

ENROLLED SENATE
BILL NO. 1084

By: Gumm of the Senate

and

Calvey of the House

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 1357, as last amended by Section 58 of Enrolled House Bill No. 3139 of the 2nd Session of the 50th Oklahoma Legislature and 1361.1, which relate to sales tax; expanding exemption for certain sales of programs and advertising; clarifying application of certain tax exemption for certain veterans; exempting specified sales to contractor or subcontractor constructing or expanding certain facility; establishing administrative penalty for refusal to honor specified exemption; requiring proof of eligibility to claim for specified exemption; requiring vendors to honor proof of eligibility; limiting municipal authority to levy sales tax subject to certain requirement; providing for application of provision; amending Section 11, Chapter 504, O.S.L. 2004 (47 O.S. Supp. 2005, Section 1135.2), as last amended by Section 1 of Enrolled Senate Bill No. 1074 of the 2nd Session of the 50th Oklahoma Legislature, which relates to special license plates; creating Gold Star Survivor license plate; defining term; amending 63 O.S. 2001, Sections 4021, as last amended by Section 18, Chapter 190, O.S.L. 2005 and 4106 (63 O.S. Supp. 2005, Section 4021), which relates to the Oklahoma Motor and Vessel Registration Act; exempting from registration requirements certain nonprofit organizations; exempting from the payment of excise tax vessels or motors owned by certain nonprofit organizations; authorizing certain parties to make reimbursement of specified taxes according to certain schedule; requiring certain notification and limiting action based upon date of notification; authorizing party to be reimbursed to require certain security; prohibiting modification of certain payment terms; providing for application of provision; amending 68 O.S. 2001, Sections 320 and 412, which relate to the cigarette stamp and tobacco products tax; modifying the amount of bond required when making application for a distributing agent's or wholesaler's license; providing for release of a surety bond upon written request and expiration of specified time period; requiring Oklahoma Tax Commission to provide certain notification and to cancel license unless specified conditions are met; requiring cancellation of certain security; authorizing retention of some security under specified conditions; authorizing the Tax Commission to return, refund or release bond or

security under specified conditions; providing for review of certain Tax Commission decision; permitting posting of single bond when applicant applies for more than one license; amending 68 O.S. 2001, Section 1356, as last amended by Section 51 of Enrolled House Bill No. 3139 of the 2nd Session of the 50th Oklahoma Legislature, which relates to sales tax exemptions; providing exemption for advertising sold for certain state brochures; authorizing exemption for sales of tickets to certain professional athletic and sporting events; providing exemption for certain persons who contract with a church for construction services; providing an exemption for sales at specified events by certain organizations; amending 68 O.S. 2001, Sections 2353, as amended by Section 2, Chapter 463, O.S.L. 2003, 2357.11, as last amended by Section 5, Chapter 413, O.S.L. 2005, Section 1, Chapter 313, O.S.L. 2002, as amended by Section 1, Chapter 384, O.S.L. 2005, 2357.41, as last amended by Section 6, Chapter 413, O.S.L. 2005, Section 1, Chapter 439, O.S.L. 2005, 2358, as last amended by Section 65 of Enrolled House Bill No. 3139 of the 2nd Session of 50th Oklahoma Legislature (68 O.S. Supp. 2005, Sections 2353, 2357.11, 2357.32B, 2357.41 and 2357.46), which relate to income tax; extending the expiration date for depletion allowance; extending the expiration date for certain credits relating to coal; reducing the time period certain credits may be claimed by certain persons or entities; modifying the time period for claiming and amount of certain credit; modifying the price threshold which determines whether or not certain credits are allowed; deleting expiration date for certain tax credits relating to manufacture of small wind turbines; deleting reference to credit against rural electric cooperative tax; providing for credit against bank privilege tax; providing for period during which credit may be claimed; providing for applicability of requirement pursuant to Section 47 of the Internal Revenue Code; modifying terminology; requiring forms for use of credit by transferees; modifying provisions related to review of rehabilitation work; modifying time period for certain listing; modifying definitions; making certain credits for construction of energy efficient residential housing transferable; reducing required time period of ownership for purposes of certain capital gains exemption; amending 68 O.S. 2001, Sections 2835, 2844, as amended by Section 6, Chapter 116, O.S.L. 2005, Section 1, Chapter 265, O.S.L. 2002, as amended by Section 3, Chapter 462, O.S.L. 2003, 2876, as amended by Section 6, Chapter 518, O.S.L. 2004, and 3108, as last amended by Section 6 of Enrolled House Bill No. 2361 of the 2nd Session of the 50th Oklahoma Legislature (68 O.S. Supp. 2005, Sections 2844, 2851.2 and 2876), which relate to ad valorem tax; providing for confidentiality of certain

documents produced by taxpayer; modifying interest rate on certain delinquent taxes; modifying date by which certain report is due; modifying procedures for telephonic hearings before a county assessor; providing priority order for certain associations to make certain purchase; providing for fair and impartial drawing under certain circumstances; repealing 68 O.S. 2001, Section 1356, as last amended by Section 1 of Enrolled Senate Bill No. 1022 of the 2nd Session of the 50th Oklahoma Legislature, which is a duplicate section relating to sales tax exemptions; repealing 68 O.S. 2001, Section 1356, as last amended by Section 1 of Enrolled House Bill No. 2062 of the 2nd Session of the 50th Oklahoma Legislature, which is a duplicate section relating to sales tax exemptions; providing for codification; and providing effective dates.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1357, as last amended by Section 58 of Enrolled House Bill No. 3139 of the 2nd Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 1357. Exemptions - General.

There are hereby specifically exempted from the tax levied by ~~Section 1350 et seq. of this title~~ the Oklahoma Sales Tax Code:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;
3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in ~~Section 1350 et seq. of this title~~ the Oklahoma Sales Tax Code. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salespersons who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by ~~Section 1350 et seq. of this title~~ the Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside

this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

4. Sales of advertising space in newspapers~~7~~ and periodicals~~7~~;

5. Sales of programs relating to sporting and entertainment events, and sales of advertising on billboards (including signage, posters, panels, marquees, or on other similar surfaces, whether indoors or outdoors) or in programs relating to sporting and entertainment events, and any sales of any advertising, to be displayed at or in connection with a sporting event, via the Internet, electronic display devices, or through public address or broadcast systems. The exemption authorized by this paragraph shall be effective for all sales made on or after January 1, 2001;

6. Sales of any advertising, other than the advertising described by paragraph 5 of this section, via the Internet, electronic display devices, or through the electronic media, including radio, public address or broadcast systems, television (whether through closed circuit broadcasting systems or otherwise), and cable and satellite television, and the servicing of any advertising devices;

~~5- 7.~~ 7. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

~~6- 8.~~ 8. Sale of natural or artificial gas and electricity, and associated delivery or transmission services, when sold exclusively for residential use. Provided, this exemption shall not apply to any sales tax levied by a city or town, or a county, or any other jurisdiction in this state;

~~7- 9.~~ 9. In addition to the exemptions authorized by Section 1357.6 of this title, sales of drugs sold pursuant to a prescription written for the treatment of human beings by a person licensed to prescribe the drugs, and sales of insulin and medical oxygen. Provided, this exemption shall not apply to over-the-counter drugs;

~~8- 10.~~ 10. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling

or otherwise transferring empty, partially filled, or filled returnable oil drums;

~~9.~~ 11. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

~~10.~~ 12. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

~~11.~~ 13. Sales of food or food products, or any equipment or supplies used in the preparation of the food or food products to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as "Meals on Wheels" or "Mobile Meals", or
- b. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which receives federal funding pursuant to the Older Americans Act of 1965, as amended, for the purpose of providing nutrition programs for the care and benefit of elderly persons;

~~12.~~

14. a. Sales of tangible personal property or services to or by organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and:

- (1) are primarily involved in the collection and distribution of food and other household products to other organizations that facilitate the distribution of such products to the needy and such distributee organizations are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), or
- (2) facilitate the distribution of such products to the needy.

- b. Sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business shall not be exempt under this paragraph;

~~13.~~ 15. Sales of tangible personal property or services to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

~~14.~~ 16. Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars (\$5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00);

~~15.~~ 17. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of this section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

~~16.~~ 18. Sales of any interstate telecommunications services which:

- a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or
- b. entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges;

~~17.~~ 19. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts;

~~18.~~ 20. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C., Section 1504;

~~19.~~ 21. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing:

- a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, 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
- b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, 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 for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consumer;

~~20.~~ 22. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" shall have the same meaning as provided in Section 1357.6 of this title, but shall not include corrective eye glasses, contact lenses or hearing aids;

~~21.~~ 23. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "eligible production" means a documentary, special, music video, or a television commercial or television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series filmed or taped for network or national or regional syndication or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast. The provisions of this paragraph shall apply to sales occurring on or after July 1, 1996. In order to

qualify for the exemption, the motion picture or television production company shall file any documentation and information required to be submitted pursuant to rules promulgated by the Tax Commission;

~~22.~~ 24. Sales of diesel fuel sold for consumption by commercial vessels, barges and other commercial watercraft;

~~23.~~ 25. Sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state;

~~24.~~ 26. Effective May 6, 1992, sales of wireless telecommunications equipment to a vendor who subsequently transfers the equipment at no charge or for a discounted charge to a consumer as part of a promotional package or as an inducement to commence or continue a contract for wireless telecommunications services;

~~25.~~ 27. Effective January 1, 1991, leases of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power;

~~26.~~ 28. Beginning July 1, 2005, sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and sales of services employed in the repair, modification and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint;

~~27.~~ 29. Sales of materials and supplies to the owner or operator of a ship, motor vessel or barge that is used in interstate or international commerce if the materials and supplies:

- a. are loaded on the ship, motor vessel or barge and used in the maintenance and operation of the ship, motor vessel or barge, or
- b. enter into and become component parts of the ship, motor vessel or barge;

~~28.~~ 30. Sales of tangible personal property made at estate sales at which such property is offered for sale on the premises of the former residence of the decedent by a person who is not required to be licensed pursuant to the Transient Merchant Licensing Act, ~~Section 1601 et seq. of Title 19 of the Oklahoma Statutes,~~ or who is not otherwise required to obtain a sales tax permit for the sale of such property pursuant to the provisions of Section 1364 of this title; provided:

- a. such sale or event may not be held for a period exceeding three (3) consecutive days,
- b. the sale must be conducted within six (6) months of the date of death of the decedent, and

- c. the exemption allowed by this paragraph shall not be allowed for property that was not part of the decedent's estate;

~~29.~~ 31. Beginning January 1, 2004, sales of electricity and associated delivery and transmission services, when sold exclusively for use by an oil and gas operator for reservoir dewatering projects and associated operations commencing on or after July 1, 2003, in which the initial water-to-oil ratio is greater than or equal to five-to-one water-to-oil, and such oil and gas development projects have been classified by the Corporation Commission as a reservoir dewatering unit;

~~30.~~ 32. Sales of prewritten computer software that is delivered electronically. For purposes of this paragraph, "delivered electronically" means delivered to the purchaser by means other than tangible storage media;

~~31.~~ 33. Sales of modular dwelling units when built at a production facility and moved in whole or in parts, to be assembled on-site, and permanently affixed to the real property and used for residential or commercial purposes. The exemption provided by this paragraph shall equal forty-five percent (45%) of the total sales price of the modular dwelling unit. For purposes of this paragraph, "modular dwelling unit" means a structure that is not subject to the motor vehicle excise tax imposed pursuant to Section 2103 of this title;

~~32.~~ 34. Sales of tangible personal property or services to persons who have been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard and who have been certified by the United States Department of Veterans Affairs or its successor to be in receipt of disability compensation at the one-hundred-percent rate and the disability shall be permanent and have been sustained through military action or accident or resulting from disease contracted while in such active service; provided, sales for the benefit of the person to a spouse of the eligible person or to a member of the household in which the eligible person resides and who is authorized to make purchases on the person's behalf, when such eligible person is not present at the sale, shall also be exempt for purposes of this paragraph. Sales qualifying for the exemption authorized by this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) per year per individual. Upon request of the ~~Oklahoma~~ Tax Commission, a person asserting or claiming the exemption authorized by this paragraph shall provide a statement, executed under oath, that the total sales amounts for which the exemption is applicable have not exceeded Twenty-five Thousand Dollars (\$25,000.00) per year. If the amount of such exempt sales exceeds such amount, the sales tax in excess of the authorized amount shall be treated as a direct sales tax liability and may be recovered by the ~~Oklahoma~~ Tax Commission in the same manner provided by law for other taxes, including penalty and interest;

~~33.~~ 35. Sales of electricity to the operator, specifically designated by the Oklahoma Corporation Commission, of a spacing unit or lease from which oil is produced or attempted to be produced

using enhanced recovery methods, including, but not limited to, increased pressure in a producing formation through the use of water or saltwater if the electrical usage is associated with and necessary for the operation of equipment required to inject or circulate fluids in a producing formation for the purpose of forcing oil or petroleum into a wellbore for eventual recovery and production from the wellhead. In order to be eligible for the sales tax exemption authorized by this paragraph, the oil well production shall not exceed ten (10) barrels per day prior to the use of enhanced recovery methods and the total content of oil recovered prior to the use of enhanced recovery methods shall not exceed one percent (1%) by volume. The exemption authorized by this paragraph shall be applicable only to the state sales tax rate and shall not be applicable to any county or municipal sales tax rate; ~~and~~

~~34.~~ 36. Sales of intrastate charter and tour bus transportation. As used in this paragraph, "intrastate charter and tour bus transportation" means the transportation of persons from one location in this state to another location in this state in a motor vehicle which has been constructed in such a manner that it may lawfully carry more than eighteen persons, and which is ordinarily used or rented to carry persons for compensation. Provided, this exemption shall not apply to regularly scheduled bus transportation for the general public; and

37. Sales of tangible personal property consumed or incorporated in the construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a rural electric cooperative for construction or expansion of a facility shall be considered sales made to a rural electric cooperative.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 1361.1, is amended to read as follows:

Section 1361.1 A. If a vendor, in good faith, timely accepts from a consumer properly completed documentation certified by the Oklahoma Tax Commission that such consumer is exempt from the taxes levied by the Oklahoma Sales Tax Code, the vendor shall be relieved of any liability for any sales tax or the duty to collect any sales tax imposed by the provisions of Section 1361 of this title upon such vendor with respect to such sale.

