

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 2024

6 By: Mazzei

7 COMMITTEE SUBSTITUTE

8 [tax incentives - eliminating tax exemption -
9 requiring review of certain tax incentives -
10 effective date]

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 8 O.S. 2001, Section 17, is
14 amended to read as follows:

15 Section 17. Any surplus funds which said corporation may have
16 in its treasury shall be invested by the board of directors in some
17 perfectly secure real estate or securities, all of which shall be
18 exempt from taxation before January 1, 2011, as is the property of
19 other public corporations, and the board of directors shall exercise
20 the best of care in the preservation of said properties and funds
21 and the accumulation thereof, to the end that provisions may be made
22 for the perpetual maintenance of said cemetery and the improvement,
23 embellishing, beautifying and taking care thereof, for which

1 purposes all of the funds of said corporation, after the payment of
2 its debts, shall at all times be subject, to be applied.

3 SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-11-303,
4 is amended to read as follows:

5 Section 2-11-303. A. ~~Any~~ Before January 1, 2012, any person,
6 firm, corporation or other legal entity engaged, or proposing to
7 engage, in the recycling, reuse or source reduction of any hazardous
8 waste, the processing of which is certified as provided in Section
9 ~~188 of Enrolled House Bill No. 1002 of the 1st Session of the 44th~~
10 ~~Oklahoma Legislature~~ 2-11-305 of this title, shall be entitled to a
11 one-time credit against its income tax liability, as provided in
12 ~~Section 187 of Enrolled House Bill No. 1002 of the 1st Session of~~
13 ~~the 44th Oklahoma Legislature~~ 2-11-304 of this title, of not to
14 exceed twenty percent (20%) of the net investment cost of equipment
15 and installation of processes used for the recycling, reuse, or
16 source reduction of hazardous waste. Provided, that:

17 1. The credit allowed to be taken shall not exceed the income
18 tax liability for such year for such person, firm, corporation or
19 legal entity;

20 2. The tax credit to be allowed shall not extend to or include
21 plant operating expenses;

22 3. The person, firm, corporation or other legal entity applying
23 for such tax credit actually uses the recycling, reuse, or source
24 reduction process;

1 4. The tax credit is taken within three (3) years of the
2 installation and actual use of such process; and

3 5. The tax credit allowed by any person, firm, corporation or
4 other legal entity for any three (3) consecutive tax years shall not
5 exceed a total of Fifty Thousand Dollars (\$50,000.00).

6 B. The investment cost of such process may be treated as a
7 depreciable asset for income tax purposes.

8 SECTION 3. AMENDATORY 36 O.S. 2001, Section 2017, is
9 amended to read as follows:

10 Section 2017. The Before January 1, 2013, the Association shall
11 be exempt from payment of all fees and all taxes levied by this
12 state or any of its subdivisions. On or after January 1, 2013, the
13 Association shall be subject only to the taxes levied pursuant to
14 the Oklahoma Sales Tax Code and the Oklahoma Income Tax Act.

15 SECTION 4. AMENDATORY 36 O.S. 2001, Section 2040, is
16 amended to read as follows:

17 Section 2040. The Before January 1, 2014, the Association shall
18 be exempt from payment of all fees and all taxes levied by this
19 state or any of its subdivisions, except taxes levied on real
20 property. On or after January 1, 2014, the Association shall be
21 subject only to taxes levied on real property and the taxes levied
22 pursuant to the Oklahoma Sales Tax Code and the Oklahoma Income Tax
23 Act.

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1 SECTION 5. AMENDATORY 36 O.S. 2001, Section 2617, as
2 amended by Section 56, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2007,
3 Section 2617), is amended to read as follows:

4 Section 2617. ~~Every~~ Except as otherwise provided in this
5 section, every corporation doing business pursuant to this article
6 is hereby declared to be a not-for-profit institution and to be
7 exempt from state, county, district, municipal and school tax,
8 including the taxes prescribed by this Code, and excepting only the
9 fees prescribed by Article 3 of the Insurance Code (Insurance
10 Department and Insurance Commissioner), the premium tax levied
11 pursuant to Article 6 of the Insurance Code (Authorization of
12 Insurers and General Requirements), and taxes on real and tangible
13 personal property situate within this state; provided, on or after
14 January 1, 2015, such corporations shall be subject to the taxes
15 levied pursuant to the Oklahoma Sales Tax Code.

16 SECTION 6. AMENDATORY 36 O.S. 2001, Section 2665, is
17 amended to read as follows:

18 Section 2665. ~~Every~~ Except as otherwise provided in this
19 section, every corporation doing business pursuant to this article
20 is hereby declared to be a nonprofit and benevolent institution and
21 to be exempt from state, county, district, municipal and school tax,
22 including the taxes prescribed by the Oklahoma Insurance Code, and
23 excepting only the fees prescribed by Section 321 of the Oklahoma
24 Insurance Code, and taxes on real and tangible personal property

1 situate within this state; provided, on or after January 1, 2016,
2 such corporations shall be subject to the taxes levied pursuant to
3 the Oklahoma Sales Tax Code.

4 SECTION 7. AMENDATORY 36 O.S. 2001, Section 2685, is
5 amended to read as follows:

6 Section 2685. ~~Every~~ Except as otherwise provided in this
7 section, every corporation doing business pursuant to this Article
8 is hereby declared to be a nonprofit, charitable and benevolent
9 institution and to be exempt from state, county, district, municipal
10 and school taxes, including the taxes prescribed by the Oklahoma
11 Insurance Code, excepting only the fees prescribed by Section 321 of
12 ~~Title 36, Oklahoma Statutes~~ this title, and taxes on real and
13 tangible personal property situated within this state; provided, on
14 or after January 1, 2017, such corporations shall be subject to the
15 taxes levied pursuant to the Oklahoma Sales Tax Code.

16 SECTION 8. AMENDATORY 36 O.S. 2001, Section 2691.15, is
17 amended to read as follows:

18 Section 2691.15 ~~Every~~ Except as otherwise provided in this
19 section, every corporation doing business pursuant to this article
20 is hereby declared to be a nonprofit, charitable and benevolent
21 institution and to be exempt from state, county, district, municipal
22 and school taxes, including the taxes prescribed by the Oklahoma
23 Insurance Code, excepting only the fees prescribed by Section 321 of
24 ~~Title 36 of the Oklahoma Statutes~~ this title, and taxes on real and

1 tangible personal property situated within this state; provided, on
2 or after January 1, 2018, such corporations shall be subject to the
3 taxes levied pursuant to the Oklahoma Sales Tax Code.

4 SECTION 9. AMENDATORY 36 O.S. 2001, Section 2724.1, is
5 amended to read as follows:

6 Section 2724.1 ~~Every~~ Except as otherwise provided in this
7 section, every society organized or licensed under this act is
8 hereby declared to be a charitable and benevolent institution, and
9 all of its funds shall be exempt from all and every state, county,
10 district, municipal and school tax other than taxes on real estate
11 and office equipment; provided, on or after January 1, 2011, such
12 societies shall be subject to the taxes levied pursuant to the
13 Oklahoma Sales Tax Code.

14 SECTION 10. AMENDATORY 36 O.S. 2001, Section 6150, is
15 amended to read as follows:

16 Section 6150. A. Coincident with the filing of the annual
17 report prescribed by Section ~~9 of this act~~ 6149 of this title, each
18 prepaid dental plan organization shall pay to the State Treasurer
19 through the Commissioner a tax for transacting a prepaid dental
20 plan. The obligation shall be determined as follows:

21 1. If a domestic organization, two percent (2%) of prepaid net
22 charges received from members in this state.

23 2. If a foreign organization, two percent (2%) of prepaid net
24 charges received from members in this state.

1 B. ~~An~~ Before January 1, 2012, an organization may offset this
2 tax in whole or in part by payment of state corporate income tax, as
3 provided for in Section 2355 of Title 68 of the Oklahoma Statutes.
4 However, an organization shall not be able to carry over to a
5 succeeding year any credit for paying corporate income tax not used
6 during a year.

