase in the amount of Oklahoma income tax that would result if taxable income were increased by the amount deducted as set forth in subparagraph a ~~above~~ of this paragraph.

And, provided further, that, after such credits have been exhausted, taxpayer shall each year thereafter adjust taxable income by adding any depreciation taken on such facilities or processes, or any nondepreciable costs having been included in the net investment cost

allowed as credit, and which depreciation or costs have been allowed as a deduction in arriving at federal taxable income for such year.

E. For tax years beginning after December 31, 1995, there shall be allowed a rebate in the amount of Twenty-five Dollars (\$25.00) for each credit hour of tuition paid to a four-year public or private college or university in this state accredited by the Oklahoma State Regents for Higher Education by a teacher, employed in a public or private elementary or secondary school in this state and certified pursuant to the laws of this state, for courses satisfactorily completed in pursuit of a master's degree from the college or university. No rebate shall be allowed for any amount of tuition paid by or through any grant, scholarship or stipend, or any amount subject to a tuition waiver. The rebate shall be allowed to be claimed with the income tax return filed for the tax year in which the course or courses for which the tuition was paid were satisfactorily completed.

F. For tax years beginning after December 31, 1995, there shall be allowed a rebate in the amount of Twenty-five Dollars (\$25.00) for each credit hour of tuition paid to a four-year public or private college or university in this state accredited by the Oklahoma State Regents for Higher Education by a resident municipal, county or state law enforcement officer for courses satisfactorily completed in pursuit of a degree in law enforcement from the college or university. No rebate shall be allowed for any amount of tuition paid by or through a grant, scholarship or stipend, or any amount subject to a tuition waiver. The rebate shall be allowed to be claimed with the income tax return filed for the tax year in which the course or courses for which the tuition was paid were satisfactorily completed.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 2358, as last amended by Section 1, Chapter 308, O.S.L. 1993 (68 O.S. Supp. 1994, Section 2358), 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. The provisions of this paragraph shall not apply to any interest income on obligations issued on or after July 1, 1995, by or on behalf of this state or any political subdivision of this state and which are exempt from taxation under the provisions of the Internal Revenue Code, except interest income on obligations issued on or behalf of any organization which is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code.

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 tax years beginning after December 31, 1992, the net operating loss carryforward shall not exceed fifteen (15) 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.

6. In tax years beginning after December 31, 1994, any new corporation having taxable income of Twenty-five Thousand Dollars (\$25,000.00) or less shall be exempt from the tax imposed by Section 2355 of this title. For purposes of this paragraph, a "new corporation" means a corporation that has not previously filed five income tax returns in this state, including any income tax returns which may be due but not filed, under the current corporate name or under a similar or different corporate name in this state. A new corporation which claims the exemption pursuant to this paragraph shall be eligible to claim the exemption under a similar or different corporate name, but all income tax returns in which the new corporation, under its current name or under a similar or different name, claims this exemption shall count toward and be included in the five income tax return total. After the fifth income tax return is due or has been filed, the new corporation shall no longer be eligible to claim the exemption provided for in this paragraph.

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.

11. In tax years beginning after December 31, 1995, income from the following sources not to exceed Fifty Thousand Dollars (\$50,000.00) received by an individual sixty-five (65) years of age or older shall be exempt from:

- a. 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, and the employee retirement systems created by municipalities pursuant to Sections 48-101 et seq. of Title 11 of the Oklahoma Statutes,
- b. a federal retirement system created by the federal government for any officer or employee of the United States, including any person retired from service in the United States civil service, the United States Armed Forces or any agency or subdivision thereof,
- c. an employee pension benefit plan which satisfies the requirements of Section 401 of the Internal Revenue Code, 26 U.S.C., Section 401,
- d. an individual retirement account, annuity or trust or simplified employee pension that satisfies the requirements of Section 408 of the Internal Revenue Code, 26 U.S.C., Section 408,
- e. an employee annuity subject to the provisions of Section 403(a) or (b) of the Internal Revenue Code, 26 U.S.C., Section 403(a) or (b),
- f. United States Retirement Bonds which satisfy the requirements of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, and

g. lump sum distributions from a retirement plan which satisfies the requirements of Section 402(e) of the Internal Revenue Code, 26 U.S.C., Section 402(e).