B. A vendor who has actual knowledge that a consumer is entitled to an exemption under paragraph 34 of Section 1357 of this title and who willfully or intentionally refuses to honor the exemption shall be punished by an administrative fine of Five Hundred Dollars (\$500.00) per offense.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1361.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

In order to claim the exemption authorized by paragraph 34 of Section 1357 of Title 68 of the Oklahoma Statutes, the person to

whom the sale is made shall be required to furnish the vendor proof of eligibility for the exemption as issued by the Oklahoma Tax Commission. All vendors shall honor the proof of eligibility for sales tax exemption and sales for the benefit of the disabled veteran to a person providing such proof shall be exempt from the tax levied pursuant to the Oklahoma Sales Tax Code.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-109A of Title 11, unless there is created a duplication in numbering, reads as follows:

A. No municipality shall impose any tax levy authorized pursuant to Section 2701 of Title 68 of the Oklahoma Statutes within the boundary of any area annexed by the municipality unless the municipality furnishes the types of services to such annexed area as are ordinarily furnished to residents of the municipality in the incorporated area of the municipality prior to such annexation.

B. The provisions of subsection A of this section shall be applicable with respect to annexations occurring on or after July 1, 2003, but shall not be applicable to any municipal taxes imposed by any municipality within such annexed areas until July 1, 2006.

SECTION 5. AMENDATORY Section 11, Chapter 504, O.S.L. 2004 (47 O.S. Supp. 2005, Section 1135.2), as last amended by Section 1 of Enrolled Senate Bill No. 1074 of the 2nd Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 1135.2 A. The Oklahoma Tax Commission is hereby authorized to design and issue appropriate official special license plates to persons in recognition of their service or awards as provided by this section.

Special license plates shall not be transferred to any other person but shall be removed from the vehicle upon transfer of ownership and retained. The special license plate may then be used on another vehicle but only after such other vehicle has been registered for the current year.

Special license plates shall be renewed each year by the Tax Commission or a motor license agent. The Tax Commission shall annually notify by mail all persons issued special license plates. The notice shall contain all necessary information and shall contain instructions for the renewal procedure upon presentation to a motor license agent or the Tax Commission. The license plates shall be issued on a staggered system except for legislative plates and amateur radio operator license plates.

The Tax Commission is hereby directed to develop and implement a system whereby motor license agents are permitted to accept applications for special license plates authorized under this section. The motor license agent shall confirm the applicant's eligibility, if applicable, collect and deposit any amount specifically authorized by law, accept and process the necessary information directly into such system and generate a receipt accordingly. For performance of these duties, motor license agents shall retain the fee provided in Section 1141.1 of this title for

registration of a motor vehicle. The motor license agent fees for acceptance of applications and renewals shall be paid out of the Oklahoma Tax Commission Reimbursement Fund.

B. The special license plates provided by this section are as follows:

1. Prisoner of War License Plates - such plates shall be designed for honorably discharged or present members of the United States Armed Forces and civilians who were former prisoners of war held by a foreign country and who can provide proper certification of that status. Such persons may apply for a prisoner of war license plate for no more than two vehicles with each vehicle having a rated carrying capacity of one (1) ton or less. The surviving spouse of any deceased former prisoner of war, if the spouse has not since remarried, or if remarried, the remarriage is terminated by death, divorce, or annulment, may apply for a prisoner of war license plate for one vehicle with a rated carrying capacity of one (1) ton or less. The fee provided by this section for the special license plate authorized by this paragraph shall be in addition to all other registration fees provided by law, except the registration fees levied by Section 1132 of this title;

2. National Guard License Plates - such plates shall be designed for active or retired members of the Oklahoma National Guard. Retirees who are eligible for such plates shall provide proof of eligibility upon initial application, but shall not be required to provide proof of eligibility annually;

3. Air National Guard License Plates - such plates shall be designed for active or retired members of the Oklahoma Air National Guard. Retirees who are eligible for such plates shall provide proof of eligibility upon initial application, but shall not be required to provide proof of eligibility annually;

4. United States Armed Forces - such plates shall be designed for active, retired, former or reserve members of the United States Armed Forces, and shall identify which branch of service, and carry the emblem and name of either the Army, Navy, Air Force, Marines or Coast Guard, according to the branch of service to which the member belongs or did belong. Former members who have been dishonorably discharged shall not be eligible for such plates. Persons applying for such license plate must show proof of present or past military service by presenting a valid Uniformed Services Identity Card or the United States Department of Defense Form (DD)214. Retired or former members who are eligible for such plates shall provide proof of eligibility upon initial application, but shall not be required to provide proof of eligibility annually;

5. Congressional Medal of Honor Recipient License Plates - such plates shall be designed for any resident of this state who has been awarded the Congressional Medal of Honor. Such persons may apply for a Congressional Medal of Honor recipient license plate for each vehicle with a rated carrying capacity of one (1) ton or less. There shall be no registration fee for the issuance of this plate;

6. Missing In Action License Plates - such plates shall be designed to honor members of the United States Armed Forces who are missing in action. The spouse of such missing person, if the spouse has not since remarried, or if remarried, the remarriage is terminated by death, divorce, or annulment, and each parent of the missing person may apply for a missing in action license plate upon presenting proper certification that the person is missing in action and that the person making the application is the qualifying spouse or the parent of the missing person. The qualifying spouse and each parent of the missing person may each apply for the missing in action license plate for each vehicle with a rated carrying capacity of one (1) ton or less;

7. Purple Heart Recipient License Plates - such plates shall be designed for any resident of this state presenting proper certification from the United States Department of Veterans Affairs or the Armed Forces of the United States certifying that such resident has been awarded the Purple Heart military decoration. Such persons may apply for a Purple Heart recipient license plate for vehicles having a rated carrying capacity of one (1) ton or less. The surviving spouse of any deceased veteran who has been awarded the Purple Heart military decoration, if such spouse has not since remarried, or if remarried, the remarriage has been terminated by death, divorce or annulment, may apply for such plate for one vehicle with a rated carrying capacity of one (1) ton or less;

8. Pearl Harbor Survivor License Plates - such plates shall be designed for any resident of this state who can be verified by the United States Department of Veterans Affairs or the Armed Forces of the United States as being:

- a. a member of the United States Armed Forces on December 7, 1941,
- b. stationed on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles, and
- c. a recipient of an honorable discharge from the United States Armed Forces.

Such person may apply for a Pearl Harbor Survivor license plate for each vehicle with a rated carrying capacity of one (1) ton or less;

9. Iwo Jima License Plates - such plates shall be designed for any resident of this state who can be verified by the United States Department of Veterans Affairs or the Armed Forces of the United States as being:

- a. a member of the United States Armed Forces in February of 1945,
- b. stationed in February of 1945 on or in the immediate vicinity of the island of Iwo Jima, and

- c. a recipient of an honorable discharge from the United States Armed Forces.

Such person may apply for an Iwo Jima license plate for each vehicle with a rated carrying capacity of one (1) ton or less.

Such license plate shall have the legend "Oklahoma OK" and shall contain three letters and three numbers. Between the letters and numbers shall be a logo of the flag-raising at Iwo Jima. Below the letters, logo and numbers, the plate shall contain the words "FEB." at the left, "Iwo Jima" in the center and "1945" at the right. Such plates shall not be subject to the design requirements of any other license plates prescribed by law other than the space for the placement of the yearly decals for each succeeding year of registration after the initial issue;

10. D-Day Survivor License Plates - such plates shall be designed for any resident of this state who can be verified by the United States Department of Veterans Affairs or the Armed Forces of the United States as being:

- a. a member of the United States Armed Forces on June 6, 1944,
- b. a participant in the Allied invasion of the coast of Normandy on June 6, 1944; provided, if such participation cannot be verified by the United States Department of Veterans Affairs or the Armed Forces of the United States, the Tax Commission may, in its discretion, accept evidence of such participation from the person applying for the license plate, and
- c. a recipient of an honorable discharge from the United States Armed Forces.

Such person may apply for a D-Day Survivor license plate for each vehicle with a rated carrying capacity of one (1) ton or less;

11. Killed in Action License Plates - such plates shall be designed to honor members of the United States Armed Forces who were killed in action. The spouse of the deceased person, if the spouse has not remarried, or if remarried, the remarriage is terminated by death, divorce, or annulment, may apply for a killed in action license plate upon presenting proper certification that the person was killed in action and that the person making the application is the qualifying spouse of the deceased person. The qualifying spouse may apply for a killed in action license plate for no more than two vehicles with each vehicle with a rated carrying capacity of one (1) ton or less. The fee provided by this section for the special license plate authorized by this paragraph shall be in addition to all other registration fees provided by law, except the registration fees levied by Section 1132 of this title;

12. Gold Star Parents License Plates - such plates shall be designed to honor members of the United States Armed Forces who were killed during a war. The parents of the deceased person may apply for a gold star license plate upon presenting proper certification

that the person was killed during a war and that the person making the application is the parent of the deceased person. The parent may apply for a gold star parent license plate for no more than two vehicles with each vehicle having a rated carrying capacity of one (1) ton or less. The fee provided by this section for the special license plate authorized by this paragraph shall be in addition to all other registration fees provided by law, except the registration fees levied by Section 1132 of this title;

13. Military Decoration License Plates - such plates shall be designed for any resident of this state who has been awarded the Distinguished Service Medal, the Distinguished Service Cross, the Distinguished Flying Cross, the Bronze Star military decoration or the Silver Star military decoration. Such persons may apply for a military decoration license plate for each vehicle with a rated carrying capacity of one (1) ton or less;

14. Vietnam Veteran License Plates - such plates shall be designed for honorably discharged or present members of the United States Armed Forces who served in the Vietnam Conflict. Such persons may apply for a Vietnam veteran license plate for each vehicle with a rated carrying capacity of one (1) ton or less;

15. Police Officer License Plates - such plates shall be designed for any currently employed or retired municipal police officer. Police officers may apply for police officer license plates for vehicles with a rated capacity of one (1) ton or less or for a motorcycle upon proof of employment by or retirement from a municipal police department by either an identification card or letter from the chief of the police department or the Oklahoma Police Pension and Retirement Board. Retirees who are eligible for such plates shall provide proof of eligibility upon initial application, but shall not be required to provide proof of eligibility annually. The license plates shall be designed in consultation with municipal police departments of this state; provided, the license plate for motorcycles may be of similar design to the license plate for motor vehicles or may be a new design in order to meet space requirements for a motorcycle license plate;

16. World War II Veteran License Plates - such plates shall be designed to honor honorably discharged former members of the United States Armed Forces who are residents of this state and who can be verified by the Oklahoma Military Department, the Department of Veterans Affairs or the Armed Forces of the United States as having served on federal active duty anytime during the period from September 16, 1940, to December 7, 1945. The former members may apply for a World War II Veteran license plate for vehicles with a rated carrying capacity of one (1) ton or less.

The license plate shall have the legend "Oklahoma" and shall contain, in the center of the plate, either the Thunderbird Insignia of the 45th Infantry Division in the prescribed red and gold coloring or the emblem of the Army, Navy, Air Force, Marines or Coast Guard according to the branch of service to which the member belonged. For the purpose of license plate identification, the plate shall contain four digits, two digits at the left and two

digits at the right of the insignia or emblem. Centered on the bottom of the license plate shall be the words "WORLD WAR II";

17. Korean War Veteran License Plates - such plates shall be designed to honor honorably discharged former members of the United States Armed Forces who are residents of this state and who can be verified by the Oklahoma Military Department, the Department of Veterans Affairs or the Armed Forces of the United States as having served on federal active duty anytime during the period from June 27, 1950, to January 31, 1955, both dates inclusive. The former members may apply for a Korean War Veteran license plate for vehicles with a rated carrying capacity of one (1) ton or less.