7 SECTION 11. AMENDATORY 36 O.S. 2001, Section 6606, is
8 amended to read as follows:

9 Section 6606. A. To ensure the faithful performance of its
10 obligations to its members or subscribers in the event of
11 insolvency, each service warranty association shall, before being
12 issued a license by the Insurance Commissioner and during such time
13 as the association has premiums in force in this state, deposit and
14 maintain securities of the type eligible for deposit by an insurer
15 pursuant to Section 613 of ~~Title 36 of the Oklahoma Statutes~~ this
16 title. Whenever the market value of the securities deposited with
17 the Commissioner is less than ninety-five percent (95%) of the
18 amount required, the association shall deposit additional securities
19 or otherwise increase the deposit to the amount required. In lieu
20 of the amounts required in Section 613 of ~~Title 36 of the Oklahoma~~
21 ~~Statutes~~ this title, such securities shall have at all times a
22 market value as follows:

23 1. A new warrantor, before the issuance of its license and
24 before receiving any premiums, shall place and maintain in trust

1 with the Insurance Commissioner the amount of Twenty Thousand
2 Dollars (\$20,000.00);

3 2. A warrantor which has Three Hundred Thousand Dollars
4 (\$300,000.00) or less of gross written premiums in this state shall
5 place and maintain in trust with the Commissioner an amount not less
6 than Fifty Thousand Dollars (\$50,000.00);

7 3. A warrantor which has more than Three Hundred Thousand
8 Dollars (\$300,000.00) but less than Seven Hundred Fifty Thousand
9 Dollars (\$750,000.00) or more of gross written premiums in this
10 state shall place and maintain in trust with the Commissioner an
11 amount equal to One Hundred Thousand Dollars (\$100,000.00);

12 4. A warrantor which has Seven Hundred Fifty Thousand Dollars
13 (\$750,000.00) or more of gross written premiums in this state shall
14 place and maintain in trust with the Commissioner an amount equal to
15 One Hundred Thousand Dollars (\$100,000.00);

16 5. A warranty seller shall, before the issuance of its license,
17 place in trust with the Commissioner an amount not less than One
18 Hundred Thousand Dollars (\$100,000.00); and

19 6. All warrantors and warranty sellers upon receipt of written
20 notice from the Commissioner, shall have thirty (30) calendar days
21 in which to make additional deposits as the Commissioner deems
22 necessary, up to the maximum amounts provided in this subsection.

23 B. 1. In lieu of any deposit of securities required under
24 subsection A of this section and subject to the approval of the

1 Commissioner, the service warranty association may file with the
2 Commissioner a surety bond issued by an authorized surety insurer.
3 The bond shall be for the same purpose as the deposit in lieu of
4 which it is filed. The Commissioner may not approve any bond under
5 the terms of which the protection afforded against insolvency is not
6 equivalent to the protection afforded by those securities provided
7 for in subsection A of this section.

8 2. When a bond is deposited in lieu of the required securities,
9 no warranties shall be written which provide coverage for a time
10 period beyond the duration of such bond. The bond shall guarantee
11 that the service warranty association will faithfully and truly
12 perform all the conditions of any service warranty contract.

13 3. No such bond shall be canceled or subject to cancellation
14 unless at least sixty (60) days' advance notice thereof, in writing,
15 is filed with the Commissioner. In the event that notice of
16 termination of the bond is filed with the Commissioner the service
17 warranty association insured thereunder shall, within thirty (30)
18 days of the filing of notice of termination, provide the
19 Commissioner with a replacement bond meeting the requirements of
20 this subsection or deposit additional securities as required under
21 subsection A of this section. The cancellation of a bond shall not
22 relieve the obligation of the issuer of the bond for claims arising
23 out of contracts issued before cancellation of the bond unless a
24 replacement bond or securities are filed. In no event shall the

1 liability of the issuer under the bond exceed the face amount of the
2 bond. If within thirty (30) days of filing the notice of
3 termination no replacement bond or additional security is provided,
4 the Commissioner shall suspend the license of the association until
5 the deposit requirements are satisfied.

6 C. Securities and bonds posted by an association pursuant to
7 this section are for the benefit of, and subject to action thereon
8 in the event of insolvency or impairment of any association or
9 insurer by, any person or persons sustaining an actionable injury
10 due to the failure of the association to faithfully perform its
11 obligation to its warranty holders.

12 D. The State Treasurer shall be responsible for the safekeeping
13 of all securities deposited with the Commissioner pursuant to the
14 provisions of the Service Warranty Insurance Act. ~~Such~~ Before
15 January 1, 2013, such securities shall not be subject to taxation,
16 but shall be held exclusively and solely to guarantee the faithful
17 performance by the association of its obligations to its members or
18 subscribers.

19 E. The depositing association, during its solvency, shall have
20 the right to exchange or substitute other securities of like quality
21 and value for securities on deposit, to receive the interest and
22 other income accruing to such securities, and to inspect the deposit
23 at all reasonable times.

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1 F. Such deposit or bond shall be maintained unimpaired as long
2 as the association continues in business in this state. Whenever
3 the association ceases to do business in this state and furnishes
4 the Commissioner proof satisfactory to the Commissioner that it has
5 discharged or otherwise adequately provided for all its obligations
6 to its members or subscribers in this state, the Commissioner shall
7 release the deposited securities to the parties entitled thereto, on
8 presentation of the receipts of the Commissioner for such
9 securities, or shall release any bond filed with it in lieu of such
10 deposit.

11 G. No judgment creditor or other claimant of a service warranty
12 association, other than a judgment creditor whose judgment is based
13 on a service warranty contract, shall have the right to levy upon
14 any of the assets or securities held in this state as a deposit
15 pursuant to this section.

16 SECTION 12. AMENDATORY 37 O.S. 2001, Section 163.3, as
17 amended by Section 1, Chapter 484, O.S.L. 2003 (37 O.S. Supp. 2007,
18 Section 163.3), is amended to read as follows:

19 Section 163.3 There is hereby levied on all low-point beer
20 containing more than one-half of one percent (1/2 of 1%) of alcohol
21 measured by volume and not more than three and two-tenths percent
22 (3.2%) of alcohol measured by weight which are manufactured and
23 sold, or removed for consumption or sale, within this state a tax of
24 Eleven Dollars and twenty-five cents (\$11.25) for every barrel

1 containing not more than thirty-one (31) gallons, and at a like rate
2 of tax for any other quantities or for a fractional part of a
3 barrel. Provided, any low-point beer manufactured in this state for
4 export shall not be taxed under this section.

5 Each wholesaler making reports and remittances to the Tax
6 Commission shall be allowed the sum of one percent (1%) of the tax
7 remittances collected for maintaining and collecting said tax for
8 the benefit of this state.

9 ~~Machinery~~ Before January 1, 2014, machinery and equipment
10 directly used in the manufacture within this state of low-point beer
11 taxed pursuant to the provisions of this section shall be exempt
12 from taxation under any other law of this state levying a sales or
13 consumers or use tax.

14 SECTION 13. AMENDATORY 62 O.S. 2001, Section 690.4, is
15 amended to read as follows:

16 Section 690.4 A. The following benefits and incentives shall
17 be available to qualified enterprises:

18 1. ~~Two~~ Before January 1, 2015, two times the amount of
19 investment tax credits as provided in subsection A of Section 2357.4
20 of Title 68 of the Oklahoma Statutes. For purposes of this act and
21 for purposes of computing the tax credit amount pursuant to
22 subsection A of Section 2357.4 of Title 68 of the Oklahoma Statutes,
23 if an enterprise selects to claim the credit based upon the
24 qualified cost of depreciable property, the credit amount shall be

1 two percent (2%) of such qualified cost. If an enterprise selects
2 to claim the credit based upon the number of new full-time-
3 equivalent positions, the credit amount shall be One Thousand
4 Dollars (\$1,000.00) for each new full-time-equivalent employee;

5 2. ~~Sales~~ Before January 1, 2015, sales tax exemptions for
6 certain manufacturers as provided in Section 1359 of Title 68 of the
7 Oklahoma Statutes; and

8 3. Low interest loans as provided in Section 690.16 of this
9 title.