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.13 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For tax years beginning after July 1, 1995, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for qualified expenditures for software or systems integration made after January 1, 1996. As used in this section, "qualified expenditures" shall mean expenditures in excess of One Thousand Dollars (\$1,000.00) for new customized software and related systems integration property or services performed in this state purchased from a company domiciled in this state.

B. The credit allowed by this section shall be twelve percent (12%) of the qualified expenditures. The credit shall be limited to a maximum of Five Hundred Thousand Dollars (\$500,000.00) less credits, exemptions or payments the taxpayer is receiving in connection with the qualified expenditures pursuant to the following provisions:

1. Paragraphs 14 and 15 of Section 1357 of Title 68 of the Oklahoma Statutes;
2. Paragraph 8 of Section 1359 of Title 68 of the Oklahoma Statutes;
3. Section 2357.4 of Title 68 of the Oklahoma Statutes;
4. Section 2357.7 of Title 68 of the Oklahoma Statutes;
5. Section 2357.16 of Title 68 of the Oklahoma Statutes;
6. Section 2357.22 of Title 68 of the Oklahoma Statutes;
7. Section 2357.31 of Title 68 of the Oklahoma Statutes;
8. Section 3601 et seq. of Title 68 of the Oklahoma Statutes;
9. Section 54003 of Title 68 of the Oklahoma Statutes;
10. Section 54006 of Title 68 of the Oklahoma Statutes; or

11. Section 625.1 of Title 36 of the Oklahoma Statutes.

The credit may only be claimed for the tax year in which the expenditure is made by the taxpayer. In no event shall the credit allowed by this section exceed the amount of tax liability of the taxpayer for any given year.

C. Any credits allowed but not used in any taxable year may be carried over to each of the subsequent fifteen (15) years.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.24 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Eligible employer" means a corporation, partnership or proprietorship doing business in this state; and

2. "Eligible employee" means an employee who:

a. is a resident of this state,

b. is a new full-time-equivalent employee, and

c. has graduated or received a bachelor's or master's degree from a four-year public college or university in this state within one (1) year previous to the date of employment.

B. For tax years beginning after December 31, 1995, there shall be allowed to an eligible employer a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for employing or hiring an eligible employee. The credit shall be in the amount of five percent (5%) of the gross salary of the eligible employee for the first six (6) months of employment, excluding any benefits, up to a maximum credit of Five Hundred Dollars (\$500.00); provided, the employee must work for the eligible employer for at least one full year before the employer may claim the credit. The credit shall be a one-time credit for each new eligible employee of the eligible employer. Under no circumstances shall the eligible employer be allowed to claim more than one (1) credit per eligible

employee. The credit shall be allowed for the tax year in which the first full year of employment of the new employee is completed.

C. The credit shall not be granted unless the eligible employer certifies to the Oklahoma Tax Commission that each employee for which a credit is claimed qualifies pursuant to the provisions of this section.

D. If the eligible employee is receiving incentive payments pursuant to the Quality Jobs Program Act, Section 3601 et seq. of Title 68 of the Oklahoma Statutes, and the salary of an eligible employee is included in gross wages for the purpose of determining the amount of such incentive payments, the eligible employer shall not be entitled to claim the credit provided for by this section.

E. The Oklahoma Tax Commission shall develop and issue appropriate forms and instructions to enable eligible employers to claim the tax credit. The Tax Commission shall promulgate rules to facilitate the implementation of this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.25 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For tax years beginning after December 31, 1995, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for qualified investors who make investments in value-added agricultural processing companies.

B. For purposes of this section:

1. "Value-added agricultural processing company" shall mean:

- a. a corporation,
- b. a limited liability company, or
- c. a partnership consisting of five or more individuals who are not related to one another by blood or marriage;

the purpose of which is to add value to the production of raw agricultural products grown or raised in this state; and

2. "Qualified investor" shall mean an individual who is a member of an Oklahoma Agricultural Cooperative which makes investments in value-added agricultural processing companies.

C. The credit provided for in subsection A of this section shall be limited to Ten Thousand Dollars (\$10,000.00) for each qualified investor for each value-added agricultural processing company. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a tax year may be carried forward as a credit against subsequent tax liability for a period not to exceed five (5) years; provided, an individual shall not be permitted to claim a credit for any tax year pursuant to this section unless the individual retains ownership in one or more agricultural processing companies for that tax year.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2950 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 7 through 28 of this act shall be known and may be cited as the "Property Tax Deferral Act".