The license plate shall have the legend "OKLAHOMA" and shall contain, in the center of the plate, either the Thunderbird Insignia of the 45th Infantry Division in the prescribed red and gold coloring or the emblem of the Army, Navy, Air Force, Marines or Coast Guard according to the branch of service to which the member belonged. For the purpose of license plate identification, the plate shall contain four digits, two digits at the left and two digits at the right of the insignia or emblem. Centered on the bottom of the license plate shall be the word "KOREA";

18. Municipal Official License Plates - such plates shall be designed for persons elected to a municipal office in this state and shall designate the name of the municipality and the district or ward in which the municipal official serves. The plates shall only be produced upon application;

19. Red Cross Volunteer License Plates - such plates shall be designed to honor American Red Cross volunteers and staff who are residents of this state. Such persons must present an identification card issued by the American Red Cross and bearing a photograph of the person. The license plate shall be designed with the assistance of the American Red Cross and shall have the legend "Oklahoma OK!" in the color Pantone 186C Red. Below the legend the symbol of the American Red Cross and no more than three letters and three numbers shall be in the color Pantone 186C Red. Below the symbol and letters and numbers shall be the words "American Red Cross" in black. The plates shall not be subject to the design requirements of any other license plates prescribed by law other than the space for the placement of the yearly decals for each succeeding year of registration after the initial issue;

20. Veterans of Foreign Wars License Plates - such plates shall be designed to honor the veterans of foreign wars and issued to any resident of this state who is a member of a Veterans of Foreign Wars organization in this state. Such persons may apply for Veterans of Foreign Wars license plates upon proof of membership in a Veterans of Foreign Wars organization. The license plate shall be designed in consultation with the Veterans of Foreign Wars organization;

21. Desert Storm License Plates - such plates shall be designed and issued to any honorably discharged or present member of the United States Armed Forces who served in the Persian Gulf Crisis and the Desert Storm operation. Such persons may apply for a Desert

Storm license plate for each vehicle with a rated carrying capacity of one (1) ton or less;

22. Military Reserve Unit License Plates - such plates shall be designed and issued to any honorably discharged or present member of a reserve unit of the United States Armed Forces. Such persons may apply for a Military Reserve Unit license plate for each vehicle with a rated carrying capacity of one (1) ton or less;

23. Oklahoma City Bombing Victims and Survivors License Plates - such plates shall be designed and issued to any victim or survivor of the bombing attack on the Alfred P. Murrah Federal Building in downtown Oklahoma City on April 19, 1995;

24. Civil Air Patrol License Plates - such plates shall be designed and issued to any person who is a member of the Civil Air Patrol. Such persons may apply for a Civil Air Patrol license plate for each vehicle with a rated carrying capacity of one (1) ton or less upon proof of membership in the Civil Air Patrol. The license plate shall be designed in consultation with the Civil Air Patrol;

25. Ninety-Nines License Plates - such plates shall be designed and issued to members of the Ninety-Nines. Persons applying for such license plate must show proof of membership in the Ninety-Nines. The license plates shall be designed in consultation with the Ninety-Nines;

26. Combat Infantryman Badge License Plates - such plates shall be designed to honor recipients of the Combat Infantryman Badge. The plate shall have the legend "Oklahoma OK". Below the legend shall be the Combat Infantryman Badge and three numbers. Below the badge and the numbers shall be the words "Combat Infantryman Badge". Such persons may apply for a Combat Infantryman Badge license plate for each vehicle with a rated carrying capacity of one (1) ton or less;

27. Somalia Combat Veterans License Plates - such plates shall be designed and issued to any honorably discharged or present member of the United States Armed Forces who saw combat in the United Nations relief effort. Such persons may apply for a Somalia Combat Veteran license plate for each vehicle with a rated carrying capacity of one (1) ton or less;

28. Police Chaplain License Plates - such plates shall be designed and issued to members of the International Conference of Police Chaplains (ICPC) who have completed the ICPC requirements for basic certification as a police chaplain. The license plates shall be designed in consultation with the ICPC;

29. Joint Service Commendation Medal License Plates - such plates shall be designed and issued to any resident of this state who has been awarded the Joint Service Commendation Medal by the United States Secretary of Defense;

30. Merchant Marine License Plates - such plates shall be designed, subject to criteria to be presented to the Tax Commission by the Oklahoma Department of Veterans Affairs, and issued to any

person who during combat was a member of the Merchant Marines as certified by the Oklahoma Department of Veterans Affairs. Such license plate may be issued for each vehicle with a rated carrying capacity of one (1) ton or less;

31. Legislative License Plates - such plates shall be designed for persons elected to the Oklahoma Legislature and shall designate the house of the Legislature in which the legislator serves and the district number;

32. Disabled Veterans License Plates - such plates shall be designed for persons presenting proper certification from the United States Department of Veterans Affairs or the Armed Forces of the United States certifying such veteran has a service-connected disability rating of fifty percent (50%) or more, regardless which agency pays the disability benefits, or that such veteran has been awarded a vehicle by the United States government or receives a grant from the United States Department of Veterans Affairs for the purchase of an automobile due to a service-connected disability rating or due to the loss of use of a limb or an eye. Such persons may apply to the Tax Commission for a disabled veterans license plate or to a motor license agent for a regular license plate for no more than two vehicles with each vehicle having a rated carrying capacity of one (1) ton or less. The surviving spouse of any deceased disabled veteran, if the spouse has not since remarried, or if remarried, the remarriage is terminated by death, divorce, or annulment, may apply for a disabled veterans license plate for one vehicle with a rated carrying capacity of one (1) ton or less. The fee provided by this section for the special license plate authorized by this paragraph shall be in addition to all other registration fees provided by law, except the registration fees levied by Section 1132 of this title.

If the person qualifies for a disabled veterans license plate and is also eligible for an insignia as a physically disabled person under the provisions of Section 15-112 of this title, the person shall be eligible to receive a disabled veterans license plate that also displays the international accessibility symbol, which is a stylized human figure in a wheelchair. Upon the death of the disabled veteran with a disabled veterans license plate with the international accessibility symbol, the plate shall be returned to the Tax Commission;

33. United States Air Force Association License Plates - such plates shall be designed for members of the United States Air Force Association. Persons applying for such license plate must show proof of membership in the Association. The license plates shall be designed in consultation with the Association;

34. Oklahoma Military Academy Alumni License Plates - such plates shall be designed and issued to any resident of this state who is an alumnus of the Oklahoma Military Academy. Such persons may apply for an Oklahoma Military Academy Alumnus license plate for each vehicle with a rated carrying capacity of one (1) ton or less. The license plates shall be designed in consultation with the Oklahoma Military Academy and shall contain the shield of the Academy;

35. Amateur Radio Operator License Plates - such plates shall be designed and issued to any person, holding a valid operator's license, technician class or better, issued by the Federal Communications Commission, and who is also the owner of a motor vehicle currently registered in Oklahoma, in which has been installed amateur mobile transmitting and receiving equipment. Eligible persons shall be entitled to two special vehicle identification plates as herein provided. Application for such identification plates shall be on a form prescribed by the Oklahoma Tax Commission and the plates issued to such applicant shall have stamped thereon the word "Oklahoma" and bear the official call letters of the radio station assigned by the Federal Communications Commission to the individual amateur operator thereof. All applications for such plates must be made to the Oklahoma Tax Commission on or before the first day of October of any year for such plates for the following calendar year and must be accompanied by the fee required in this section together with a certificate, or such other evidence as the Tax Commission may require, of proof that applicant has a valid technician class or better amateur operator's license and proof of his ownership of a vehicle in which radio receiving and transmitting equipment is installed. Applicants shall only be entitled to one set of special identification plates in any one (1) year, and such calendar year shall be stamped thereon. The right to such special identification plates herein provided for shall continue until the amateur radio operator's license of the person to whom such plates are issued expires or is revoked;

36. American Legion License Plates - such plates shall be designed for members of the American Legion. Persons applying for such license plate must show proof of membership. The license plates shall be designed in consultation with the American Legion of Oklahoma;

37. Deputy Sheriff License Plates - such plates shall be designed for any currently employed or retired county sheriff or deputy sheriff. County sheriffs or deputy sheriffs may apply for such plates for vehicles with a rated capacity of one (1) ton or less upon proof of employment by or retirement from a county sheriff's office by either an identification card or letter from the county sheriff or a government-sponsored retirement board from which the county sheriff or deputy sheriff may be receiving a pension. Retirees who are eligible for such plates shall provide proof of eligibility upon initial application, but shall not be required to provide proof of eligibility annually. The license plates shall be designed in consultation with the county sheriff offices of this state; ~~and~~

38. Surviving Spouse License Plates - such plates shall be designed for any resident of this state who is the surviving spouse of an honorably discharged veteran who died due to or as a consequence of a service-connected disability. Such surviving spouse may, if not since remarried, or if remarried, the remarriage is terminated by death, divorce or annulment, apply for a Surviving Spouse license plate for one vehicle with a rated carrying capacity of one (1) ton or less; and

39. Gold Star Survivor License Plates - such plates shall be designed to honor the surviving spouses of qualified veterans. As used in this paragraph, "qualified veteran" shall mean:

- a. any person honorably discharged from any branch of the United States Armed Forces or as a member of the Oklahoma National Guard, who died as a direct result of the performance of duties for any branch of the United States Armed Forces or Oklahoma National Guard while on active military duty, or
- b. any person honorably discharged from any branch of the United States Armed Forces or as a member of the Oklahoma National Guard, who died as a result of injury, illness or disease caused by the performance of such duties while on active duty, whether the death occurred while on active duty or after the honorable discharge of such person.

C. Unless otherwise provided by this section, the fee for such plates shall be Eight Dollars (\$8.00) and shall be in addition to all other registration fees provided by the Oklahoma Vehicle License and Registration Act. Such fees shall be deposited in the Oklahoma Tax Commission Reimbursement Fund to be used for the administration of the Oklahoma Vehicle License and Registration Act.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 4021, as last amended by Section 18, Chapter 190, O.S.L. 2005 (63 O.S. Supp. 2005, Section 4021), is amended to read as follows:

Section 4021. A. The application required for the initial and subsequent registration of a vessel or a motor shall be accompanied by payment of the following fees:

1. Where the manufacturer's factory delivered price, or in the absence of such price being published in a recognized publication for the use of marine dealers and/or for purposes of insurance and financing firms, where the provable original or new cost of all materials, is One Hundred Fifty Dollars (\$150.00) or less, the registration and license fee for the first and for each succeeding year's registration shall be One Dollar (\$1.00);

2. Where the manufacturer's factory delivered price, or in the absence of such price being published as provided in paragraph 1 of this section, where the value of such vessel or motor is determined and fixed as above required and, is in excess of One Hundred Fifty Dollars (\$150.00), there shall be added to the fee of One Dollar (\$1.00), the sum of One Dollar (\$1.00) for each One Hundred Dollars (\$100.00) or any fraction thereof, in excess of One Hundred Fifty Dollars (\$150.00) provided such fee shall not exceed One Hundred Fifty Dollars (\$150.00);

3. After the first year's registration in this state under the Oklahoma Vessel and Motor Registration Act of any new vessel or new motor under paragraph 2 of this subsection, the registration for the second year shall be ninety percent (90%) of the fee computed and assessed hereunder for the first year, and thereafter, such fee

shall be computed and assessed at ninety percent (90%) of the previous year's fee and shall be so computed and assessed for the next nine (9) successive years provided such fee shall not exceed One Hundred Fifty Dollars (\$150.00);

4. The initial and subsequent registration fee for any vessel which is a part of a fleet used for lodging and for which a rental fee and sales tax are collected shall be Forty Dollars (\$40.00) in lieu of the fees required by paragraphs 1 through 3 of this subsection. For the purpose of this paragraph, "fleet" means twenty or more vessels operated by a business organization from a single anchorage. The fee provided for in this paragraph may be reduced annually to zero until the total reduction equals the difference between the sum of the fees paid pursuant to paragraphs 1 through 3 of this subsection for the two registration years preceding January 1, 1990, and the fee provided for in this paragraph;

5. For any vessel or motor owned and numbered, registered or licensed prior to January 1, 1990, in this or any other state, or in the absence of such registration upon proof of the year, model and age of same, the registration fee shall be computed and assessed at the rate hereinabove provided for a new vessel or motor based on the value thereof determined as provided in this subsection, but reduced as though same had been registered for each prior year of its existence. Except as provided in paragraph 1 of this subsection, the registration fee for the eleventh year computed in accordance with the provisions of this subsection shall be the amount of the fee to be assessed for such eleventh year and shall be the minimum annual registration fee for such vessel or motor for any subsequent year; and

6. The initial and subsequent registration fee for any vessel or motor which is not being used in a trade or business or for any commercial purpose and is owned by:

- a. a nonresident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,
- b. a resident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,
- c. the spouse, who resides in Oklahoma, of a resident or nonresident member of the Armed Forces of the United States serving in a foreign country, or
- d. any Oklahoma resident who is stationed out of state due to an official assignment of the Armed Forces of the United States,

shall be the lesser of either a Fifteen Dollar (\$15.00) registration fee or the fee computed and assessed for vessels or motors of similar age and model pursuant to this section.

B. As used in this section, the term "manufacturer's factory delivered price" shall represent the recommended retail selling price and shall not mean the wholesale price to a dealer.

C. The Oklahoma Tax Commission shall assess the registration fees and penalties for the year or years a vessel or motor was not registered as provided in the Oklahoma Vessel and Motor Registration Act. For vessels or motors not registered for two (2) or more years, the registration fees and penalties shall be due only for the current year and one (1) previous year.

D. Upon each vessel or motor repossessed by a mortgagee, a fee of Forty-six Dollars (\$46.00) shall be assessed. This fee shall be in lieu of any applicable vessel or motor excise tax and registration fees. Each motor license agent accepting applications for certificates of title for such vessel or motors shall receive Seven Dollars (\$7.00) to be deducted from the license fee specified in this paragraph for each application accepted.

E. All vessels or motors owned by the State of Oklahoma, its agencies or departments, or political subdivisions thereof, or which under the law would be exempt from direct ad valorem taxation, shall be registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act for an annual fee of Two Dollars and twenty-five cents (\$2.25) irrespective of whether registered by a motor license agent or the Tax Commission.