10 B. ~~Any~~ Subject to the limitations provided in subsection A of
11 this section, any enterprise moving into an enterprise zone on or
12 after the effective date on which the enterprise zone is designated
13 may obtain the benefits and incentives provided by this section if
14 the enterprise meets the requirements established by law for the
15 receipt of such benefits.

16 C. An enterprise located within an enterprise zone before the
17 date on which the enterprise zone is designated may obtain the
18 benefits and incentives provided by this section with respect to any
19 project or any expansion of its labor force occurring after the date
20 on which the enterprise zone is designated.

21 D. For purposes of obtaining the benefit provided by paragraph
22 1 of subsection A of this section, a business, which prior to the
23 effective date of this act, located in an area that was designated
24 as an enterprise zone at the time any official action was taken by a

1 public trust or private funds with respect to location of such
2 business in a county, city or town designated as the beneficiary of
3 such public trust or private funds, shall be entitled to such
4 benefit for any taxable year during which such business was located
5 and operating in the area regardless of any changes in the
6 designation of the area as an enterprise zone resulting from a
7 change in employment levels.

8 E. For purposes of obtaining the benefit provided by paragraph
9 1 of subsection A of this section, a business, which prior to July
10 1, 1993, located in an area that was not designated as an enterprise
11 zone at the time of location of the business but such area has since
12 been designated as an enterprise zone by the Oklahoma Department of
13 Commerce as a result of the area's location in County 115, Tract
14 9746, Block Group 4 of the 1990 decennial census, shall be entitled
15 to such benefit for any taxable year during which such business was
16 located and operating in the location regardless of designation of
17 the area in which the business located as an enterprise zone area
18 after the date of initial location of the business.

19 F. The low interest loans as authorized by this section shall
20 be available for a period of five (5) years following the date on
21 which the county or area within the corporate limits of a city or
22 town is designated an enterprise zone, or until said county or area
23 no longer qualifies as an enterprise zone.

24

1 G. The other benefits and incentives set forth in this section
2 shall be subject to the limitations as provided by law.

3 SECTION 14. AMENDATORY Section 1, Chapter 303, O.S.L.
4 2004 (68 O.S. Supp. 2007, Section 205.4), is amended to read as
5 follows:

6 Section 205.4 A. The Legislature hereby finds that a system to
7 quantify the costs and benefits of existing tax incentives is
8 necessary to determine the achievement of desired objectives in
9 fiscal policy. This system must include a regular and comprehensive
10 review of provisions of state tax incentives. For purposes of this
11 section, "tax incentive" shall include special exclusions, credits,
12 exemptions, or deductions that are not a part of the essential
13 structure of the tax in question and are designed to reduce the tax
14 liability for a special project or that are subject to expiration as
15 provided in this act. A tax incentive shall also include any
16 provision of law that provides direct payment incentives and other
17 measures designed to entice businesses to locate or expand in
18 Oklahoma.

19 B. There is hereby created an Incentive Review Committee, which
20 shall consist of nine (9) members, three each to be appointed by the
21 Governor, the President Pro Tempore of the Senate and the Speaker of
22 the House of Representatives. Each member shall serve a four-year
23 term and can be reappointed up to three times. The Oklahoma Tax
24

1 Commission and the Oklahoma Department of Commerce shall provide the
2 staffing needs of the Committee. The Committee shall ~~annually~~:

3 1. Annually conduct a review of existing tax incentives in an
4 individual tax code and may conduct an in-depth review of the cost
5 and benefits of selected tax incentives; and

6 2. At least two (2) years prior to the date any tax incentive
7 expires as provided in this act or the expiration date of any tax
8 incentive enacted after the effective date of this act, conduct an
9 in-depth review of the costs and benefits of such incentives. For
10 the purposes of this act, a tax incentive shall expire on the date
11 after which no credit may be claimed, exemption or deduction be
12 taken or incentive payment be made; provided, a tax incentive may be
13 considered expired even if an unused credit may be carried forward
14 beyond the date of expiration.

15 Committee review reports shall be submitted to the Governor,
16 Speaker of the House of Representatives and the President Pro
17 Tempore of the Senate. ~~This review~~

18 C. These reviews shall include:

19 1. An identification of the purpose of the tax incentive;

20 2. A determination of whether the potential revenue impact on
21 the state can be quantified and if so, an estimate of the potential
22 revenue impact on the state;

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24

1 3. A determination of whether the economic gain to the state
2 can be quantified and if so, an estimate of the economic gain
3 measured in jobs, wages, investments, or other economic criteria;

4 4. An estimate of the effect on the distribution of the tax
5 burden;

6 5. An estimate of the number of taxpayers receiving the
7 benefit;

8 6. A determination of the growth potential of the industry
9 eligible to claim the incentive;

10 7. A determination of the effectiveness in achieving the
11 desired objective;

12 8. A determination of whether the tax incentive is the most
13 fiscally effective means of achieving its stated purpose;

14 9. An analysis of the costs and burdens of administration;

15 10. An analysis of the competitive position of Oklahoma
16 relative to other states with similar incentives;

17 11. A determination of the effectiveness of evoking a change in
18 taxpayer behavior; and

19 12. A public hearing, at which persons receiving the incentives
20 reviewed, or other interested parties, may testify.

21 Nothing in this section shall preclude the Committee from
22 reviewing incentives outside the tax code selected for the annual
23 review.

24

1 SECTION 15. AMENDATORY 68 O.S. 2001, Section 2353, as
2 last amended by Section 12, Chapter 272, O.S.L. 2006 (68 O.S. Supp.
3 2007, Section 2353), is amended to read as follows:

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

6 1. "Tax Commission" means the Oklahoma Tax Commission;

7 2. "Internal Revenue Code" means the United States Internal
8 Revenue Code, as the same may be amended or adopted from time to
9 time applicable to the taxable year; and other provisions of the
10 laws of the United States relating to federal income taxes, as the
11 same may be or become effective at any time or from time to time
12 applicable to the taxable year;

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

22 4. "Resident individual" means a natural person who is
23 domiciled in this state, and any other natural person who spends in
24 the aggregate more than seven (7) months of the taxable year within

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

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

- 12 a. during any period of twenty-four (24) consecutive
13 months is out of the United States at least five
14 hundred fifty (550) days,
- 15 b. during such period referred to in subparagraph a of
16 this paragraph is not present in this state for more
17 than ninety (90) days during any taxable year,
- 18 c. during any period of less than an entire taxable year,
19 which period is contained within the period referred
20 to in subparagraph a of this paragraph, is not present
21 in this state for a number of days in excess of an
22 amount which bears the same ratio to ninety (90) days
23 as the number of days contained in the period of less
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1 than an entire taxable year bears to three hundred
2 sixty-five (365), and

- 3 d. during such period referred to in subparagraph a of
4 this paragraph does not maintain a permanent place of
5 abode in this state at which the spouse of the
6 individual, unless such spouse is legally separated,
7 or minor children of the individual are present for
8 more than one hundred eighty (180) days;

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

12 6. "Resident trust" means:

- 13 a. a trust, or a portion of a trust, consisting of
14 property transferred by will of a decedent domiciled
15 in this state at death, or a trust, or a portion of a
16 trust, consisting of the property of a person
17 domiciled in this state if such trust is not
18 irrevocable, and
- 19 b. a trust, or portion of a trust, consisting of property
20 of a person domiciled in this state at the time such
21 property was transferred to the trust if such trust or
22 portion was then irrevocable or a person domiciled in
23 this state at the time such trust or portion became
24 irrevocable. A trust, or portion of a trust, is

1 irrevocable if it is not subject to a power
2 exercisable solely by the transferor of such property,
3 at any time, to revest title in the transferor.