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2951 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in Sections 7 through 28 of this act:

1. "Commission" means the Oklahoma Tax Commission;
 2. "Gross household income" shall be defined pursuant to subsection D of Section 2949 of Title 68 of the Oklahoma Statutes;
 3. "Homestead" shall be defined pursuant to Section 2888 of Title 68 of the Oklahoma Statutes;
 4. "Taxpayer" means an individual or individuals who have filed a claim for property tax deferral pursuant to Section 9 of this act;
- and

5. "Tax-deferred property" means the property on which taxes are deferred pursuant to this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2952 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Pursuant to Section 10 of this act, an individual, or two or more individuals jointly, may elect to defer the property taxes on their homestead by filing a claim for deferral with the county assessor after January 1 and on or before March 15 of the first year in which deferral is claimed if:

1. The individual, or, in the case of two or more individuals filing a claim jointly each individual, is sixty-two (62) years of age or older on March 15 of the year in which the claim is filed; and

2. The individual has, or in the case of two or more individuals filing a claim jointly, all of the individuals together have, gross household income for the calendar year immediately preceding the calendar year in which the claim is filed of less than Twenty-five Thousand Dollars (\$25,000.00).

B. The county assessor shall forward each claim filed under this section to the Oklahoma Tax Commission which shall determine if the property is eligible for deferral.

C. When the taxpayer elects to defer property taxes for any year by filing a claim for deferral under subsection A of this section, it shall have the effect of:

1. Deferring the payment of the property taxes levied on the homestead for the fiscal year beginning on July 1 of such year;

2. Continuing the deferral of the payment by the taxpayer of any property taxes deferred under this act for previous years which have not become delinquent pursuant to Section 19 of this act; or

3. Continuing the deferral of the payment by the taxpayer of any future property taxes for as long as the provisions of Section 10 of this act are met.

D. If a guardian or conservator has been appointed for an individual otherwise qualified to obtain deferral of taxes under Sections 7 through 28 of this act, the guardian or conservator may act for such individual in complying with the provisions of Sections 7 through 28 of this act.

E. If a trustee of an inter vivos trust which was created by and is revocable by an individual, who is both the trustor and a beneficiary of the trust and who is otherwise qualified to obtain a deferral of taxes under Sections 7 through 28 of this act, owns the fee simple estate under a recorded instrument of sale, the trustee may act for the individual in complying with the provisions of Sections 7 through 28 of this act.

F. Nothing in this section shall be construed to require a spouse of an individual to file a claim jointly with the individual even though the spouse may be eligible to claim the deferral jointly with the individual.

G. Any person aggrieved by the denial of a claim for deferral of homestead property taxes or disqualification from deferral of homestead property taxes may appeal to the county equalization board in the manner provided by Section 2877 of this title.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2953 of Title 68, unless there is created a duplication in numbering, reads as follows:

In order to qualify for tax deferral under Sections 7 through 28 of this act, the property must meet all the following requirements when the claim is filed and thereafter so long as the payment of taxes by the taxpayer is deferred:

1. The property must be the homestead of the individual or individuals who file the claim for deferral, except for an

individual required to be absent from the homestead by reason of health;

2. The person claiming the deferral must, by himself or herself or together with his or her spouse, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale, or two or more persons must together own or be purchasing the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the homestead and if all owners apply for the deferral jointly; and

3. There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the homestead is security.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2954 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. A taxpayer's claim for deferral under Section 9 of this act shall be in writing on a form supplied by the Oklahoma Tax Commission and shall:

1. Describe the homestead;

2. Recite facts establishing the eligibility for the deferral under the provisions of Sections 7 through 28 of this act, including facts that establish that the gross household income of the individual, or in the case of two or more individuals claiming the deferral jointly, was, for the calendar year immediately preceding the calendar year in which the claim is filed, less than Twenty-five Thousand Dollars (\$25,000.00); and

3. Have attached any documentary proof required by the Commission to show that the requirements of Sections 7 through 28 of this act have been met.

B. There shall be annexed to the claim a statement verified by a written declaration of the applicant making the claim to the effect that the statements contained in the claim are true.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2955 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission shall have a lien against the tax-deferred property for the payment of the deferred taxes plus interest thereon and any fees paid to the county clerk by the Commission in connection with the recording, release or satisfaction of the lien. The liens for deferred taxes shall attach to the property on July 1 of the year in which the taxes were assessed. The deferred property tax liens shall have the same priority as other real property tax liens except that the lien of mortgages or trust deeds which are recorded prior in time to the attachment of the lien for deferred taxes shall be prior to the liens for deferred taxes.