F. All vessels and motors owned:

1. By the Boy Scouts of America, the Girl Scouts of U.S.A., and the Camp Fire USA, devoted exclusively to youth programs emphasizing physical fitness, character development and citizenship training; ~~and~~

2. By the Department of Public Safety; and

3. By organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which are primarily devoted to the establishment, development, operation, promotion, and participation in, alone or in conjunction with others, educational and training programs and competitive events to provide knowledge, information, or comprehensive skills related to the sports of sailing, fishing, boating, and other aquatic related activities;

are hereby exempt from the payment of registration fees required by this section. Provided all of such vessels or motors shall be registered and shall otherwise comply with the provisions of the Oklahoma Vessel and Motor Registration Act.

G. A credit shall be allowed with respect to the fee for registration of any new vessel or new motor, when such new vessel or motor is a replacement for:

1. A new original vessel or new original motor which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vessel or new original motor as certified

by a police report or other documentation as required by the Tax Commission; or

2. A defective new original vessel or new original motor returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vessel or new original motor as certified by the manufacturer.

Such credit shall be in the amount of the fee for registration which was paid for the new original vessel or new original motor and shall be applied to the registration fee for the replacement vessel or motor. In no event will said credit be refunded.

H. Upon proper proof of a lost certificate of registration being made to the Tax Commission or one of its motor license agents, accompanied by an application therefor and payment of the fees required by the Oklahoma Vessel and Motor Registration Act, a duplicate certificate of registration shall be issued to the applicant. The charge for such duplicate certificate of registration shall be Two Dollars and twenty-five cents (\$2.25), which charge shall be in addition to any other fees imposed by Section 4022 of this title for any such vessel or motor.

I. In addition to any other fees levied by the Oklahoma Vessel and Motor Registration Act, there is levied and there shall be paid to the Tax Commission, for each year a vessel or motor is registered, a fee of One Dollar (\$1.00) for each vessel or motor for which a registration or license fee is required pursuant to the provisions of this section. The fee shall accrue and shall be collected upon each vessel or motor under the same circumstances and shall be payable in the same manner and times as apply to vessel and motor licenses and registrations under the provisions of the Oklahoma Vessel and Motor Registration Act; provided, the fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year.

Monies collected pursuant to this subsection shall be apportioned by the Tax Commission to the State Treasurer for deposit in the Trauma Care Assistance Revolving Fund created in Section 330.97 of this title.

The collection and payment of the fee shall be a prerequisite to license or registration of any vessel or motor.

J. If a vessel or motor is donated to a nonprofit charitable organization, the nonprofit charitable organization shall be exempt from paying any current or past due registration fees, excise tax, transfer fees, and penalties and interest; provided, subsequent to such donation, if the person, entity or party acting on another's behalf who donated the vessel or motor, purchases the same vessel or motor from the nonprofit charitable organization receiving the original donation, such person, entity or party acting on another's behalf shall be liable for all current and past due registration fees, excise tax, transfer fees, and penalties and interest on such vehicle.

SECTION 7. AMENDATORY 63 O.S. 2001, Section 4106, is amended to read as follows:

Section 4106. An original or a transfer certificate of title shall be issued without the payment of the excise tax levied by this act for:

1. Any vessel or motor owned by a nonresident which is already registered in another state and has been in Oklahoma for a period in excess of sixty (60) calendar days in any single registration year.

2. Any vessel or motor brought into this state by a person formerly living in another state, who has owned and registered said vessel or motor in such other state of his residence at least sixty (60) calendar days prior to the time it is required to be registered in this state;

3. Any vessel or motor registered by the United States, State of Oklahoma or by any of the political subdivisions thereof;

4. Any vessel or motor the legal ownership of which is obtained by the applicant for a certificate of title by inheritance;

5. Any vessel or motor which is owned and being offered for sale by a person licensed as a dealer under the provisions of the Oklahoma Vessel and Motor Registration Act, registered in Oklahoma and the excise tax paid thereon;

6. Any vessel or motor, the ownership of which was obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided by law or to the insurer under subrogated rights arising by reason of loss under an insurance contract;

7. Any vessel or motor, the legal ownership of which is obtained by transfers:

- a. from one corporation to another corporation pursuant to a reorganization. As used in this section, the term "reorganization" means:
 - (1) a statutory merger or consolidation, or
 - (2) the acquisition by a corporation of substantially all of the properties of another corporation when the sole consideration is all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation;
- b. in connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation;
- c. to a corporation for the purpose of organization of such corporation when the former owners of the vessel or motor transferred are immediately after the

transfer in control of the corporation, and the stock or securities received by each is substantially in proportion to his interest in the vessel or motor prior to the transfer;

- d. to a partnership in the organization of such partnership if the former owners of the vessel or motor transferred are, immediately after the transfer, members of such partnership and the interest in the partnership received by each is substantially in proportion to his interest in the vessel or motor prior to the transfer;
- e. from a partnership to the members thereof when made in the dissolution of such partnership; ~~and~~

8. All vessels or motors owned by the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Girls; and

9. All vessels or motors owned by organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which are primarily devoted to the establishment, development, operation, promotion, and participation in, alone or in conjunction with others, educational and training programs and competitive events to provide knowledge, information, or comprehensive skills related to the sports of sailing, fishing, boating, and other aquatic related activities.

SECTION 8. AMENDATORY 68 O.S. 2001, Section 320, is amended to read as follows:

Section 320. A. Every person making application for a distributing agent's license under this article or the following article containing the tobacco Products Tax Code shall, before being issued such license and as a condition of carrying on such business, file with the Oklahoma Tax Commission a surety or collateral or cash bond in the amount of One Thousand Dollars (\$1,000.00) Twenty-five Thousand Dollars (\$25,000.00) payable to the State of Oklahoma, and conditioned upon compliance with the provisions of this article or the following article of this Code, and the rules ~~and regulations~~ of the Oklahoma Tax Commission.

B. Every person making application for a wholesaler's or jobber's license under this article shall, before being issued such license and as a condition of carrying on such business, file with the Tax Commission a surety or collateral or cash bond in the amount of One Thousand Dollars (\$1,000.00) Twenty-five Thousand Dollars (\$25,000.00) payable to the State of Oklahoma, ~~and conditioned upon compliance with the provisions of this article, and the rules and regulations~~ of the Oklahoma Tax Commission.

C. 1. Sixty (60) days after making a written request for release to the Tax Commission, the surety of a bond furnished by a licensee shall be released from any liability to the state accruing on the bond after the sixty-day period. The release does not affect

any liability accruing before the expiration of the sixty-day period.

2. The Tax Commission shall promptly notify the licensee furnishing the bond that a release has been requested. Unless the licensee obtains a new bond that meets the requirements of this act and files with the Tax Commission the new bond within the sixty-day period, the Tax Commission shall cancel the license.

3. Sixty (60) days after making a written request for release to the Tax Commission, the cash deposit provided by a licensee shall be canceled as security for any obligation accruing after the expiration of the sixty-day period. However, the Tax Commission may retain all or part of the cash deposit for up to three (3) years and one (1) day as security for any obligations accruing before the effective date of the cancellation. Any part of the deposit not retained by the Tax Commission shall be released to the licensee. Before the expiration of the sixty-day period, the licensee shall provide the Tax Commission with a bond that satisfies the requirements of this act, or the Tax Commission shall cancel the license.

4. Any licensee who has filed a bond or other security is entitled, on request, to have the Tax Commission return, refund, or release the bond or security if, in the judgment of the Tax Commission, the licensee has continuously complied with the provisions of this article and Article 4 containing the tobacco products tax code for the previous three (3) consecutive years. However, if the Tax Commission determines that the revenues of the state would be jeopardized by the return, refund or release of bond or security, the Tax Commission may elect to retain the bond or security, or having released such, may reimpose a requirement for bond or security to protect the revenues of this state. The decision of the Tax Commission to not release a bond or security may be reviewed, after application by the licensee, pursuant to the Administrative Procedures Act.

D. In the event any applicant for a license applies for more than one license pursuant to this article or Article 4 containing the tobacco products tax code, the applicant shall not be required to post a bond for each license, but shall be required to post a bond for the license which requires the greatest amount of bond.

SECTION 9. AMENDATORY 68 O.S. 2001, Section 412, is amended to read as follows:

Section 412. (a) Every wholesaler, jobber, retailer or consumer, who purchases or allows to come into his or her possession any unstamped merchandise coming under the scope of this article, shall file with the Oklahoma Tax Commission a surety or collateral or cash bond in such amount as the Commission may prescribe but ~~not less than Five Hundred Dollars (\$500.00)~~ the amount of Twenty-five Thousand Dollars (\$25,000.00), payable to the State of Oklahoma and conditioned upon compliance with the provisions of this article and the rules ~~and regulations~~ of the Tax Commission.

(b) Any consumer who purchases or brings into this state unstamped cigars or tobacco products whereon the tax would be more than twenty-five cents (\$0.25) is subject to the tax thereon. Upon failure to pay the tax levied in this article, the consumer shall be subject to a fine of not more than Five Hundred Dollars (\$500.00) or not less than Twenty-five Dollars (\$25.00).

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.64 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. If a contract requires one party to reimburse another party for taxes levied under Part III of Subchapter A of Chapter 32 of the Internal Revenue Code, the party making the reimbursement, at its option, shall not be required to reimburse the other party more than one (1) business day before the other party is required to remit the taxes to the Internal Revenue Service.

B. If a party chooses not to exercise its option under subsection A of this section, and provision is not already provided in the contract, the party shall notify the other party in writing of its intention. The option may not be exercised until at least thirty (30) days after the written notification or the beginning of the next federal tax quarter, whichever is later.

C. The party to be reimbursed under subsection A of this section may require security from the reimbursing party for the payment of the taxes in proportion to the amount the taxes represent compared to the security required on the contract as a whole. The party to be reimbursed shall not change other payment terms of the contract due to the timing of the tax reimbursement, but may require the taxes to be reimbursed by electronic transfer of funds.

D. The provisions of this section shall be applicable to all continuing contracts now in effect that have no expiration date and all contracts entered into or renewed on or after the effective date of this act.

SECTION 11. AMENDATORY 68 O.S. 2001, Section 1356, as last amended by Section 51 of Enrolled House Bill No. 3139 of the 2nd Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by Section 1350 et seq. of this title, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority or sales of admission tickets to such fairs or fair events at any location in the state authorized by county, district or state fair authorities; provided, the exemption provided by this paragraph for admission tickets to fair events shall apply only to any portion of the admission price that is retained by or distributed to the fair authority. As used in this paragraph, "fair event" shall be limited to an event held on the premises of the fair authority in conjunction with and during the time period of a county, district or state fair;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business or sale of tangible personal property or services by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, made on behalf of or at the request of a church or churches if the sale of such property is conducted not more than once each calendar year for a period not to exceed three (3) days by the organization and proceeds from the sale of such property are used by the church or churches or by the organization for charitable purposes;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university or any public trust of which a county in this

state is the beneficiary, for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority, the Oklahoma Department of Veterans Affairs, the Broken Bow Economic Development Authority, Ardmore Development Authority, Durant Industrial Authority, Oklahoma Ordnance Works Authority or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify

in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

13. a. Sales of tangible personal property made by:
- (1) a public school,
 - (2) a private school offering instruction for grade levels kindergarten through twelfth grade,
 - (3) a public school district,
 - (4) a public or private school board,
 - (5) a public or private school student group or organization,
 - (6) a parent-teacher association or organization other than as specified in subparagraph b of this paragraph, or
 - (7) public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization, or
- b. Sales of tangible personal property made by or to nonprofit parent-teacher associations or organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3).

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:
- a. local 4-H clubs,
 - b. county, regional or state 4-H councils,
 - c. county, regional or state 4-H committees,

- d. 4-H leader associations,
- e. county, regional or state 4-H foundations, and
- f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes or the sale of advertising in travel brochures and other promotional materials produced at the direction of the Department;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation

pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and
- d. any community based health center which meets all of the following criteria:
 - (1) provides primary care services at no cost to the recipient, and
 - (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs, YWCAs or municipally-owned recreation centers for the use of facilities and programs;

24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the

purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of this title shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;

28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof;

29. Sales of tangible personal property or services to youth camps which are supported or sponsored by one or more churches, members of which serve as trustees of the organization;

30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust;

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor;

32. Sales of tangible personal property or services to any spaceport user, as defined in the Oklahoma Space Industry Development Act;

33. The sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This exemption provided by this paragraph shall not be affected by:

- a. the destruction in whole or in part of the satellite or launch vehicle,

- b. the failure of a launch to occur or be successful, or
- c. the absence of any transfer or title to, or possession of, the satellite or launch vehicle after launch;

34. The sale, lease, use, storage, consumption, or distribution in this state of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity, including components thereof;

35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flight capacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner;

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however, section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States government, or any other property not specifically suited to supporting space activity. The term "in support of space flight", for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;

37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this title shall be subject to the penalties provided by law. As used in this paragraph, "machinery and equipment" means "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;

38. The amount of a surcharge or any other amount which is separately stated on an admission ticket which is imposed, collected and used for the sole purpose of constructing, remodeling or

enlarging facilities of a public trust having a municipality or county as its sole beneficiary;

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state, which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and which is organized primarily for the purpose of supporting one or more state parks located in this state;

40. The sale, lease or use of parking privileges by an institution of The Oklahoma State System of Higher Education;

41. Sales of tangible personal property or services for use on campus or school construction projects for the benefit of institutions of The Oklahoma State System of Higher Education, private institutions of higher education accredited by the Oklahoma State Regents for Higher Education or any public school or school district when such projects are financed by or through the use of nonprofit entities which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

42. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), in the course of conducting a national championship sports event, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph shall be exempt from all Oklahoma sales, use, excise and gross receipts taxes;

43. Sales of tangible personal property or services to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- b. is affiliated with a comprehensive university within The Oklahoma State System of Higher Education, and
- c. has been organized primarily for the purpose of providing education and teacher training and conducting events relating to robotics;

44. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property to or by youth athletic teams which are part of an athletic organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4), for the purposes of raising funds for the benefit of the team;

45. Sales of tickets for admission to a collegiate athletic event that is held in a facility owned or operated by a municipality

or a public trust of which the municipality is the sole beneficiary and that actually determines or is part of a tournament or tournament process for determining a conference tournament championship, a conference championship, or a national championship;

46. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and is operating the Oklahoma City National Memorial and Museum, an affiliate of the National Park System;

47. Sales of tangible personal property or services to organizations which are exempt from federal taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), the memberships of which are limited to honorably discharged veterans, and which furnish financial support to area veterans' organizations to be used for the purpose of constructing a memorial or museum;

48. Sales of tangible personal property or services on or after January 1, 2003, to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) that is expending monies received from a private foundation grant in conjunction with expenditures of local sales tax revenue to construct a local public library;

49. Sales of tangible personal property or services to a state that borders this state or any political subdivision of that state, but only to the extent that the other state or political subdivision exempts or does not impose a tax on similar sales of items to this state or a political subdivision of this state;

50. Effective July 1, 2005, sales of tangible personal property or services to the Career Technology Student Organizations under the direction and supervision of the Oklahoma Department of Career and Technology Education;

51. Sales of tangible personal property to a public trust having either a single city, town or county or multiple cities, towns or counties or combination thereof as beneficiary or beneficiaries or a nonprofit organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for the purpose of constructing improvements to or expanding a hospital or nursing home owned and operated by any such public trust or nonprofit entity prior to the effective date of this act in counties with a population of less than one hundred thousand (100,000) persons, according to the most recent Federal Decennial Census. As used in this paragraph, "constructing improvements to or expanding" shall not mean any expense for routine maintenance or general repairs and shall require a project cost of at least One Hundred Thousand Dollars (\$100,000.00). For purposes of this paragraph, sales made to a contractor or subcontractor that enters into a contractual relationship with a public trust or nonprofit entity as described by this paragraph shall be considered sales made to the public trust or nonprofit entity. The exemption authorized by this paragraph shall be administered in the form of a refund from the sales tax revenues

apportioned pursuant to Section 1353 of this title and the vendor shall be required to collect the sales tax otherwise applicable to the transaction. The purchaser may apply for a refund of the sales tax paid in the manner prescribed by this paragraph. Within thirty (30) days after the end of each fiscal year, any purchaser that is entitled to make application for a refund based upon the exempt treatment authorized by this paragraph may file an application for refund of the sales taxes paid during such preceding fiscal year. The Tax Commission shall prescribe a form for purposes of making the application for refund. The Tax Commission shall determine whether or not the total amount of sales tax exemptions claimed by all purchasers is equal to or less than Six Hundred Fifty Thousand Dollars (\$650,000.00). If such claims are less than or equal to that amount, the Tax Commission shall make refunds to the purchasers in the full amount of the documented and verified sales tax amounts. If such claims by all purchasers are in excess of Six Hundred Fifty Thousand Dollars (\$650,000.00), the Tax Commission shall determine the amount of each purchaser's claim, the total amount of all claims by all purchasers, and the percentage each purchaser's claim amount bears to the total. The resulting percentage determined for each purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars (\$650,000.00) to determine the amount of refundable sales tax to be paid to each purchaser. The pro rata refund amount shall be the only method to recover sales taxes paid during the preceding fiscal year and no balance of any sales taxes paid on a pro rata basis shall be the subject of any subsequent refund claim pursuant to this paragraph;

52. Effective July 1, 2006, sales of tangible personal property or services to any organization which assists, trains, educates, and provides housing for physically and mentally handicapped persons and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and that receives at least eighty-five percent (85%) of its annual budget from state or federal funds. In order to receive the benefit of the exemption authorized by this paragraph, the taxpayer shall be required to make payment of the applicable sales tax at the time of sale to the vendor in the manner otherwise required by law. Notwithstanding any other provision of the Oklahoma Uniform Tax Procedure Code to the contrary, the taxpayer shall be authorized to file a claim for refund of sales taxes paid that qualify for the exemption authorized by this paragraph for a period of one (1) year after the date of the sale transaction. The taxpayer shall be required to provide documentation as may be prescribed by the Oklahoma Tax Commission in support of the refund claim. The total amount of sales tax qualifying for exempt treatment pursuant to this paragraph shall not exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00) each fiscal year. Claims for refund shall be processed in the order in which such claims are received by the Oklahoma Tax Commission. If a claim otherwise timely filed exceeds the total amount of refunds payable for a fiscal year, such claim shall be barred;

53. The first Two Thousand Dollars (\$2,000.00) each year of sales of tangible personal property or services to, by, or for the benefit of a qualified neighborhood watch organization that is endorsed or supported by or working directly with a law enforcement

agency with jurisdiction in the area in which the neighborhood watch organization is located. As used in this paragraph, "qualified neighborhood watch organization" means an organization that is a not-for-profit corporation under the laws of the State of Oklahoma that was created to help prevent criminal activity in an area through community involvement and interaction with local law enforcement and which is one of the first two thousand organizations which makes application to the Oklahoma Tax Commission for the exemption after the effective date of this act;

54. Sales of tangible personal property to a nonprofit organization, exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized primarily for the purpose of providing services to homeless persons during the day and located in a metropolitan area with a population in excess of five hundred thousand (500,000) persons according to the latest Federal Decennial Census. The exemption authorized by this paragraph shall be applicable to sales of tangible personal property to a qualified entity occurring on or after January 1, 2005;

55. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) made during auction events the principal purpose of which is to provide funding for the preservation of wetlands and habitat for wild ducks;

56. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) made during auction events the principal purpose of which is to provide funding for the preservation and conservation of wild turkeys; ~~and~~

57. Sales of tangible personal property or services to an organization which:

- a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and
- b. is part of a network of community-based, autonomous member organizations that meets the following criteria:
 - (1) serves people with workplace disadvantages and disabilities by providing job training and employment services, as well as job placement opportunities and post-employment support,
 - (2) has locations in the United States and at least twenty other countries,
 - (3) collects donated clothing and household goods to sell in retail stores and provides contract labor services to business and government, and

- (4) provides documentation to the Oklahoma Tax Commission that over seventy-five percent (75%) of its revenues are channeled into employment, job training and placement programs and other critical community services;

58. Sales of tickets made on or after September 21, 2005, and complimentary or free tickets for admission issued on or after September 21, 2005, which have a value equivalent to the charge that would have otherwise been made, for admission to a professional athletic event in which a team in the National Basketball Association is a participant, which is held in a facility owned or operated by a municipality, a county or a public trust of which a municipality or a county is the sole beneficiary, and sales of tickets made on or after the effective date of this act, and complimentary or free tickets for admission issued on or after the effective date of this act, which have a value equivalent to the charge that would have otherwise been made, for admission to a professional athletic event in which a team in the National Hockey League is a participant, which is held in a facility owned or operated by a municipality, a county or a public trust of which a municipality or a county is the sole beneficiary;

59. Sales of tickets for admission made on or after April 20, 2006, and complimentary or free tickets for admission issued on or after April 20, 2006, which have a value equivalent to the charge that would have otherwise been made to a professional sporting event involving ice hockey, baseball, basketball, football or arena football, or soccer. As used in this paragraph, "professional sporting event" means an organized athletic competition between teams that are members of an organized league or association with centralized management, other than a national league or national association, that imposes requirements for participation in the league upon the teams, the individual athletes or both and which uses a salary structure to compensate the athletes; and

60. Sales of tangible personal property or services to any person with whom a church has duly entered into a construction contract, necessary for carrying out such contract or to any subcontractor to such construction contract.

SECTION 12. AMENDATORY 68 O.S. 2001, Section 2353, as amended by Section 2, Chapter 463, O.S.L. 2003 (68 O.S. Supp. 2005, Section 2353), is amended to read as follows:

Section 2353. For the purpose of and when used in Section 2351 et seq. of this title, unless the context otherwise requires:

1. "Tax Commission" means the Oklahoma Tax Commission;
2. "Internal Revenue Code" means the United States Internal Revenue Code, as the same may be amended or adopted from time to time applicable to the taxable year; and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time or from time to time applicable to the taxable year;

3. Any term used in Section 2351 et seq. of this title shall have the same meaning as when used in a comparable context in the Internal Revenue Code, unless a different meaning is clearly required. For all taxable periods covered by Section 2351 et seq. of this title, the tax status and all elections of all taxpayers covered by Section 2351 et seq. of this title shall be the same for all purposes material hereto as they are for federal income tax purposes except when Section 2351 et seq. of this title specifically provides otherwise;

4. "Resident individual" means a natural person who is domiciled in this state, and any other natural person who spends in the aggregate more than seven (7) months of the taxable year within this state shall be presumed to be a resident for purposes of Section 2351 et seq. of this title in absence of proof to the contrary. A natural person who resides less than seven (7) months of the taxable year within this state is presumed to be a "part-year resident individual" for purposes of the Oklahoma Income Tax Code, Section 2351 et seq. of this title, in absence of proof to the contrary. A "nonresident individual" means an individual other than a resident individual or a part-year resident individual.

For all tax years beginning after December 31, 1981, a nonresident individual, with respect to foreign earned income and deductions, shall include an individual who:

- a. during any period of twenty-four (24) consecutive months is out of the United States at least five hundred fifty (550) days,
- b. during such period referred to in subparagraph a of this paragraph is not present in this state for more than ninety (90) days during any taxable year,
- c. during any period of less than an entire taxable year, which period is contained within the period referred to in subparagraph a of this paragraph, is not present in this state for a number of days in excess of an amount which bears the same ratio to ninety (90) days as the number of days contained in the period of less than an entire taxable year bears to three hundred sixty-five (365), and
- d. during such period referred to in subparagraph a of this paragraph does not maintain a permanent place of abode in this state at which the spouse of the individual, unless such spouse is legally separated, or minor children of the individual are present for more than one hundred eighty (180) days;

5. "Resident estate" means the estate of a decedent who at death was domiciled in this state. "Nonresident estate" means an estate other than a resident estate;

6. "Resident trust" means:

- a. a trust, or a portion of a trust, consisting of property transferred by will of a decedent domiciled in this state at death, or a trust, or a portion of a trust, consisting of the property of a person domiciled in this state if such trust is not irrevocable, and
- b. a trust, or portion of a trust, consisting of property of a person domiciled in this state at the time such property was transferred to the trust if such trust or portion was then irrevocable or a person domiciled in this state at the time such trust or portion became irrevocable. A trust, or portion of a trust, is irrevocable if it is not subject to a power exercisable solely by the transferor of such property, at any time, to revest title in the transferor. "Nonresident trust" means a trust other than a resident trust;

7. "Resident partner" means a partner who is a resident individual, a resident estate, a resident trust or a resident corporation. "Nonresident partner" means a partner other than a resident partner;

8. "Resident beneficiary" means a beneficiary of an estate or trust which beneficiary is a resident individual, a resident estate, a resident trust or a resident corporation. "Nonresident beneficiary" means a beneficiary other than a resident beneficiary;

9. "Resident corporation" means a corporation whose principal place of business is located within the State of Oklahoma. "Nonresident corporation" means any corporation other than a resident corporation;

10. "Taxable income" with respect to any taxpayer means the "taxable income", "life insurance company taxable income", "mutual insurance company taxable income", "(regulated) investment company taxable income", "real estate investment trust taxable income", and "cooperatives' taxable income" and any other "taxable income" as defined in the Internal Revenue Code as applies to such taxpayer or any other income of such taxpayer including, but not limited to, lump sum distributions as defined by the Internal Revenue Code of 1986, as amended; provided, in the case of income derived from oil and gas well production, any taxpayer, at his or her option, may deduct as an allowance for depletion, in lieu of other calculation of depletion based on the cost of the oil and gas deposit, twenty-two percent (22%) of the gross income derived from the properties during the taxable year. Provided further, for tax years beginning on or after January 1, 1997, and ending on or before December 31, 1999, and for tax years beginning on or after January 1, 2001, and ending on or before December 31, ~~2006~~ 2011, for major oil companies as defined in Section 288.2 of Title 52 of the Oklahoma Statutes, such allowance shall not exceed fifty percent (50%) of the net income of the taxpayer (computed without allowance for depletion) from the property. During taxable years other than those specified herein, for all taxpayers, such allowance shall not exceed fifty percent (50%) of the net income of the taxpayer (computed without

allowance for depletion) from the property. If a depletion allowance is allowed as a deduction in arriving at the adjusted gross income in the case of an individual, or taxable income for corporations and trusts, or distributable income of partnerships by the Internal Revenue Service, the percentage depletion so calculated shall in no event be a duplication of depletion allowed on the Federal Income Tax Return;

11. "Adjusted gross income" means "adjusted gross income" as defined in the Internal Revenue Code;

12. "Oklahoma taxable income" means "taxable income" as reported (or as would have been reported by the taxpayer had a return been filed) to the federal government, and in the event of adjustments thereto by the federal government as finally ascertained under the Internal Revenue Code, adjusted further as hereinafter provided;

13. "Oklahoma adjusted gross income" means "adjusted gross income" as reported to the federal government (or as would have been reported by the taxpayer had a return been filed), or in the event of adjustments thereby by the federal government as finally ascertained under the Internal Revenue Code, adjusted further as hereinafter provided;

14. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States or any political subdivision thereof; and

15. "Taxpayer" means any person subject to a tax imposed by this Article, or whose income is, in whole or in part, subject to a tax imposed by any provision of this article.