4 "Nonresident trust" means a trust other than a
5 resident trust;

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

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

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

18 10. "Taxable income" with respect to any taxpayer means the
19 "taxable income", "life insurance company taxable income", "mutual
20 insurance company taxable income", "(regulated) investment company
21 taxable income", "real estate investment trust taxable income", and
22 "cooperatives' taxable income" and any other "taxable income" as
23 defined in the Internal Revenue Code as applies to such taxpayer or
24 any other income of such taxpayer including, but not limited to,

1 lump sum distributions as defined by the Internal Revenue Code of
2 1986, as amended; provided, in the case of income derived from oil
3 and gas well production, any taxpayer, at his or her option on or
4 before December 31, 2016, may deduct as an allowance for depletion,
5 in lieu of other calculation of depletion based on the cost of the
6 oil and gas deposit, twenty-two percent (22%) of the gross income
7 derived from the properties during the taxable year. Provided
8 further, for tax years beginning on or after January 1, 1997, and
9 ending on or before December 31, 1999, and for tax years beginning
10 on or after January 1, 2001, and ending on or before December 31,
11 2011, for major oil companies as defined in Section 288.2 of Title
12 52 of the Oklahoma Statutes, such allowance shall not exceed fifty
13 percent (50%) of the net income of the taxpayer (computed without
14 allowance for depletion) from the property. During taxable years
15 other than those specified herein but on or before December 31,
16 2016, for all taxpayers, such allowance shall not exceed fifty
17 percent (50%) of the net income of the taxpayer (computed without
18 allowance for depletion) from the property. If a depletion
19 allowance is allowed as a deduction in arriving at the adjusted
20 gross income in the case of an individual, or taxable income for
21 corporations and trusts, or distributable income of partnerships by
22 the Internal Revenue Service, the percentage depletion so calculated
23 shall in no event be a duplication of depletion allowed on the
24 Federal Income Tax Return;

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

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

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

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

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

22 SECTION 16. AMENDATORY 68 O.S. 2001, Section 2357, as
23 amended by Section 8, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2007,
24 Section 2357), is amended to read as follows:

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

3 B. 1. There shall be allowed as a credit against the tax
4 imposed by Section 2355 of this title the amount of tax paid another
5 state by a resident individual, as defined in paragraph 4 of Section
6 2353 of this title, upon income received as compensation for
7 personal services in such other state; provided, such credit shall
8 not be allowed with respect to any income specified in Section 114
9 of Title 4 of the United States Code, 4 U.S.C., Section 114, upon
10 which a state is prohibited from imposing an income tax. The credit
11 shall not exceed such proportion of the tax payable under Section
12 2355 of this title as the compensation for personal services subject
13 to tax in the other state and also taxable under Section 2355 of
14 this title bears to the Oklahoma adjusted gross income as defined in
15 paragraph 13 of Section 2353 of this title.

16 2. For tax years beginning after December 31, 2007, and ending
17 before January 1, 2017, there shall be allowed to a resident
18 individual or part-year resident individual or nonresident
19 individual member of the Armed Forces as a credit against the tax
20 imposed by Section 2355 of this title twenty percent (20%) of the
21 credit for child care expenses allowed under the Internal Revenue
22 Code of the United States or five percent (5%) of the child tax
23 credit allowed under the Internal Revenue Code, whichever amount is
24 greater. Neither credit authorized by this paragraph shall exceed

1 the tax imposed by Section 2355 of this title. The maximum child
2 care credit allowable on the Oklahoma income tax return shall be
3 prorated on the ratio that Oklahoma adjusted gross income bears to
4 the federal adjusted gross income. The credit authorized by this
5 paragraph shall not be claimed by any taxpayer if the federal
6 adjusted gross income reflected on the Oklahoma return for the
7 taxpayer is in excess of One Hundred Thousand Dollars (\$100,000.00).

8 C. 1. ~~Every~~ Before January 1, 2018, every taxpayer who
9 operates a manufacturing establishment in the state shall be allowed
10 a direct credit against income taxes owed by such taxpayer to the
11 state, the amount of which credit shall be proportioned to the
12 amount of gas used or consumed in Oklahoma by such taxpayer in the
13 operation of a manufacturing establishment, at a rate of three (3)
14 mills per thousand (1,000) cubic feet of gas used or consumed after
15 May 1, 1971, and during each taxable year of such taxpayer provided
16 that the credit allowed herein shall not apply to the first twenty-
17 five thousand (25,000) MCF of gas used or gas used to generate
18 electricity or consumed after May 1, 1971, and during each taxable
19 year of such taxpayer.

20 2. As used in this subsection:

21 a. "manufacturing establishment" means a plant or
22 establishment which engages in the business of working
23 raw materials into wares suitable for use or which
24 gives new shapes, new qualities or new combinations to

1 matter which has already gone through some artificial
2 process,

3 b. "gas used or consumed" shall include all natural or
4 casinghead gas used in the operation of the
5 manufacturing establishment for whatever purposes, but
6 shall not include the following:

7 (1) gas which, after being severed from the earth, is
8 subsequently injected into a formation in the
9 state for the purpose of storing, recycling,
10 repressuring or pressure maintenance,

11 (2) gas vented or flared directly into the
12 atmosphere,

13 (3) gas used for fuel in connection with the
14 operation and development for or production of
15 oil or gas in the field where produced, and

16 (4) gas, any part of which is resold by the
17 manufacturing establishment, except as to that
18 part and quantity of the gas which is actually
19 used by the establishment and not resold, and

20 c. "one thousand (1,000) cubic feet of gas" (MCF) means
21 that quantity of gas which, measured at a pressure of
22 fifteen and twenty-five thousandths (15.025) pounds
23 per square inch absolute and at a temperature of
24

1 sixty-nine (69) degrees Fahrenheit, would have the
2 volume of one thousand (1,000) cubic feet.

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

7 1. Those credits provided in this section; and

8 2. ~~Those~~ Before January 1, 2011, those credits authorized by
9 ~~Sections 2-5-101 through 2-5-118 of Title 27A of the Oklahoma~~
10 ~~Statutes~~ the Oklahoma Clean Air Act, which have been, or may
11 hereafter be, certified pursuant to applications therefor made on or
12 before March 22, 1971. Provided, the total amount of the credits
13 referred to in this subparagraph to be taken by the taxpayer shall
14 not exceed the certified net investment cost of the facilities or
15 processes to which such credits pertain, reduced by the greater of:

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

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

1 And, provided further, that, after such credits have been exhausted,
2 taxpayer shall each year thereafter adjust taxable income by adding
3 any depreciation taken on such facilities or processes, or any
4 nondepreciable costs having been included in the net investment cost
5 allowed as credit, and which depreciation or costs have been allowed
6 as a deduction in arriving at federal taxable income for such year.

7 SECTION 17. AMENDATORY 68 O.S. 2001, Section 2357.4, as
8 last amended by Section 29, Chapter 281, O.S.L. 2006 (68 O.S. Supp.
9 2007, Section 2357.4), is amended to read as follows:

10 Section 2357.4 A. Except as otherwise provided in subsection F
11 of Section 3658 of this title, for taxable years beginning after
12 December 31, 1987, and ending before January 1, 2012, there shall be
13 allowed a credit against the tax imposed by Section 2355 of this
14 title for:

15 1. Investment in qualified depreciable property placed in
16 service during those years for use in a manufacturing operation, as
17 defined in Section 1352 of this title, which has received a
18 manufacturer exemption permit pursuant to the provisions of Section
19 1359.2 of this title or a qualified aircraft maintenance or
20 manufacturing facility as defined in paragraph 14 of Section 1357 of
21 this title in this state or a qualified web search portal as defined
22 paragraph 35 of Section 1357 of this title; or

23 2. A net increase in the number of full-time-equivalent
24 employees engaged in manufacturing, processing or aircraft

1 maintenance in this state including employees engaged in support
2 services.