B. The lien may be foreclosed by the Commission as if it were a purchase money mortgage. Reasonable attorney fees at trial and on appeal and costs may be granted the Commission in a suit for foreclosure of its lien.

C. Receipts from foreclosure proceedings shall be credited in the same manner as other repayments of deferred property taxes.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2956 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. If eligibility for deferral of homestead property is established as provided in Sections 7 through 28 of this act, the Oklahoma Tax Commission shall notify the county assessor and the county assessor shall show on the current ad valorem assessment and tax roll which property is tax-deferred property by an entry clearly designating such property as tax-deferred property.

B. When requested by the Commission the county treasurer shall send to the Commission as soon as the taxes are extended upon the roll the tax statement for each tax-deferred property.

C. Interest shall accrue on the actual amount of taxes advanced to the county for the tax-deferred property at the rate of six percent (6%) per annum.

D. The state liens provided by Sections 12 and 17 of this act and recorded under Section 14 of this act shall be for the actual amount of taxes advanced to the counties and not for the gross amount of taxes for which the property would be liable as shown on the tax statement for each tax-deferred property.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2957 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In each county in which there is tax-deferred property, the Oklahoma Tax Commission shall cause to be recorded in the mortgage records of the county, a list of tax-deferred properties of that county. The list shall contain a description of the property as listed on the assessment roll together with the name of the owner listed thereon.

B. Except as provided in Section 17 of this act, the recording of the tax-deferred properties under subsection A of this section is notice that the Commission claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county clerk in connection with the recording, release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

C. The Commission shall not be required to pay any filing, indexing or recording fees to the county in connection with the recording, release or satisfaction of liens against tax-deferred properties of that county in advance or at the time entry is made. Payment of the fees shall be made in the same manner as provided for

the payment of fees for recording and making entry of warrants or orders in the county clerk lien record.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2958 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Upon determining the amount of deferred taxes on tax-deferred property for the tax year, the Oklahoma Tax Commission shall pay to the respective county treasurers an amount equivalent to the deferred taxes less three percent (3%) thereof.

B. The Commission shall maintain accounts for each deferred property and shall accrue interest only on the actual amount of taxes advanced to the county.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2959 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. On or before December 15 of each year, the Oklahoma Tax Commission shall send a notice to each taxpayer who has claimed deferral of property taxes for the current tax year. The notice shall:

1. Inform the taxpayer that the property taxes have or have not been deferred in the current year;

2. Show the total amount of deferred taxes remaining unpaid since initial application for deferral and the interest accruing therein to November 15 of the current year;

3. Inform the taxpayer that voluntary payment of the deferred taxes may be made at any time to the Commission;

4. Contain any other information that the Commission considers necessary to facilitate administration of the homestead deferral program, including but not limited to the right of the taxpayer to submit any refund amount received under Section 22 of this act to reduce the total amount of the deferred taxes and interest.

B. The Commission shall give the notice required under subsection A of this section by an unsealed postcard or other form of mail sent to the residence address of the taxpayer as shown in the claim for deferral or as otherwise determined by the Commission to be the correct address of the taxpayer.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2960 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. At the time that the taxpayer elects to defer property taxes under Sections 7 through 28 of this act, the Oklahoma Tax Commission shall estimate the amount of property taxes that will be deferred for tax years beginning on or after January 1, 1996, interest thereon and any fees paid to the county clerk by the Commission in connection with lien recording, release or satisfaction. Thereafter, the Commission shall have a lien in the amount of the estimate.

B. The lien created under subsection A of this section shall attach to the property to which the election to defer relates on January 1 of the tax year of initial deferral or on January 1, 1996, whichever is applicable.

C. The lien created under subsection A of this section in the amount of the estimate shall have the same priority as other real property tax liens except that the lien of mortgages or trust deeds which are recorded prior in time to the attachment of the lien for deferred taxes shall be prior to the liens for deferred taxes.

D. If during the period of tax deferment, the amount of taxes, interest and fees exceeds the estimate, the Commission shall have a lien for the amount of the excess. The liens for the excess shall attach to the property on January 1 of the tax year in which the excess occurs. The lien for the excess shall have the same priority as other real property tax liens, except that the lien of mortgages or trust deeds recorded prior in time to the date that the

Commission records an amendment to its estimate to reflect its lien for the excess shall be prior to the lien for the excess.