SECTION 13. AMENDATORY 68 O.S. 2001, Section 2357.11, as last amended by Section 5, Chapter 413, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2357.11), is amended to read as follows:

Section 2357.11 A. For purposes of this section, the term "person" means any legal business entity including limited and general partnerships, corporations, sole proprietorships, and limited liability companies, but does not include individuals.

B. For tax years beginning on or after January 1, 1993~~7~~ and ending on or before December 31, ~~2007~~ 2012, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state furnishing water, heat, light or power to the state or its citizens, or for every person in this state burning coal to generate heat, light or power for use in manufacturing operations located in this state. The For tax years beginning on or after January 1, 1993 and ending on or before December 31, 2005, and for the period of January 1, 2006 through June 30, 2006, the credit shall be in the amount of Two Dollars (\$2.00) per ton for each ton of Oklahoma-mined coal purchased by such person. For the period of July 1, 2006 through December 31, 2006, and for tax years beginning on or after January 1, 2007 and

ending on or before December 31, 2012, the credit shall be in the amount of Two Dollars and eighty-five cents (\$2.85) per ton for each ton of Oklahoma-mined coal purchased by such person.

C. For tax years beginning on or after January 1, 1995~~7~~ and ending on or before December 31, ~~2007~~, 2005 and for the period beginning January 1, 2006 through June 30, 2006, there shall be allowed, in addition to the credits allowed pursuant to subsection B of this section, a credit against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state which:

1. Furnishes water, heat, light or power to the state or its citizens, or burns coal to generate heat, light or power for use in manufacturing operations located in this state; and

2. Purchases at least seven hundred fifty thousand (750,000) tons of Oklahoma-mined coal in the tax year.

The additional credit allowed pursuant to this subsection shall be in the amount of Three Dollars (\$3.00) per ton for each ton of Oklahoma-mined coal purchased by such person.

D. Except as otherwise provided in subsection E of this section, for tax years beginning on or after January 1, 2001, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state primarily engaged in mining, producing or extracting coal, and holding a valid permit issued by the Oklahoma Department of Mines. For tax years beginning on or after January 1, 2001 and ending on or before December 31, 2005, and for the period beginning January 1, 2006 through June 30, 2006, the credit shall be in the amount of ninety-five cents (\$0.95) per ton and for the period of July 1, 2006 through December 31, 2006, and for tax years beginning on or after January 1, 2007, the credit shall be in the amount of Five Dollars (\$5.00) for each ton of coal mined, produced or extracted in on, under or through a permit in this state by such person ~~on or after January 1, 2001~~.

E. In addition to the credit allowed pursuant to the provisions of subsection D of this section and except as otherwise provided in subsection F of this section, for tax years beginning on or after January 1, 2001 and ending on or before December 31, 2005, and for the period of January 1, 2006 through June 30, 2006, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state primarily engaged in mining, producing or extracting coal, and holding a valid permit issued by the Oklahoma Department of Mines in the amount of ninety-five cents (\$0.95) per ton for each ton of coal mined, produced or extracted from thin seams in this state by such person; provided, the credit shall not apply to such coal sold to any consumer who purchases at least seven hundred fifty thousand (750,000) tons of Oklahoma-mined coal per year.

F. In addition to the credit allowed pursuant to the provisions of subsection D of this section and except as otherwise provided in

subsection G of this section, for tax years beginning on or after January 1, 2005 and ending on or before December 31, 2005, and for the period of January 1, 2006, through June 30, 2006, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or that portion of the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, which is actually paid to and placed into the General Revenue Fund, in the amount of ninety-five cents (\$0.95) per ton for each ton of coal mined, produced or extracted from thin seams in this state by such person on or after July 1, 2005.

G. The credits provided in subsections D and E of this section shall not be allowed for coal mined, produced or extracted in any month in which the average price of coal is ~~Forty-five Dollars (\$45.00)~~ Sixty-eight Dollars (\$68.00) or more per ton, excluding freight charges, as determined by the Tax Commission.

H. The additional credits allowed pursuant to subsections B, C, D and E of this section but not used shall be freely transferable after January 1, 2002, by written agreement to subsequent transferees at any time during the five (5) years following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes. The person originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

I. The additional credit allowed pursuant to subsection F of this section but not used shall be freely transferable on or after July 1, 2006, by written agreement to subsequent transferees at any time during the five (5) years following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes. The person originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

J. The credits allowed by subsections B, C, D, E and F of this section, upon election of the taxpayer, shall be treated and may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 1803 or 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes.

K. Any credits allowed pursuant to the provisions of subsections B, C, D, E and F of this section but not used in any tax year may be carried over in order to each of the five (5) years following the year of qualification.

SECTION 14. AMENDATORY Section 1, Chapter 313, O.S.L. 2002, as amended by Section 1, Chapter 384, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2357.32B), is amended to read as follows:

Section 2357.32B A. For tax years beginning on or after January 1, 2003, and ending on or before December 31, ~~2007~~ 2012, there shall be allowed a credit against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, and actually paid to and placed into the General Revenue Fund, or Section ~~1803~~ 2370 or 2355 of this title to Oklahoma manufacturers of advanced small wind turbines. As used in this section:

1. "Oklahoma manufacturers" means manufacturers who operate facilities located in this state which have the capability to manufacture small wind turbine products, including rotor blade and alternator fabrication; and

2. "Advanced small wind turbines" means upwind, furling wind turbines that meet the following requirements:

- a. have a rated capacity of at least one kilowatt (1 kw) but not greater than fifty kilowatts (50 kw),
- b. incorporate advanced technologies such as new airfoils, new generators, and new power electronics, variable speed,
- c. at least one unit of each model has undergone testing at the US-DOE National Wind Technology Center, and
- d. comply with appropriate interconnection safety standards of the Institute of Electrical and Electronics Engineers applicable to small wind turbines.

B. The amount of the credit shall be based on the square footage of rotor swept area of advanced small wind turbines manufactured in this state. The amount of the credit shall be Twenty-five Dollars (\$25.00) per square foot produced in calendar year 2003, Twelve Dollars and fifty cents (\$12.50) per square foot produced in calendar year 2004, and Twenty-five Dollars (\$25.00) per square foot produced in calendar years 2005 through ~~2007~~ 2012.

C. The companies claiming the credit allowed by this section shall agree in advance to allow their production and claims to be audited by the Oklahoma Tax Commission and they must be able to show

that they have made economic development investments in this state over the period of time for which the credit was claimed that exceed the net proceeds from the amount of credit claimed.

D. If the amount of the credits allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years.

E. The amount of the credit allowed but not used shall be freely transferable at any time during the ten (10) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of the credit being transferred, the year the credit was originally allowed to the transferor and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules that unduly restrict or hinder the transfers of such tax credit.

F. For advanced small wind turbines produced in a calendar year, the tax credit allowed by the provisions of this section, upon election of the taxpayer, shall be treated and may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 624 or 628 of Title 36 of the Oklahoma Statutes, and actually paid to and placed into the General Revenue Fund, or Section ~~1803~~ 2370 or 2355 of this title on or after July 1 of the following calendar year.

SECTION 15. AMENDATORY 68 O.S. 2001, Section 2357.41, as last amended by Section 6, Chapter 413, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2357.41), is amended to read as follows:

Section 2357.41 A. For tax years beginning after December 31, 2000, there shall be allowed a credit against the tax imposed by Sections 2355 and 2370 of this title or that portion of the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes that would otherwise have been apportioned to the General Revenue Fund for qualified rehabilitation expenditures incurred in connection with any certified historic hotel or historic newspaper plant building located in an increment or incentive district created pursuant to the Local Development Act or for qualified rehabilitation expenditures incurred after January 1, 2006, in connection with any certified historic building structure.

B. The amount of the credit shall be one hundred percent (100%) of the federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code. The credit authorized by this section may be claimed at any time after the relevant local governmental body responsible for doing so issues a certificate of occupancy or other document that is a precondition for the applicable use of the building or structure that is the basis upon which the credit authorized by this section is claimed.

C. All requirements with respect to qualification for the credit authorized by Section 47 of Title 26 of the United States Code shall be applicable to the credit authorized by this section.

~~B.~~ D. If the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years following the qualified expenditures.

~~C.~~ E. All rehabilitation work to which the credit may be applied shall be ~~approved~~ reviewed by the State Historic Preservation Office ~~prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the taxpayer in order to preserve the historical qualities of the building~~ which will in turn forward the information to the National Park Service for certification in accordance with 36 C.F.R., Part 67. A certified historic ~~building~~ structure may be rehabilitated for any lawful use or uses, including without limitation mixed uses and still retain eligibility for the credit provided for in this section.

~~D.~~ F. The amount of the credit allowed for any credit claimed for a certified historic hotel or historic newspaper plant building or any certified historic structure, but not used, shall be freely transferable to subsequent transferees at any time during the five (5) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferor and the tax year or years for which the credit may be claimed. The Tax Commission shall develop a standard form for use by subsequent transferees of the credit demonstrating eligibility for the transferee to reduce its applicable tax liabilities resulting from ownership of the credit. The Tax

Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

~~E.~~ G. As used in this section:

1. "Certified historic hotel or historic newspaper plant building" means a hotel or newspaper plant building that is listed on the National Register of Historic Places within ~~three (3) years~~ thirty (30) months of taking the credit pursuant to this section.

2. "Certified historic ~~building~~ structure" means a building that is listed on the National Register of Historic Places within ~~three (3) years~~ thirty (30) months of taking the credit pursuant to this section or a building located in Oklahoma which is certified by the State Historic Preservation Office as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, or a local district that has been certified by the State Historic Preservation Office as eligible for listing in the National Register of Historic Places; and

3. "Qualified rehabilitation expenditures" means capital expenditures that qualify for the federal rehabilitation credit provided in Section 47 of Title 26 of the United States Code and that were paid after December 31, 2000. Qualified rehabilitation expenditures do not include capital expenditures for nonhistoric additions except an addition that is required by state or federal regulations that ~~related~~ relate to ~~historic preservation,~~ safety, or accessibility. In addition, qualified rehabilitation expenditures do not include expenditures related to the cost of acquisition of the property.

SECTION 16. AMENDATORY Section 1, Chapter 439, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2357.46), is amended to read as follows:

Section 2357.46 A. For tax years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of Oklahoma Statutes for eligible expenditures incurred by a contractor in the construction of energy efficient residential property of two thousand (2,000) square feet or less. The amount of the credit shall be based upon the following:

1. For any eligible energy efficient residential property constructed and certified as forty percent (40%) or more above the International Energy Conservation Code 2003 and any supplement in effect at the time of completion, the amount of the credit shall be equal to the eligible expenses, not to exceed Four Thousand Dollars (\$4,000.00) for the taxpayer who is the contractor; and

2. For any eligible energy efficient residential property constructed and certified as between twenty percent (20%) and thirty-nine percent (39%) above the International Energy Conservation Code 2003 and any supplement in effect at the time of completion, the credit shall be equal to the eligible expenditures,

not to exceed Two Thousand Dollars (\$2,000.00) for the taxpayer who is the contractor.

B. As used in this section:

1. "Eligible expenditure" means any:

- a. energy efficient heating or cooling system,
- b. insulation material or system which is specifically and primarily designed to reduce the heat gain or loss of a residential property when installed in or on such property,
- c. exterior windows, including skylights,
- d. exterior doors, and
- e. any metal roof installed on a residential property, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit and which meet Energy Star program requirements;

2. "Contractor" means the taxpayer who constructed the residential property or manufactured home, or if more than one taxpayer qualifies as the contractor, the primary contractor; and

3. "Eligible energy efficient residential property" means a newly constructed residential property or manufactured home property which is located in the State of Oklahoma and substantially complete after December 31, 2005, and which is two thousand (2,000) square feet or less:

- a. for the credit provided pursuant to paragraph 1 of subsection A of this section, which is certified by an accredited Residential Energy Services Network Provider using the Home Energy Rating System to have:
 - (1) a level of annual heating and cooling energy consumption which is at least forty percent (40%) below the annual level of heating and cooling energy consumption of a comparable residential property constructed in accordance with the standards of Chapter 4 of the 2003 International Energy Conservation Code, as such code is in effect on the effective date of this act,
 - (2) heating and cooling equipment efficiencies which correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction of the property, and
 - (3) building envelope component improvements which account for at least one-fifth of the reduced

annual heating and cooling energy consumption levels,

- b. for the credit provided pursuant to paragraph 2 of subsection A of this section, which is certified by an accredited Residential Energy Services Network Provider using the Home Energy Rating System to have:
- (1) a level of annual heating and cooling energy consumption which is between twenty percent (20%) and thirty-nine percent (39%) below the annual level of heating and cooling energy consumption of a comparable residential property constructed in accordance with the standards of Chapter 4 of the 2003 International Energy Conservation Code, as such code is in effect on the effective date of this act,
 - (2) heating and cooling equipment efficiencies which correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction of the property, and
 - (3) building envelope component improvements which account for at least one-third of the reduced annual heating and cooling energy consumption levels.

C. The credit provided for in subsection A of this section may only be claimed once for the contractor of any eligible residential energy efficient property during the taxable year when the property is substantially complete.