3 B. Except as otherwise provided in subsection F of Section 3658
4 of this title, for taxable years beginning after December 31, 1998,
5 and ending before January 1, 2012, there shall be allowed a credit
6 against the tax imposed by Section 2355 of this title for:

7 1. Investment in qualified depreciable property with a total
8 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)
9 within three (3) years from the date of initial qualifying
10 expenditure and placed in service in this state during those years
11 for use in the manufacture of products described by any Industry
12 Number contained in Division D of Part I of the Standard Industrial
13 Classification (SIC) Manual, latest revision; or

14 2. A net increase in the number of full-time-equivalent
15 employees in this state engaged in the manufacture of any goods
16 identified by any Industry Number contained in Division D of Part I
17 of the Standard Industrial Classification (SIC) Manual, latest
18 revision, if the total cost of qualified depreciable property placed
19 in service by the business entity within the state equals or exceeds
20 Forty Million Dollars (\$40,000,000.00) within three (3) years from
21 the date of initial qualifying expenditure.

22 C. The business entity may claim the credit authorized by
23 subsection B of this section for expenditures incurred or for a net
24 increase in the number of full-time-equivalent employees after the

1 business entity provides proof satisfactory to the Oklahoma Tax
2 Commission that the conditions imposed pursuant to paragraph 1 or
3 paragraph 2 of subsection B of this section have been satisfied.

4 D. If a business entity fails to expend the amount required by
5 paragraph 1 or paragraph 2 of subsection B of this section within
6 the time required, the business entity may not claim the credit
7 authorized by subsection B of this section, but shall be allowed to
8 claim a credit pursuant to subsection A of this section if the
9 requirements of subsection A of this section are met with respect to
10 the investment in qualified depreciable property or net increase in
11 the number of full-time-equivalent employees.

12 E. The credit provided for in subsection A of this section, if
13 based upon investment in qualified depreciable property, shall not
14 be allowed unless the investment in qualified depreciable property
15 is at least Fifty Thousand Dollars (\$50,000.00). The credit
16 provided for in subsection A or B of this section shall not be
17 allowed if the applicable investment is the direct cause of a
18 decrease in the number of full-time-equivalent employees. Qualified
19 property shall be limited to machinery, fixtures, equipment,
20 buildings or substantial improvements thereto, placed in service in
21 this state during the taxable year. The taxable years for which the
22 credit may be allowed if based upon investment in qualified
23 depreciable property shall be measured from the year in which the
24 qualified property is placed in service. If the credit provided for

1 in subsection A or B of this section is calculated on the basis of
2 the cost of the qualified property, the credit shall be allowed in
3 each of the four (4) subsequent years. If the qualified property on
4 which a credit has previously been allowed is acquired from a
5 related party, the date such property is placed in service by the
6 transferor shall be considered to be the date such property is
7 placed in service by the transferee, for purposes of determining the
8 aggregate number of years for which credit may be allowed.

9 F. The credit provided for in subsection A or B of this
10 section, if based upon an increase in the number of full-time-
11 equivalent employees, shall be allowed in each of the four (4)
12 subsequent years only if the level of new employees is maintained in
13 the subsequent year. In calculating the credit by the number of new
14 employees, only those employees whose paid wages or salary were at
15 least Seven Thousand Dollars (\$7,000.00) during each year the credit
16 is claimed shall be included in the calculation. Provided, that the
17 first year a credit is claimed for a new employee, such employee may
18 be included in the calculation notwithstanding paid wages of less
19 than Seven Thousand Dollars (\$7,000.00) if the employee was hired in
20 the last three quarters of the tax year, has wages or salary which
21 will result in annual paid wages in excess of Seven Thousand Dollars
22 (\$7,000.00) and the taxpayer submits an affidavit stating that the
23 employee's position will be retained in the following tax year and
24 will result in the payment of wages in excess of Seven Thousand

1 Dollars (\$7,000.00). The number of new employees shall be
2 determined by comparing the monthly average number of full-time
3 employees subject to Oklahoma income tax withholding for the final
4 quarter of the taxable year with the corresponding period of the
5 prior taxable year, as substantiated by such reports as may be
6 required by the Tax Commission.

7 G. The credit allowed by subsection A of this section shall be
8 the greater amount of either:

9 1. One percent (1%) of the cost of the qualified property in
10 the year the property is placed in service; or

11 2. Five Hundred Dollars (\$500.00) for each new employee. No
12 credit shall be allowed in any taxable year for a net increase in
13 the number of full-time-equivalent employees if such increase is a
14 result of an investment in qualified depreciable property for which
15 an income tax credit has been allowed as authorized by this section.

16 H. The credit allowed by subsection B of this section shall be
17 the greater amount of either:

18 1. Two percent (2%) of the cost of the qualified property in
19 the year the property is placed in service; or

20 2. One Thousand Dollars (\$1,000.00) for each new employee.

21 No credit shall be allowed in any taxable year for a net
22 increase in the number of full-time-equivalent employees if such
23 increase is a result of an investment in qualified depreciable
24

1 property for which an income tax credit has been allowed as
2 authorized by this section.

3 I. Except as provided by subsection G of Section 3658 of this
4 title, any credits allowed but not used in any taxable year may be
5 carried over in order as follows:

6 1. To each of the four (4) years following the year of
7 qualification; and

8 2. To the extent not used in those years in order to each of
9 the fifteen (15) years following the initial five-year period.

10 To the extent not used in paragraphs 1 and 2 of this subsection,
11 such credits from qualified depreciable property placed in service
12 on or after January 1, 2000, may be utilized in any subsequent tax
13 years after the initial twenty-year period.

14 J. Any credit claimed pursuant to the provisions of this act
15 shall be subject to the limitations of subsections A and B of this
16 section.

17 SECTION 18. AMENDATORY 68 O.S. 2001, Section 2357.6, is
18 amended to read as follows:

19 Section 2357.6 Any person or corporation may contribute monies
20 to the Energy Conservation Assistance Fund. ~~Such~~ Before January 1,
21 2013, such contributions shall be entitled to an income tax credit
22 against the state personal or corporate income tax liability of
23 fifty percent (50%) of the amount contributed to the fund for the
24 taxable year in which it was made.

1 SECTION 19. AMENDATORY 68 O.S. 2001, Section 2357.11, as
2 last amended by Section 9, Chapter 44, 2nd Extraordinary Session,
3 O.S.L. 2006 (68 O.S. Supp. 2007, Section 2357.11), is amended to
4 read as follows:

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

9 B. 1. For tax years beginning on or after January 1, 1993 and
10 ending on or before December 31, 2012, there shall be allowed a
11 credit against the tax imposed by Section 1803 or Section 2355 of
12 this title or Section 624 or 628 of Title 36 of the Oklahoma
13 Statutes for every person in this state furnishing water, heat,
14 light or power to the state or its citizens, or for every person in
15 this state burning coal to generate heat, light or power for use in
16 manufacturing operations located in this state.

17 2. For tax years beginning on or after January 1, 1993 and
18 ending on or before December 31, 2005, and for the period of January
19 1, 2006, through June 30, 2006, the credit shall be in the amount of
20 Two Dollars (\$2.00) per ton for each ton of Oklahoma-mined coal
21 purchased by such person.

22 3. For the period of July 1, 2006, through December 31, 2006,
23 and for tax years beginning on or after January 1, 2007, and ending
24 on or before December 31, 2012, the credit shall be in the amount of

1 Two Dollars and eighty-five cents (\$2.85) per ton for each ton of
2 Oklahoma-mined coal purchased by such person.

3 4. In addition to the credit allowed pursuant to the provisions
4 of paragraph 3 of this subsection, for the period of July 1, 2006,
5 through December 31, 2006, and for tax years beginning on or after
6 January 1, 2007, and ending on or before December 31, 2012, there
7 shall be allowed a credit in the amount of Two Dollars and fifteen
8 cents (\$2.15) per ton for each ton of Oklahoma-mined coal purchased
9 by such person. The credit allowed pursuant to the provisions of
10 this paragraph may not be claimed or transferred prior to January 1,
11 2008.