E. Notwithstanding subsection B of Section 14 of this act, the notice of lien for deferred taxes recorded as provided in subsections A and B of Section 14 of this act shall list the amount of the estimate of deferred taxes, interest and fees made by the Commission under subsection A of this section and any amendment to the notice to reflect a lien for excess, as described under subsection D of this section, shall list the amount of the excess that the Commission claims as lien. If notice of lien with respect to any homestead has been recorded as provided under subsections A and B of Section 14 of this act, and the lien has not been released or satisfied, the Commission shall cause a further notice of lien to be recorded in the mortgage records of the county. The further notice of lien shall list the amount of estimate of deferred taxes and interest made by the Commission under subsection A of this section and any amendment to the notice to reflect a lien for excess, described under subsection D of this section, and shall list the amount of the excess that the Commission claims as lien.

F. A lien created under this section may be foreclosed by the Commission as if it were a purchase money mortgage. Reasonable attorney fees at trial and on appeal and costs may be granted the Commission in a suit for foreclosure of its lien.

G. Receipts from foreclosure proceedings shall be credited in the same manner as other repayments of deferred property taxes.

H. By means of voluntary payment made as provided under Section 22 of this act, the taxpayer may limit the amount of the lien for deferred taxes created under this section. If the taxpayer desires that the limit be reflected in the records of the county, the taxpayer must request, subject to any rules adopted by the Commission, that the Commission cause a partial satisfaction of the lien to be recorded in the county. Upon receipt of such a request,

the Commission shall cause a partial satisfaction, in the amount of the voluntary payment, to be so recorded. Nothing in this subsection shall affect the priority of the liens of the Commission, as originally created under subsections A and D of this section.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2961 of Title 68, unless there is created a duplication in numbering, reads as follows:

Subject to Section 20 of this act, all deferred property taxes, including accrued interest, become payable as provided in Section 19 of this act when:

1. The taxpayer who claimed deferment of collection of property taxes on the homestead dies or, if there was more than one claimant, the survivor of the taxpayers who originally claimed deferment of collection of property taxes under Section 9 of this act dies;

2. The property with respect to which deferment of collection of taxes is claimed is sold, or a contract to sell is entered into, or some person other than the taxpayer who claimed the deferment becomes the owner of the property;

3. The tax-deferred property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from such tax-deferred property by reason of health; or

4. The tax-deferred property, a manufactured structure or floating home, is moved out of the state.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2962 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Whenever any of the circumstances listed in Section 18 of this act occurs:

1. The deferral of taxes for the assessment year in which the circumstance occurs shall continue for such assessment year; and

2. The amounts of deferred property taxes, including accrued interest, for all years shall be due and payable to the Oklahoma Tax Commission August 15 of the year following the calendar year in which the circumstance occurs, except as provided in subsection B of this section or Section 20 or 26 of this act.

B. Notwithstanding the provisions of paragraph 2 of subsection A of this section and Section 26 of this act, when the circumstances occur listed in paragraph 4 of Section 18 of this act, the amount of deferred taxes shall be due and payable five (5) days before the date of removal of the property from the state.

C. If the amounts falling due as provided in this section are not paid on the indicated due date, or as extended under Section 26 of this act, such amounts shall be deemed delinquent as of that date and the property shall be subject to foreclosure as provided in Section 12 or 17 of this act.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2963 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding Section 18 of this act, when one of the circumstances listed in paragraphs 1, 2 and 3 of Section 18 of this act occurs, the spouse who was not eligible to or did not file a claim jointly with the taxpayer may continue the property in its deferred tax status by filing a claim within the time and in the manner provided under Section 9 of this act if:

1. The spouse of the taxpayer is or will be sixty (60) years of age or older not later than six (6) months from the day the circumstance listed in paragraph 1, 2 or 3 of Section 18 of this act occurs; and

2. The property is the homestead of the spouse of the taxpayer and meets the requirements of paragraph 2 of Section 10 of this act.