D. If the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding four (4) years following the qualified expenditures.

E. For credits earned on or after the effective date of this act, the credits authorized by this section shall be freely transferable to subsequent transferees.

F. The Oklahoma Tax Commission shall promulgate rules necessary to implement this act.

SECTION 17. AMENDATORY 68 O.S. 2001, Section 2358, as last amended by Section 65 of Enrolled House Bill No. 3139 of the 2nd Session of the 50th 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 such 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. For tax years beginning after December 31, 2000, the years to which such losses may be carried shall be determined solely by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, with the exception that the terms "net operating loss" and "taxable income" shall be replaced with "Oklahoma net operating loss" and "Oklahoma taxable income".

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; interest income from investments held to generate working capital for a unitary business enterprise shall be included in apportionable income; 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) for taxable years beginning after December 31, 2003, capital or ordinary gains or losses from the sale of an ownership interest in a publicly traded partnership, as defined by Section 7704(b) of the Internal Revenue Code of 1986, as amended, shall be allocated to this state in the ratio of the original cost of such partnership's tangible property in this state to the original cost of such partnership's tangible property everywhere, as determined at the time of the sale; if more than fifty percent (50%) of the value of the partnership's assets consists of intangible assets, capital or ordinary gains or losses from the sale of an ownership interest in the partnership shall be allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding its tax period during which the ownership interest in the partnership was sold; the provisions of this division shall only apply if the capital or ordinary gains or losses from the sale of an ownership interest in a partnership do not constitute qualifying gain receiving capital treatment as defined in subparagraph a of paragraph 2 of subsection F of this section,
 - (3) 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 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. Provided, for corporations whose property for purposes of the tax imposed by Section 2355 of this title has an initial investment cost equaling or exceeding Two Hundred Million

Dollars (\$200,000,000.00) and such investment is made on or after July 1, 1997, or for corporations which expand their property or facilities in this state and such expansion has an investment cost equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00) over a period not to exceed three (3) years, and such expansion is commenced on or after January 1, 2000, the three factors shall be apportioned with property and payroll, each comprising twenty-five percent (25%) of the apportionment factor and sales comprising fifty percent (50%) of the apportionment factor. The apportionment factors shall be computed as follows:

- 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, salespersons' 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 Oklahoma 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 railroad employees, 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 salespersons, 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 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 apportionment of the 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 apportionment to the net income of the enterprise must attribute to Oklahoma only a reasonable portion thereof.

6. For calendar years 1997 and 1998, the owner of a new or expanded agricultural commodity processing facility in this state may exclude from Oklahoma taxable income, or in the case of an

individual, the Oklahoma adjusted gross income, fifteen percent (15%) of the investment by the owner in the new or expanded agricultural commodity processing facility. For calendar year 1999, and all subsequent years, the percentage, not to exceed fifteen percent (15%), available to the owner of a new or expanded agricultural commodity processing facility in this state claiming the exemption shall be adjusted annually so that the total estimated reduction in tax liability does not exceed One Million Dollars (\$1,000,000.00) annually. The Tax Commission shall promulgate rules for determining the percentage of the investment which each eligible taxpayer may exclude. The exclusion provided by this paragraph shall be taken in the taxable year when the investment is made. In the event the total reduction in tax liability authorized by this paragraph exceeds One Million Dollars (\$1,000,000.00) in any calendar year, the Tax Commission shall permit any excess over One Million Dollars (\$1,000,000.00) and shall factor such excess into the percentage for subsequent years. Any amount of the exemption permitted to be excluded pursuant to the provisions of this paragraph but not used in any year may be carried forward as an exemption from income pursuant to the provisions of this paragraph for a period not exceeding six (6) years following the year in which the investment was originally made.

For purposes of this paragraph:

- a. "Agricultural commodity processing facility" means building, structures, fixtures and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. The term shall also mean a dairy operation that requires a depreciable investment of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) and which produces milk from dairy cows. The term does not include a facility that provides only, and nothing more than, storage, cleaning, drying or transportation of agricultural commodities, and
- b. "Facility" means each part of the facility which is used in a process primarily for:
 - (1) the processing of agricultural commodities, including receiving or storing agricultural commodities, or the production of milk at a dairy operation,
 - (2) transporting the agricultural commodities or product before, during or after the processing, or
 - (3) packaging or otherwise preparing the product for sale or shipment.

7. Despite any provision to the contrary in paragraph 3 of this subsection, for taxable years beginning after December 31, 1999, in the case of a taxpayer which has a farming loss, such farming loss shall be considered a net operating loss carryback in accordance with and to the extent of the Internal Revenue Code, 26 U.S.C.,

Section 172(b)(G). However, the amount of the net operating loss carryback shall not exceed the lesser of:

- a. Sixty Thousand Dollars (\$60,000.00), or
- b. the loss properly shown on Schedule F of the Internal Revenue Service Form 1040 reduced by one-half (1/2) of the income from all other sources other than reflected on Schedule F.

8. In taxable years beginning after December 31, 1995, all qualified wages equal to the federal income tax credit set forth in 26 U.S.C.A., Section 45A, shall be deducted from taxable income. The deduction allowed pursuant to this paragraph shall only be permitted for the tax years in which the federal tax credit pursuant to 26 U.S.C.A., Section 45A, is allowed. For purposes of this paragraph, "qualified wages" means those wages used to calculate the federal credit pursuant to 26 U.S.C.A., Section 45A.

9. In taxable years beginning after December 31, 2005, an employer that is eligible for and utilizes the Safety Pays OSHA Consultation Service provided by the Oklahoma Department of Labor shall receive an exemption from taxable income in the amount of One Thousand Dollars (\$1,000.00) for the tax year that the service is utilized.

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 such assets.

Notwithstanding any other provisions of the Oklahoma Income Tax Act, Section 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 such 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, such 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. 1. For taxable years beginning after December 31, 2005, the taxable income of any corporation shall be further adjusted for qualifying gains receiving capital treatment. Such corporations shall be allowed a deduction from Oklahoma taxable income for the amount of qualifying gains receiving capital treatment earned by the corporation during the taxable year and included in the federal taxable income of such corporation.

2. As used in this subsection:

- a. "qualifying gains receiving capital treatment" means the amount of net capital gains, as defined in Section 1222(11) of the Internal Revenue Code, included in the corporation's federal income tax return that was:
 - (1) earned by the corporation on real or tangible personal property located within Oklahoma that has been owned by the corporation for a holding period of at least five (5) years prior to the date of the transaction from which such net capital gains arise, or
 - (2) earned on the sale of stock or on the sale of an ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been owned by the corporation for a holding period of at least three (3) years prior to the date of the transaction from which the net capital gains arise,
- b. "holding period" means an uninterrupted period of time, and
- c. "Oklahoma company", "limited liability company", or "partnership" means an entity whose primary headquarters have been located in Oklahoma for at least three (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise.

E. The Oklahoma adjusted gross income of any individual taxpayer 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 the central visual acuity of the individual does not exceed 20/200 in the better eye with correcting lenses, or if the visual acuity of the individual 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. 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.

Provided, for taxable years beginning after December 31, 1999, amounts included in the calculation of federal adjusted gross income pursuant to the conversion of a traditional individual retirement account to a Roth individual retirement account shall be excluded from federal adjusted gross income for purposes of the income thresholds provided in this subparagraph.

- 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. a. For taxable years beginning on or before December 31, 2005, 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),
 - b. For taxable years beginning on or after January 1, 2006 and before January 1, 2007, 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:

- (1) Three Thousand Dollars (\$3,000.00), if the filing status is married filing joint, head of household or qualifying widow; or
- (2) Two Thousand Dollars (\$2,000.00), if the filing status is single or married filing separate.

c. For taxable years beginning on or after January 1, 2007, 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:

- (1) Four Thousand Dollars (\$4,000.00), if the filing status is married filing joint, head of household or qualifying widow; or
- (2) Two Thousand Dollars (\$2,000.00), if the filing status is single or married filing separate.

3. In the case of resident and part-year 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 or her 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 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 Tax 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 the Internal Revenue 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 the 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. In determining the amount of deduction for federal income taxes for tax year 2001, the amount of the deduction shall not be adjusted by the amount of any accelerated ten percent (10%) tax rate bracket credit or advanced refund of the credit received during the tax year provided pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001, P.L. No. 107-16, and the advanced refund of such credit shall not be subject to taxation.
- d. The provisions of this paragraph shall apply to all taxable years ending after December 31, 1978, and beginning before January 1, 2006.

9. Retirement benefits not to exceed Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax years, which are received by an individual from the civil service 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 Section 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 Section 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. For taxable years beginning after December 31, 1994, lump-sum distributions from employer plans of deferred compensation, which are not qualified plans within the meaning of Section 401(a) of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which are deposited in and accounted for within a separate bank account or brokerage account in a financial institution within this state, shall be excluded from taxable income in the same manner as a qualifying rollover contribution to an individual retirement account within the meaning of Section 408 of the Internal Revenue Code, 26 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage account, including any earnings thereon, shall be included in taxable income when withdrawn in the same manner as withdrawals from individual retirement accounts within the meaning of Section 408 of the Internal Revenue Code.

12. In taxable years beginning after December 31, 1995, contributions made to and interest received from a medical savings account established pursuant to Sections 2621 through 2623 of Title 63 of the Oklahoma Statutes shall be exempt from taxable income.

13. For taxable years beginning after December 31, 1996, the Oklahoma adjusted gross income of any individual taxpayer who is a swine or poultry producer may be further adjusted for the deduction for depreciation allowed for new construction or expansion costs which may be computed using the same depreciation method elected for federal income tax purposes except that the useful life shall be seven (7) years for purposes of this paragraph. If depreciation is allowed as a deduction in determining the adjusted gross income of an individual, any depreciation calculated and claimed pursuant to this section shall in no event be a duplication of any depreciation allowed or permitted on the federal income tax return of the individual.

14. a. In taxable years beginning after December 31, 2002, nonrecurring adoption expenses paid by a resident individual taxpayer in connection with:

- (1) the adoption of a minor, or
- (2) a proposed adoption of a minor which did not result in a decreed adoption,

may be deducted from the Oklahoma adjusted gross income.

- b. The deductions for adoptions and proposed adoptions authorized by this paragraph shall not exceed Twenty Thousand Dollars (\$20,000.00) per calendar year.
- c. The Tax Commission shall promulgate rules to implement the provisions of this paragraph which shall contain a specific list of nonrecurring adoption expenses which may be presumed to qualify for the deduction. The Tax Commission shall prescribe necessary requirements for verification.
- d. "Nonrecurring adoption expenses" means adoption fees, court costs, medical expenses, attorney fees and expenses which are directly related to the legal process of adoption of a child including, but not limited to, costs relating to the adoption study, health and psychological examinations, transportation and reasonable costs of lodging and food for the child or adoptive parents which are incurred to complete the adoption process and are not reimbursed by other sources. The term "nonrecurring adoption expenses" shall not include attorney fees incurred for the purpose of litigating a contested adoption, from and after the point of the initiation of the contest, costs associated with physical remodeling, renovation and alteration of the adoptive parents' home or property, except for a special needs child as authorized by the court.

15. In taxable years beginning before January 1, 2005, retirement benefits not to exceed the amounts specified in this paragraph, which are received by an individual sixty-five (65) years of age or older and whose Oklahoma adjusted gross income is Twenty-five Thousand Dollars (\$25,000.00) or less if the filing status is single, head of household, or married filing separate, or Fifty Thousand Dollars (\$50,000.00) or less if the filing status is married filing joint or qualifying widow, shall be exempt from taxable income. In taxable years beginning after December 31, 2004, retirement benefits not to exceed the amounts specified in this paragraph, which are received by an individual whose Oklahoma adjusted gross income is Thirty-seven Thousand Five Hundred Dollars (\$37,500.00) or less if the filing status is single, head of household, or married filing separate, or Seventy-Five Thousand Dollars (\$75,000.00) or less if the filing status is married filing jointly or qualifying widow, shall be exempt from taxable income. For purposes of this paragraph, "retirement benefits" means the total distributions or withdrawals from the following:

- a. an employee pension benefit plan which satisfies the requirements of Section 401 of the Internal Revenue Code, 26 U.S.C., Section 401,
- b. an eligible deferred compensation plan that satisfies the requirements of Section 457 of the Internal Revenue Code, 26 U.S.C., Section 457,

- c. 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,
- d. 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),
- e. United States Retirement Bonds which satisfy the requirements of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, or
- f. 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).

The amount of the exemption provided by this paragraph shall be limited to Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand Dollars (\$10,000.00) for the tax year 2006 and for all subsequent tax years. Any individual who claims the exemption provided for in paragraph 9 of this subsection shall not be permitted to claim a combined total exemption pursuant to this paragraph and paragraph 9 of this subsection in an amount exceeding Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax years.

16. In taxable years beginning after December 31, 1999, for an individual engaged in production agriculture who has filed a Schedule F form with the taxpayer's federal income tax return for such taxable year, there shall be excluded from taxable income any amount which was included as federal taxable income or federal adjusted gross income and which consists of the discharge of an obligation by a creditor of the taxpayer incurred to finance the production of agricultural products.

17. In taxable years beginning December 31, 2000, an amount equal to one hundred percent (100%) of the amount of any scholarship or stipend received from participation in the Oklahoma Police Corps Program, as established in Section 2-140.3 of Title 47 of the Oklahoma Statutes shall be exempt from taxable income.