12 C. For tax years beginning on or after January 1, 1995, and
13 ending on or before December 31, 2005, and for the period beginning
14 January 1, 2006, through June 30, 2006, there shall be allowed, in
15 addition to the credits allowed pursuant to subsection B of this
16 section, a credit against the tax imposed by Section 1803 or Section
17 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
18 Statutes for every person in this state which:

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

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

24

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

4 D. Except as otherwise provided in subsection E of this
5 section, for tax years beginning on or after January 1, 2001, and
6 ending on or before December 31, 2012, there shall be allowed a
7 credit against the tax imposed by Section 1803 or Section 2355 of
8 this title or Section 624 or 628 of Title 36 of the Oklahoma
9 Statutes for every person in this state primarily engaged in mining,
10 producing or extracting coal, and holding a valid permit issued by
11 the Oklahoma Department of Mines. For tax years beginning on or
12 after January 1, 2001 and ending on or before December 31, 2005, and
13 for the period beginning January 1, 2006 through June 30, 2006, the
14 credit shall be in the amount of ninety-five cents (\$0.95) per ton
15 and for the period of July 1, 2006 through December 31, 2006, and
16 for tax years beginning on or after January 1, 2007, and ending on
17 or before December 31, 2012, the credit shall be in the amount of
18 Five Dollars (\$5.00) for each ton of coal mined, produced or
19 extracted in on, under or through a permit in this state by such
20 person.

21 E. In addition to the credit allowed pursuant to the provisions
22 of subsection D of this section and except as otherwise provided in
23 subsection F of this section, for tax years beginning on or after
24 January 1, 2001 and ending on or before December 31, 2005, and for

1 the period of January 1, 2006 through June 30, 2006, there shall be
2 allowed a credit against the tax imposed by Section 1803 or Section
3 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
4 Statutes for every person in this state primarily engaged in mining,
5 producing or extracting coal, and holding a valid permit issued by
6 the Oklahoma Department of Mines in the amount of ninety-five cents
7 (\$0.95) per ton for each ton of coal mined, produced or extracted
8 from thin seams in this state by such person; provided, the credit
9 shall not apply to such coal sold to any consumer who purchases at
10 least seven hundred fifty thousand (750,000) tons of Oklahoma-mined
11 coal per year.

12 F. In addition to the credit allowed pursuant to the provisions
13 of subsection D of this section and except as otherwise provided in
14 subsection G of this section, for tax years beginning on or after
15 January 1, 2005 and ending on or before December 31, 2005, and for
16 the period of January 1, 2006, through June 30, 2006, there shall be
17 allowed a credit against the tax imposed by Section 1803 or Section
18 2355 of this title or that portion of the tax imposed by Section 624
19 or 628 of Title 36 of the Oklahoma Statutes, which is actually paid
20 to and placed into the General Revenue Fund, in the amount of
21 ninety-five cents (\$0.95) per ton for each ton of coal mined,
22 produced or extracted from thin seams in this state by such person
23 on or after July 1, 2005.

24

1 G. The credits provided in subsections D and E of this section
2 shall not be allowed for coal mined, produced or extracted in any
3 month in which the average price of coal is Sixty-eight Dollars
4 (\$68.00) or more per ton, excluding freight charges, as determined
5 by the Tax Commission.

6 H. The additional credits allowed pursuant to subsections B, C,
7 D and E of this section but not used shall be freely transferable
8 after January 1, 2002, by written agreement to subsequent
9 transferees at any time during the five (5) years following the year
10 of qualification; provided, the additional credits allowed pursuant
11 to the provisions of paragraph 4 of subsection B of this section but
12 not used shall be freely transferable after January 1, 2008, by
13 written agreement to subsequent transferees at any time during the
14 five (5) years following the year of qualification. An eligible
15 transferee shall be any taxpayer subject to the tax imposed by
16 Section 1803 or Section 2355 of this title or Section 624 or 628 of
17 Title 36 of the Oklahoma Statutes. The person originally allowed
18 the credit and the subsequent transferee shall jointly file a copy
19 of the written credit transfer agreement with the Tax Commission
20 within thirty (30) days of the transfer. The written agreement
21 shall contain the name, address and taxpayer identification number
22 of the parties to the transfer, the amount of credit being
23 transferred, the year the credit was originally allowed to the
24 transferring person and the tax year or years for which the credit

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

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

1 J. Any person receiving tax credits pursuant to the provisions
2 of this section shall apply the credits against taxes payable or
3 shall transfer the credits as provided in this section. Credits
4 shall not be used to lower the price of any Oklahoma-mined coal sold
5 that is produced by a subsidiary of the person receiving a tax
6 credit under this section to other buyers of the Oklahoma-mined
7 coal.

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

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

17 SECTION 20. AMENDATORY 68 O.S. 2001, Section 2357.13, is
18 amended to read as follows:

19 Section 2357.13 A. For taxable years beginning after December
20 31, 1999, and ending before January 1, 2014, there shall be allowed
21 a credit against the tax imposed by Section 2355 of this title for
22 investments in qualifying projects, the purpose of which is to
23 encourage the development of commercial space industries in this
24 state.

1 B. As used in this section:

2 1. "Commencement of operations" means the beginning of active
3 operations by a qualifying business of the principal function for
4 which a qualifying project was constructed;

5 2. "Cumulative capital investment" means the total capital
6 investment in land, buildings, and equipment made in connection with
7 a qualifying project during the period from the beginning of
8 construction of the project to the commencement of operations;

9 3. "Eligible capital costs" means all expenses incurred by a
10 qualifying business in connection with the acquisition,
11 construction, installation, and equipping of a qualifying project
12 during the period from the beginning of construction of the project
13 to the commencement of operations, including, but not limited to:

14 a. costs of acquiring, constructing, installing,
15 equipping, and financing a qualifying project,
16 including all obligations incurred for labor and
17 obligations to contractors, subcontractors, builders,
18 and materialmen,

19 b. costs of acquiring land or rights to land and any cost
20 incidental thereto,

21 c. costs of architectural and engineering services,
22 including, but not limited to, test borings, surveys,
23 estimates, plans and specifications, preliminary
24 investigations, environmental mitigation, and

1 supervision of construction, as well as the performance
2 of all duties required by or consequent to the
3 acquisition, construction, installation, and equipping
4 of a qualifying project, and

- 5 d. costs associated with the installation of fixtures and
6 equipment, surveys, site tests and inspections,
7 subsurface site work and excavation, removal of
8 structures, roadways, and other surface obstructions,
9 filling, grading, paving, and providing for drainage,
10 storm water retention, and installation of utilities,
11 and offsite construction of utility extensions to the
12 boundaries of the property.

13 "Eligible capital costs" shall not include the cost of any
14 property previously owned or leased by the qualifying business;

15 4. "Jobs" means full-time-equivalent positions, as such term is
16 consistent with terms used by Oklahoma Employment Security
17 Commission and the United States Department of Labor for purposes of
18 unemployment tax administration and employment estimation, resulting
19 directly from a project in this state. Such term does not include
20 temporary construction jobs involved in the construction of the
21 project facility;

22 5. "Qualifying business" means a business which establishes a
23 qualifying project in this state and which is certified by the
24

1 Oklahoma Tax Commission to receive tax credits pursuant to the
2 provisions of this section; and

3 6. "Qualifying project" means a new or expanding facility in
4 this state or a combination of two new or expanding facilities in
5 this state which facility or combination of facilities creates at
6 least one hundred (100) new jobs in this state and is engaged in an
7 industry which the Oklahoma Space Industry Development Authority is
8 authorized to promote.