B. A spouse who does not meet the age requirements of paragraph 1 of subsection A of this section but is otherwise qualified to

continue the property in its tax-deferred status under subsection A of this section may continue the deferral of property taxes deferred for previous years by filing a claim within the time and in the manner provided under Section 9 of this act. If a spouse eligible for and continuing the deferral of taxes previously deferred under this subsection becomes sixty-two (62) years of age prior to April 15 of any year, the spouse may elect to continue the deferral of previous years' taxes deferred under this subsection and may elect to defer the current assessment year's taxes on the homestead by filing a claim within the time and in the manner provided under Section 9 of this act. Thereafter, payment of the taxes levied on the homestead and deferred under this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred in the manner provided in and subject to this act.

C. Notwithstanding that Section 9 of this act requires that a claim be filed no later than April 15, if the Oklahoma Tax Commission determines that good and sufficient cause exists for the failure of a spouse to file a claim under this section on or before April 15, the claim may be filed within one hundred eighty (180) days after notice of taxes due and payable under Section 19 of this act is mailed or delivered by the Commission to the taxpayer or spouse.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2964 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding the provisions of subsection C of Section 9 of this act or any other provision of this act, if the individual or, in the case of two or more individuals electing to defer property taxes jointly, all of the individuals together, or the spouse who has filed a claim under Section 20 of this act, has federal adjusted gross income that exceeds Twenty-five Thousand

Dollars (\$25,000.00) for the tax year that began in the previous calendar year, then the taxes shall not be deferred for the tax year next beginning.

B. Prior to June 1, 1996, and prior to June 1 of each year thereafter, the Oklahoma Tax Commission shall review income tax returns filed to determine if subsection A of this section is applicable for a homestead for the tax year next beginning. If subsection A of this section is applicable, the Commission shall notify by mail the taxpayer or spouse electing deferral, and the taxes otherwise to be deferred for the tax year next beginning shall not be deferred.

C. If the taxpayer or spouse does not file an income tax return and the Commission has reason to believe that the federal adjusted gross income of the taxpayer or spouse exceeds Twenty-five Thousand Dollars (\$25,000.00) for the tax year that began in the previous calendar year, the Commission shall notify by mail the taxpayer or spouse electing deferral. If, within thirty (30) days after the notice is mailed, the taxpayer or spouse does not file an income tax return or otherwise satisfy the Commission that federal adjusted gross income does not exceed Twenty-five Thousand Dollars (\$25,000.00), the Commission shall again notify the taxpayer or spouse, and the taxes otherwise to be deferred for the tax year next beginning shall not be deferred.

D. Nothing in this section shall affect the continued deferral of taxes that have been deferred for tax years beginning prior to the tax year next beginning or the right to deferral of taxes for a tax year beginning after the tax year next beginning if subsection A of this section is not applicable for that tax year for the homestead.

E. As used in this section, "federal adjusted gross income" means federal adjusted gross income of the individual, or in the case of two or more individuals electing to defer property tax

jointly, the combined federal adjusted gross income of the individuals, or the federal adjusted gross income of the spouse who has filed a claim under Section 20 of this act, all as determined for the tax year beginning in the calendar year prior to which a determination is required under subsection B of this section.

"Federal adjusted gross income" shall be determined under the Internal Revenue Code without any of the additions, subtractions or other modifications or adjustments required under Section 2358 of Title 68 of the Oklahoma Statutes.

F. If, after an initial determination under this section has been made by the Commission, upon audit or examination or otherwise, it is discovered that the taxpayer or spouse had federal adjusted gross income in excess of the limitation provided under subsection A of this section, the Commission shall determine the amount of taxes deferred that should not have been deferred and give notice to the taxpayer or spouse of the amount of taxes that should not have been deferred. The provisions of the Oklahoma Income Tax Code shall apply to a determination of the Commission under this section in the same manner as those provisions are applicable to an income tax deficiency. The amount of deferred taxes that should not have been deferred shall bear interest from the date paid by the Commission until paid at the rate established under Section 217 of Title 68 of the Oklahoma Statutes for deficiencies. A deficiency shall not be assessed under this section if notice required under this section is not given to the taxpayer or spouse within three (3) years after the date that the Commission has paid the deferred taxes to the county. Upon payment of the amount assessed as deficiency, and interest, the Commission shall execute a release in the amount of the payment and the release shall be conclusive evidence of the removal and extinguishment of the lien under this act to the extent of the payment.