- 18. a. In taxable years beginning after December 31, 2001 and before January 1, 2005, there shall be allowed a deduction in the amount of contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The deduction shall equal the amount of contributions to accounts, but in no event shall the deduction for each contributor exceed Two Thousand Five Hundred Dollars (\$2,500.00) each taxable year for each account.
- b. In taxable years beginning after December 31, 2004, each taxpayer shall be allowed a deduction for

contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The maximum annual deduction shall equal the amount of contributions to all such accounts plus any contributions to such accounts by the taxpayer for prior taxable years after December 31, 2004, which were not deducted, but in no event shall the deduction for each tax year exceed Ten Thousand Dollars (\$10,000.00) for each individual taxpayer or Twenty Thousand Dollars (\$20,000.00) for taxpayers filing a joint return. Any amount of a contribution that is not deducted by the taxpayer in the year for which the contribution is made may be carried forward as a deduction from income for the succeeding five (5) years.

19. For taxable years beginning after December 31, 2005, retirement benefits received by an individual from any component of the Armed Forces of the United States in an amount not to exceed the greater of fifty percent (50%) of such benefits or Ten Thousand Dollars (\$10,000.00) shall be exempt from taxable income but in no case less than the amount of the exemption provided by paragraph 15 of this subsection.

F. 1. For taxable years beginning after December 31, 2004, a deduction from the Oklahoma adjusted gross income of any individual taxpayer shall be allowed for qualifying gains receiving capital treatment that are included in the federal adjusted gross income of such individual taxpayer during the taxable year.

2. As used in this subsection:

a. "qualifying gains receiving capital treatment" means the amount of net capital gains, as defined in Section 1222(11) of the Internal Revenue Code, included in an individual taxpayer's federal income tax return that result from:

(1) the sale of real or tangible personal property located within Oklahoma that has been directly or indirectly owned by the individual taxpayer for a holding period of at least five (5) years prior to the date of the transaction from which such net capital gains arise, or

(2) the sale of stock or the sale of a direct or indirect ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been directly or indirectly owned by the individual taxpayer for a holding period of at least ~~three (3)~~ two (2) years prior to the date of the transaction from which the net capital gains arise,

b. "holding period" means an uninterrupted period of time,

- c. "Oklahoma company," "limited liability company," or "partnership" means an entity whose primary headquarters have been located in Oklahoma for at least three (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise,
- d. "direct" means the individual taxpayer directly owns the asset, and
- e. "indirect" means the individual taxpayer owns an interest in a pass-through entity (or chain of pass-through entities) that sells the asset that gives rise to the qualifying gains receiving capital treatment.
 - (1) With respect to sales of real or personal property located within Oklahoma, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the property for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner, or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than five (5) years.
 - (2) With respect to sales of stock or ownership interest in an Oklahoma company, limited liability company, or partnership, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the stock or ownership interest for not less than ~~three (3)~~ two (2) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than ~~three (3)~~ two (2) years. For purposes of this division, uninterrupted ownership prior to the effective date of this act shall be included in the determination of the required holding period prescribed by this division.

SECTION 18. AMENDATORY 68 O.S. 2001, Section 2835, is amended to read as follows:

Section 2835. A. On or before January 1 of each year, the Oklahoma Tax Commission shall prescribe for the use of all county assessors, suitable blank forms for the listing and assessment of all property, both real and personal. Such forms shall contain such information and instructions as may be necessary in order to obtain a full and complete list of all taxable property and such forms

shall be used uniformly throughout the state. Any change in these forms must have the approval of the Tax Commission.

B. It shall be the duty of the county assessor to furnish such forms to any taxpayer upon request, and all personal property shall be listed on such forms in the manner provided therein. Such lists shall be signed and sworn to and filed with the county assessor not later than March 15 of each year; and such lists may show the description of real property, which may be by subdivision of quarter sections, or less if any such subdivision is owned in less quantity, describing such less quantity by United States Land Survey nomenclature if that can be done, otherwise by metes and bounds, according to ownership.

C. Real estate need not be listed by the taxpayer, but may be listed if the taxpayer so desires, in which case the list shall show the taxpayer's estimate of the value of each tract of land and shall separately show the value of the buildings and improvements thereon.

D. All such sworn lists of property shall contain such other information concerning both real and personal property as may be required by such forms so prescribed.

E. All such sworn lists of property, and any other documents produced by a taxpayer to the assessor or the board of equalization during the informal and formal hearing process, shall be protected as confidential and shall not be available for inspection under the Open Records Act.

SECTION 19. AMENDATORY 68 O.S. 2001, Section 2844, as amended by Section 6, Chapter 116, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2844), is amended to read as follows:

Section 2844. A. If any real, personal, railroad, air carrier or public service corporation property is omitted in the assessment of any prior year or years, and the property thereby escapes just and proper taxation, at any time and as soon as such omission is discovered, the county assessor or the county board of equalization, or the State Board of Equalization in the case of public service corporation property or railroad and air carrier property, whose duty it is to assess the class of property which has been omitted, shall at any time cause such property to be entered on the assessment rolls and tax rolls for the year or years omitted, not to exceed the last fifteen (15) years as to real property and the last three (3) years as to personal property, and shall, after reasonable notice to the parties affected, in order that they be heard, assess such omitted property for said periods and cause to be extended against the same on the tax rolls for the current year all arrearage of taxes properly accruing against it, including therein interest thereon at the lawful rate as set forth in Section 2913 of this title, calculated of twelve percent (12%) per annum from the time such tax should have become delinquent.

B. If any tax on property subject to taxation is prevented from being collected for any year or years by reason of any erroneous proceedings, or failure to give notice, or otherwise, the amount of such tax which such property should have paid or should have been

paid thereon shall be added to the tax on such property for the current year, and if for want of sufficient time or for any cause such assessment cannot be entered, and the tax thereon extended on the tax rolls for the current year, the same shall be done the following year.

SECTION 20. AMENDATORY Section 1, Chapter 265, O.S.L. 2002, as amended by Section 3, Chapter 462, O.S.L. 2003 (68 O.S. Supp. 2005, Section 2851.2), is amended to read as follows:

Section 2851.2 A. There is hereby created the "Task Force on Valuation of Gas Gathering System Assets".

B. The Task Force shall consist of six (6) members to be appointed as follows:

1. Three members shall be appointed by the Speaker of the Oklahoma House of Representatives from the membership of the House; and

2. Three members shall be appointed by the President Pro Tempore of the Oklahoma State Senate from the membership of the Senate.

C. The Speaker of the Oklahoma House of Representatives shall designate one of the Speaker's appointees as a cochair. The President Pro Tempore of the Oklahoma State Senate shall designate one of the Pro Tempore's appointees as a cochair. The Task Force shall conduct an organizational meeting not later than August 31, 2002.

D. The Task Force shall conduct a study of the valuation of gas gathering system assets for purposes of ad valorem taxation. The study shall include:

1. The valuation methods currently used for gas gathering systems;

2. The methods used to determine whether gas gathering system assets are subject to the jurisdiction of a county assessor or the State Board of Equalization for purposes of valuation and assessment;

3. Existing opinions of the courts of the State of Oklahoma governing the valuation and assessment of gas gathering system assets or such other materials, cases, opinions or determinations that may be relevant to the study; and

4. Other matters as may be pertinent to the study and recommendations of the Task Force as the Task Force deems relevant.

E. The Task Force shall not be subject to the Oklahoma Open Meeting Act or to the Oklahoma Open Records Act.

F. The Task Force shall be authorized to meet at such times as may be required in order to fulfill the duties imposed upon the Task Force by law. Members of the Task Force shall be reimbursed for

their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes.

G. Staff assistance for the Task Force shall be provided by the Oklahoma House of Representatives and the Oklahoma State Senate.

H. The Task Force shall complete its study not later than December 31, ~~2005~~ 2007.

SECTION 21. AMENDATORY 68 O.S. 2001, Section 2876, as amended by Section 6, Chapter 518, O.S.L. 2004 (68 O.S. Supp. 2005, Section 2876), is amended to read as follows:

Section 2876. A. If the county assessor shall increase the valuation of any property above that returned by the taxpayer, or in the case of real property increase the valuation over the assessment from the preceding year, or pursuant to the requirements of law if the assessor has added property not listed by the taxpayer, the county assessor shall notify in writing the person in whose name any such property is listed, giving the amount of such valuation as increased or valuation of property so added.

B. The notice required by this section shall, for cases in which the valuation of real property has increased, include the fair cash value of the property as used in determining the assessment for the preceding and current year, the taxable value for the preceding and current year, if different than the fair cash value, and the assessment percentage for the preceding and current year.

C. The notice required by this section may be mailed or delivered to the last-known address of the person affected or to the person in charge of or in possession of the property and shall clearly be marked with the date upon which the notice was prepared. Any notice dated as required by this section shall be mailed or delivered within one (1) working day of such date. The notice shall describe the property with sufficient accuracy to notify the taxpayer as to the property included, together with the assessed value of the property. Duplicate copies of the notice, showing the date of issuance and mailing or delivery, shall be kept in the office of the county assessor. Such record shall be prima facie evidence as to the fact of notice having been given as required by this section.

D. The taxpayer shall have twenty (20) working days from the date the notice was mailed or in the event that notice was delivered from the date of delivery in which to file a written complaint with the county assessor specifying objections to action taken by the county assessor; provided, in the case of a scrivener's error or other admitted error on the part of the county assessor, the assessor may make corrections to a valuation at any time, notwithstanding the twenty-day period specified in this subsection. The complaint shall set out the pertinent facts in relation to the matter contained in the notice in ordinary and concise language and in such manner as to enable a person of common understanding to know what is intended. The complaint shall be made upon a form prescribed by the Oklahoma Tax Commission.

E. A taxpayer may file a complaint if the valuation of property has not increased or decreased from the previous year if the complaint is filed on or before the first Monday in May. Such complaint shall be made upon a form prescribed by the Oklahoma Tax Commission.

F. The county assessor shall schedule an informal hearing with the taxpayer to hear the protest as to the disputed valuation or addition of omitted property. The informal hearing may be held in person or may be held telephonically ~~or by other methods that can be used to adequately conduct the hearing and that are agreed upon by both the county assessor and the taxpayer,~~ if requested by the taxpayer. The assessor shall take final action upon the matter disputed within five (5) working days of the date of the informal hearing and shall mail or deliver notice of final action to the taxpayer. The notice of final action shall clearly be marked with the date upon which the notice was prepared. Such notice shall be mailed or delivered within one (1) working day of such date. Within ten (10) working days of the date the notice is mailed or delivered, the taxpayer may file an appeal with the county board of equalization. For purposes of this section, "working days" shall mean Monday through Friday and shall exclude Saturday and Sunday and any legal holidays. The appeal shall be made upon a form prescribed by the Oklahoma Tax Commission. One copy of the form shall be mailed or delivered to the county assessor and one copy shall be mailed or delivered to the county board of equalization. On receipt of the notice of an appeal to the county board of equalization by the taxpayer, the county assessor shall provide the county board of equalization with all information submitted by the taxpayer, data supporting the disputed valuation and a written explanation of the results of the informal hearing.

SECTION 22. AMENDATORY 68 O.S. 2001, Section 3108, as last amended by Section 6 of Enrolled House Bill No. 2361 of the 2nd Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 3108. ~~The~~ A. Any redevelopment association properly designated as an exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), which is operating in the location where property being sold is situated, shall have first priority to offer the full amount due on any parcel of land. Should no properly qualified redevelopment association appear at the sale, a neighborhood association designated as an exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code that is affiliated with the neighborhood in which the property being sold is situated shall have next priority to offer the full amount due on the parcel of land. In the event that more than one such qualified association offers the full amount due on the parcel of land, the county treasurer shall conduct a fair and impartial drawing to determine the successful purchaser.

B. Unless a successful purchase is made pursuant to subsection A of this section, the first person who offers to pay the full amount due on any parcel of land shall be considered to be the successful purchaser. Any person offering to pay the full amount

due shall only represent one person or legal entity at the sale. Brokers or agents representing or submitting bids for multiple parties or entities shall not be allowed. In the event that more than one such person shall so appear at the same time, the county treasurer shall decide the issue by fair and impartial drawing. Parcels Except as provided in subsection A of this section, parcels of land shall be sold to prospective purchasers on a first-come, first-served basis. The county treasurer is hereby authorized at all tax sales made under the laws of this state, in case there are no other purchasers offering the amount due, to purchase all or any real estate offered at the sale for the amount of taxes, penalty, interest and costs due and unpaid thereon, in the name of the county in which the sale takes place, the county acquiring all the rights both legal and equitable that any other purchaser could acquire by reason of the purchase. Whenever the county treasurer of any county shall purchase any real estate in the name of the county, the county treasurer shall note the purchase upon the sale record and show the same in the return of sale.

SECTION 23. REPEALER 68 O.S. 2001, Section 1356, as last amended by Section 1 of Enrolled Senate Bill No. 1022 of the 2nd Session of the 50th Oklahoma Legislature, is hereby repealed.

SECTION 24. REPEALER 68 O.S. 2001, Section 1356, as last amended by Section 1 of Enrolled House Bill No. 2062 of the 2nd Session of the 50th Oklahoma Legislature, is hereby repealed.

SECTION 25. Sections 10, 13 through 16, 18, 21 and 22 of this act shall become effective July 1, 2006.

SECTION 26. Sections 4 through 9, 12, and 19 of this act shall become effective November 1, 2006.

SECTION 27. Section 17 of this act shall become effective January 1, 2006.

Passed the Senate the 26th day of May, 2006.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2006.

Presiding Officer of the House
of Representatives