9 C. The credit provided for in this section shall be in the
10 amount of five percent (5%) of the eligible capital costs generated
11 by a qualifying project. In order to qualify to receive the credit,
12 application shall be made to the Tax Commission, which shall certify
13 the amount of eligible capital costs generated by a qualifying
14 project and the maximum amount of the tax credit to which the
15 taxpayer will be entitled. The credit shall be granted only against
16 the tax liability upon income generated by or arising out of the
17 qualifying project and shall not exceed the following percentages of
18 the corporate income tax liability upon income generated by or
19 arising out of a qualifying project for any tax year in which a
20 credit may be claimed:

21 1. One hundred percent (100%) for a qualifying project which
22 results in a cumulative capital investment of more than One Hundred
23 Million Dollars (\$100,000,000.00);

24

1 2. Seventy-five percent (75%) for a qualifying project which
2 results in a cumulative capital investment of more than Fifty
3 Million Dollars (\$50,000,000.00), but not exceeding One Hundred
4 Million Dollars (\$100,000,000.00); and

5 3. Fifty percent (50%) for a qualifying project which results
6 in a cumulative capital investment of Twenty-five Million Dollars
7 (\$25,000,000.00) or more, but not exceeding Fifty Million Dollars
8 (\$50,000,000.00).

9 A qualifying project which results in a cumulative capital
10 investment of less than Twenty-five Million Dollars (\$25,000,000.00)
11 shall not be eligible for the credit. No credit may be claimed for
12 investments made prior to July 1, 1999.

13 The amount of any credit allowed but not used in any tax year
14 may be carried over in order to each of the four (4) years following
15 the year of qualification subject to the limitations provided in
16 this subsection. In no event shall any credit granted pursuant to
17 the provisions of this section be transferable or refundable.

18 D. The credit allowed pursuant to the provisions of this
19 section shall not be allowed for any project undertaken by a
20 qualified space transportation vehicle provider in which a credit
21 for an eligible investment is claimed pursuant to the provisions of
22 Section 1 of this act.

23 SECTION 21. AMENDATORY 68 O.S. 2001, Section 2357.24, is
24 amended to read as follows:

1 Section 2357.24 A. For taxable years beginning after December
2 31, 1994, and ending before January 1, 2015, there shall be allowed
3 a deduction from the taxable income of any resident taxpayer who
4 sells to this state any real property in which the taxpayer is the
5 record owner and which real property was the site of a historic
6 battle during the nineteenth century and is or has been designated a
7 National Historic Landmark. For purposes of this section, a
8 "National Historic Landmark" is a district, site, building,
9 structure or object, designated by the Secretary of the Interior as
10 possessing national significance in American history, archaeology,
11 architecture, engineering or culture.

12 B. The deduction allowed by this section shall be limited to
13 fifty percent (50%) of any capital gain the owner of the property
14 receives or realizes upon the sale of the property and shall be
15 allowed for the taxable year in which the sale occurred.

16 C. A husband and wife who file separate returns for a taxable
17 year in which they could have filed a joint return may each claim
18 only one-half (1/2) of the tax deduction that would have been
19 allowed for a joint return. If record title to the property is held
20 in more than one individual other than a husband and wife, each
21 owner shall be allowed the deduction in the same percentage as that
22 individual's percentage of ownership in the property. In no event
23 shall the total deduction allowed by this section exceed fifty
24

1 percent (50%) in the taxable year of the capital gain realized on
2 the sale of the property.

3 D. Record title to the property subject to the provisions of
4 this section may be initially transferred or conveyed by the
5 resident taxpayer to a private, nonprofit organization if the
6 organization transfers or conveys record title to the property to
7 this state within one (1) year of the sale or transfer of the
8 property from the resident taxpayer to the organization. The
9 private, nonprofit organization shall not be entitled to the
10 deduction provided by this section. If record title is not
11 transferred or conveyed to this state by the private, nonprofit
12 organization within the one-year period, the resident taxpayer shall
13 not be allowed the deduction.

14 SECTION 22. AMENDATORY 68 O.S. 2001, Section 2357.26, as
15 amended by Section 1, Chapter 441, O.S.L. 2002 (68 O.S. Supp. 2007,
16 Section 2357.26), is amended to read as follows:

17 Section 2357.26 A. For tax years beginning after December 31,
18 2001, and ending before January 1, 2016, there shall be allowed a
19 credit against the tax imposed by Section 2355 of this title for
20 employers incurring eligible expenses in connection with the
21 provision of child care services.

22 B. As used in this section:

23 1. "Eligible expenses" means amounts paid for:
24

- 1 a. the purchase of qualifying child care services that
2 are actually provided to children of employees, at a
3 program licensed by the Department of Human Services
4 with a rating of two stars or higher pursuant to rules
5 promulgated by the Department, at a:
- 6 (1) child care center, or
 - 7 (2) family child care home,
- 8 b. planning, preparing a site and constructing a child
9 care center,
- 10 c. renovating or remodeling a structure to be used for a
11 child care center,
- 12 d. purchasing equipment necessary for use by a child care
13 center,
- 14 e. expanding a child care center,
- 15 f. maintaining and operating a child care center,
16 including paying direct administrative and staff
17 costs,
- 18 g. purchasing child care slots actually provided or
19 reserved for children of employees, or
- 20 h. fees and grants provided to child care resource and
21 referral organizations doing business within this
22 state; and
- 23
24

1 2. "Employer" means a taxpayer who employs one or more full-
2 time-equivalent employees and whose primary source of income is from
3 a business other than the business of providing child care services.

4 C. In lieu of a deduction from taxable income, the credit
5 allowed by subsection A of this section shall be twenty percent
6 (20%) of the amount of eligible expenses.

7 D. The amount of eligible expenses upon which the credit will
8 be based in any taxable year shall be limited to:

9 1. Three Thousand One Hundred Dollars (\$3,100.00) for expenses
10 described in subparagraph a of paragraph 1 of subsection B of this
11 section for each child of an employee receiving qualifying child
12 care services;

13 2. Fifty Thousand Dollars (\$50,000.00) for expenses described
14 in subparagraphs b through g of paragraph 1 of subsection B of this
15 section; and

16 3. Five Thousand Dollars (\$5,000.00) for expenses described in
17 subparagraph h of paragraph 1 of subsection B of this section.

18 E. Any credits allowed but not used in any tax year may be
19 carried over in order to each of the four (4) tax years following
20 the year of qualification.

21 F. The Oklahoma Tax Commission, on or before January 31 of each
22 year, shall submit a report regarding the credit authorized by this
23 section to both houses of the Oklahoma Legislature. Such report
24

1 shall summarize the total amount of credits claimed and likely to be
2 claimed and allowed under this section.

3 SECTION 23. AMENDATORY 68 O.S. 2001, Section 2357.27, as
4 amended by Section 1, Chapter 347, O.S.L. 2004 (68 O.S. Supp. 2007,
5 Section 2357.27), is amended to read as follows:

6 Section 2357.27 A. For tax years beginning after December 31,
7 1998, and ending before January 1, 2017, there shall be allowed a
8 credit against the tax imposed by Section 2355 of this title for
9 eligible expenses incurred by entities primarily engaged in the
10 business of providing child care services.

11 B. As used in this section, "eligible expenses" means amounts
12 paid by an entity primarily engaged in the business of providing
13 child care services for expenses incurred by the entity to comply
14 with the standards promulgated by a national accrediting association
15 recognized by the Department of Human Services and which would not
16 have been incurred by the entity to comply with the Oklahoma Child
17 Care Facilities Licensing Act.

18 C. The credit allowed by subsection A of this section shall be
19 twenty percent (20%) of the amount of eligible expenses. Such
20 credit shall not be allowed for any amounts for which the entity
21 claims or receives an income tax credit, exemption or deduction.