G. If, after an initial determination under this section has been made by the Commission, upon claim for refund, audit or examination or otherwise, it is discovered that the taxpayer or spouse had federal adjusted gross income in the amount of or less than the limitation provided under subsection A of this section, the Commission shall determine the amount of taxes deferred that should have been deferred and give notice to the taxpayer or spouse of the amount of taxes that should have been deferred. The provisions of the Oklahoma Income Tax Code shall apply to a determination of the Commission under this section in the same manner as those provisions are applicable to an income tax refund. The amount of the taxes that should have been deferred shall bear interest from the date paid by the taxpayer to the county at the rate established under Section 217 of Title 68 of the Oklahoma Statutes for refunds until paid. Claim for refund under this subsection must be filed within three (3) years after the earliest date that the taxpayer or spouse is notified by the Commission that the taxes are not deferred.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2965 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. All payments of deferred taxes shall be made to the Oklahoma Tax Commission.

B. Subject to subsection C of this section, all or part of the deferred taxes and accrued interest may at any time be paid to the Commission by:

1. The taxpayer or the spouse of the taxpayer; or
2. The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or any person having or claiming a legal or equitable interest in the property.

C. A person listed in paragraph 2 of subsection B of this section may make such payments only if no objection is made by the taxpayer within thirty (30) days after the Commission deposits in

the mail notice to the taxpayer of the fact that such payment has been tendered.

D. Any payment made under this section shall be applied first against accrued interest and any remainder against the deferred taxes. Such payment does not affect the deferred tax status of the property. Unless otherwise provided by law, such payment does not give the person paying the taxes any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary.

E. When the deferred taxes and accrued interest are paid in full and the property is no longer subject to deferral, the Commission shall prepare and record in the county in which the property is located a satisfaction of deferred property tax lien.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2966 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any provision of the Oklahoma Income Tax Code to the contrary and paragraph 1 of Section 27 of this act, upon compliance with Section 24 of this act, taxes, not in excess of One Thousand Dollars (\$1,000.00), assessed against a tax-deferred homestead for any tax year beginning on or after July 1, 1996, that were unpaid as of July 1 of the tax year for which homestead property tax deferral was initially granted under this act, and remain unpaid, shall remain a lien and shall become delinquent as otherwise provided by law, but shall not be subject to foreclosure until August 15 of the calendar year following the calendar year in which one of the circumstances listed in Section 18 of this act occurs.

B. This section does not apply if:

1. The tax-deferred homestead property is a manufactured structure or floating home and is moved out of state;

2. Except in the case of a manufactured structure or floating home, the tax-deferred homestead property is personal property; or

3. The owner of the tax-deferred homestead property has household income, for the calendar year immediately preceding the calendar year in which application is filed under Section 24 of this act, of Twenty-five Thousand Dollars (\$25,000.00) or more.

C. If the property to which subsection A of this section applies has been included on a foreclosure list, or a decree of foreclosure entered, and taxes in excess of One Thousand Dollars (\$1,000.00) assessed against the property for the earliest year are paid, the property shall be removed from the foreclosure list, or decree vacated, unless the proceeding against the property involves delinquent taxes other than those described in subsection A of this section.

D. Upon removal from the foreclosure list, or upon vacation of the decree, no penalty shall be imposed. In lieu thereof, the penalty is abated, or if the penalty has been paid, upon application made to the county assessor on or before July 1 of the year immediately following the year of vacation or removal, the penalty shall be refunded.

E. Within sixty (60) days after approval of an application under Section 24 of this act, with respect to any property to which this section applies, the county assessor shall make the proper entries on the tax roll and shall remove the property from the foreclosure list and proceeding.

F. If a decree has been entered foreclosing liens for delinquent taxes against any property which is the subject to an application filed under Section 24 of this act, and the delinquent taxes include only those taxes described in subsection A of this section, or taxes in excess of those described in subsection A of this section are paid, the decree shall be null and void and of no effect and the county assessor shall make the proper entries on the

assessment and tax rolls to reflect the vacation of the decree and to acknowledge the subsisting liens.

G. Nothing in this section shall remove or release property to which this section applies from the lien of any unpaid tax thereon, but the unpaid taxes shall remain valid and subsisting liens as though the foreclosure proceeding had not been instituted or as though the foreclosure proceeding had not been instituted and a decree entered.

H. Nothing in this section shall affect a foreclosure proceeding instituted, or a decree entered, to foreclose liens for delinquent taxes against properties subject to foreclosure if the delinquent taxes include taxes other than those described under subsection A of this section. Such foreclosure proceedings shall be instituted or continued without regard to this section and such decree shall be of full force and effect as if this section did not exist.

I. Interest on taxes to which this section applies shall be determined from the same dates, in the same manner and until paid as for other property taxes remaining unpaid upon the due dates, upon preparation of the foreclosure list in accordance with Section 217 of Title 68 of the Oklahoma Statutes and subsection A of this section and upon entry and following a decree of foreclosure.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2967 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The owner of tax-deferred homestead property desiring delay in foreclosure on account of delinquent taxes as provided in Section 23 of this act shall make application for the delay to the county assessor prior to the date the period of redemption expires. The application shall contain or be accompanied by a verified statement of gross household income of the owner for the calendar year

immediately preceding the calendar year in which the application is made.

B. Upon receipt of an application under subsection A of this section, the county assessor shall approve or deny the application. If the application is denied, the owner may appeal to the district court in the county where the tax-deferred homestead property is located within ninety (90) days after notice in writing of the denial is mailed to the owner by the county assessor. Orders of the district court in an appeal taken under this subsection may be appealed to the Court of Tax Review.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2968 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. At the time that the property is deeded over to the county at the conclusion of the foreclosure proceedings the court shall order the county treasurer to pay to the Oklahoma Tax Commission the amount of deferred taxes and interest which were not collected.

B. Immediately upon payment, the county treasurer shall notify the county assessor of the amount paid to the Commission for the property which has been deeded to the county.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2969 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. If the taxpayer who claimed homestead property tax deferral dies, or if a spouse who continued the deferral under Section 20 of this act dies, the Oklahoma Tax Commission may extend the time for payment of the deferred taxes and interest accruing with respect to the taxes becoming due and payable under paragraph 2 of Section 19 of this act if:

1. The homestead property becomes property of an individual or individuals:

a. by inheritance or devise, or

b. if the individual or individuals are heirs or devisees
in the course of settlement of the estate;

2. The individual or individuals commence occupancy of the property as a principal residence on or before August 15 of the calendar year following the calendar year of death; and

3. The individual or individuals make application to the Commission for an extension of time for payment of the deferred taxes and interest prior to August 15 of the calendar year following the calendar year of death.

B. Subject to subsection C of this section, an extension granted under this section shall be for a period not to exceed five (5) years after August 15 of the calendar year following the calendar year of death. The terms and conditions under which the extension is granted shall be in accordance with a written agreement entered into by the Commission and the individual or individuals.

C. An extension granted under this section shall terminate immediately if:

1. The homestead property is sold or otherwise transferred by any party to the extension agreement;

2. All of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or

3. The homestead property, a manufactured structure or floating home is moved out of the state.

D. If the Commission has reason to believe that the homestead property is not sufficient security for the deferred taxes and interest, the Commission may require the individual or individuals to furnish a bond conditioned upon payment of the amount extended in accordance with the terms of the extension. The bond shall not exceed in amount double the taxes with respect to which tax extension is granted.

E. During the period of extension, and until paid, the deferred taxes shall continue to accrue interest in the same manner and at the same rate as provided under subsection C of Section 13 of this act. No interest shall accrue upon interest.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2970 of Title 68, unless there is created a duplication in numbering, reads as follows:

Nothing in this act is intended to or shall be construed to:

1. Prevent the collection, by foreclosure, of property taxes which become a lien against tax-deferred property;
2. Defer payment of special assessments to benefited property which assessments do not appear on the assessment and tax roll; or
3. Affect any provision of any mortgage or other instrument relating to land requiring a person to pay property taxes.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2971 of Title 68, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any mortgage trust deed or land sale contract to contain a clause or statement which prohibits the owner from applying for the benefits of the deferral of homestead property taxes provided in this act. Any such clause or statement in a mortgage trust deed or land sale contract executed after January 1, 1996, shall be void.

SECTION 29. REPEALER 68 O.S. 1991, Sections 1201, as amended by Section 38, Chapter 366, O.S.L. 1993, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213 and 1214 (68 O.S. Supp. 1994, Section 1201), are hereby repealed.

SECTION 30. This act shall become effective July 1, 1995.

SECTION 31. 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.

Passed the Senate the 8th day of March, 1995.

President of the Senate

Passed the House of Representatives the ____ day of

_____, 1995.

Speaker of the House of
Representatives