22 D. Any credits allowed but not used in any tax year may be
23 carried over in order to each of the four (4) tax years following
24 the year of qualification.

1 SECTION 24. AMENDATORY 68 O.S. 2001, Section 2357.30, is
2 amended to read as follows:

3 Section 2357.30 A. As used in this section, "small business"
4 means any corporation, partnership, sole proprietorship or other
5 business entity qualifying as "small" under the standards contained
6 in Section 121 of Title 13 of the Code of Federal Regulations (13
7 C.F.R., Section 121).

8 B. For taxable years beginning after December 31, 1998, and
9 ending before January 1, 2018, every small business operating within
10 this state shall be entitled to claim as a credit against the tax
11 imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this
12 title, subject to the limitations provided by subsection C of this
13 section, any amount paid to the U.S. Small Business Administration
14 as a guaranty fee pursuant to the obtaining of financing guaranteed
15 by the Small Business Administration.

16 C. The credit authorized by this section shall only be claimed
17 against the tax liability resulting from income generated by the
18 small business. If an income tax return upon which this credit is
19 claimed includes taxable income from sources other than the small
20 business, the credit shall only be allowed to be claimed upon a
21 percentage of the income tax liability which does not exceed the
22 percentage of income generated by the small business as compared to
23 the total Oklahoma adjusted gross income shown on the return. The
24

1 Oklahoma Tax Commission shall promulgate rules and prescribe forms
2 to implement the provisions of this section.

3 D. If the credit authorized by this section exceeds the amount
4 of income taxes due or if there are no state income taxes due on the
5 income of the taxpayer as computed pursuant to the provisions of
6 subsection C of this section, the amount of the credit not used may
7 be carried forward as a credit against subsequent income tax
8 liability for a period not to exceed five (5) years. The credit
9 shall be claimable only by the small business which is the primary
10 obligor in the financing transaction and which actually paid the
11 guaranty fee.

12 SECTION 25. AMENDATORY 68 O.S. 2001, Section 2357.31, is
13 amended to read as follows:

14 Section 2357.31 A. As used in this section:

15 1. "Eligible employer" means a corporation, partnership or
16 proprietorship which:

17 a. has done business in this state for at least one (1)
18 year,

19 b. has not provided group health insurance within the
20 fifteen (15) months preceding the offer to purchase
21 group health insurance which meets the requirements of
22 this section to at least seventy-five percent (75%) of
23 its employees who are residents of this state and work
24

1 an average of twenty-four (24) hours or more a week
2 for said employer,

3 c. offers the state-certified, basic health benefits plan
4 to all eligible employees who worked an average of
5 twenty-four (24) hours or more a week during the
6 calendar quarter preceding the purchase of the policy,
7 and

8 d. pays fifty percent (50%) or more of the full cost of
9 the portion of the premium attributable to the
10 employee for which the employer is claiming credit;

11 2. "Eligible employee" means an employee, proprietor or partner
12 of the employer claiming the credit who:

13 a. is a resident of this state,

14 b. works an average of twenty-four (24) hours a week or
15 more for the employer, and

16 c. was not covered by a group health insurance policy or
17 plan offered by the same employer within the fifteen
18 (15) months preceding the offer to purchase health
19 insurance which meets the requirements of this
20 section; and

21 3. "State-certified, basic health benefits plan" means the
22 basic health benefits plan developed and approved by the Oklahoma
23 Basic Health Benefits Board prior to July 1, 1995.

1 B. 1. For tax years beginning after December 31, 1990, and
2 ending before January 1, 2011, there shall be allowed to an eligible
3 employer a credit against the tax imposed by Section 2355 of this
4 title for premiums paid on behalf of each eligible employee who
5 elects to participate in the state-certified, basic health benefits
6 plan and meets the requirements of this section. The credit shall
7 be in the amount of Fifteen Dollars (\$15.00) a month for each
8 eligible employee and shall be allowed for two (2) consecutive tax
9 years. Provided, if the tax liability of an employer pursuant to
10 Section 2355 of this title is less than the credit to which the
11 employer is entitled pursuant to this section, the Oklahoma Tax
12 Commission shall pay a refund to the employer. The refund shall
13 equal the difference between the amount of taxes owed, after any
14 other credits or exemptions to which the employer is entitled have
15 been applied to the tax liability, and the credit to which the
16 employer is entitled pursuant to this section for the tax year.

17 2. Tax credits or refunds may not be granted pursuant to the
18 provisions of this section to an employer who, prior to July 1,
19 1995, was not covered under a state-certified, basic health benefits
20 plan.

21 C. The credit shall not be granted unless the eligible employer
22 certifies to the ~~Oklahoma~~ Oklahoma Tax Commission that each employee for
23 which the credit is claimed is participating in the state-certified,
24 basic health benefits plan.

1 D. The ~~Oklahoma~~ Tax Commission shall develop and issue
2 appropriate forms and instructions to enable eligible employers to
3 claim the tax credit. The Tax Commission shall promulgate rules to
4 facilitate the implementation of this section.

5 SECTION 26. AMENDATORY 68 O.S. 2001, Section 2357.32A,
6 as last amended by Section 10, Chapter 44, 2nd Extraordinary
7 Session, O.S.L. 2006 (68 O.S. Supp. 2007, Section 2357.32A), is
8 amended to read as follows:

9 Section 2357.32A A. For tax years beginning on or after
10 January 1, 2003, and ending before January 1, 2012, there shall be
11 allowed a credit against the tax imposed by Section 2355 of this
12 title to a taxpayer for the taxpayer's production and sale to an
13 unrelated person of electricity generated by zero-emission
14 facilities located in this state. As used in this section:

15 1. "Electricity generated by zero-emission facilities" means
16 electricity that is exclusively produced by any facility located in
17 this state with a rated production capacity of one megawatt (1 mw)
18 or greater, constructed for the generation of electricity and placed
19 in operation after June 4, 2001, which utilizes eligible renewable
20 resources as its fuel source. The construction and operation of
21 such facilities shall result in no pollution or emissions that are
22 or may be harmful to the environment, pursuant to a determination by
23 the Department of Environmental Quality; and

24 2. "Eligible renewable resources" means resources derived from:

- 1 a. wind,
- 2 b. moving water,
- 3 c. sun, or
- 4 d. geothermal energy.

5 B. For facilities placed in operation on or after January 1,
6 2003, and before January 1, 2007, the electricity generated on or
7 after January 1, 2003, but prior to January 1, 2004, the amount of
8 the credit shall be seventy-five one hundredths of one cent
9 (\$0.0075) for each kilowatt-hour of electricity generated by zero-
10 emission facilities. For electricity generated on or after January
11 1, 2004, but prior to January 1, 2007, the amount of the credit
12 shall be fifty one hundredths of one cent (\$0.0050) per kilowatt-
13 hour for electricity generated by zero-emission facilities. For
14 electricity generated on or after January 1, 2007, but prior to
15 January 1, 2012, the amount of the credit shall be twenty-five one
16 hundredths of one cent (\$0.0025) per kilowatt-hour of electricity
17 generated by zero-emission facilities. For facilities placed in
18 operation on or after January 1, 2007, and before January 1, ~~2016~~
19 2012, for the electricity generated by these facilities the amount
20 of the credit shall be fifty one hundredths of one cent (\$0.0050)
21 for each kilowatt-hour of electricity generated by zero-emission
22 facilities.

23 C. Credits Subject to the limitations provided in subsection A
24 of this section, credits may be claimed with respect to electricity

1 generated on or after January 1, 2003, during a ten-year period
2 following the date that the facility is placed in operation on or
3 after June 4, 2001.

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

10 E. Any nontaxable entities, including agencies of the State of
11 Oklahoma or political subdivisions thereof, shall be eligible to
12 establish a transferable tax credit in the amount provided in
13 subsection B of this section. Such tax credit shall be a property
14 right available to a state agency or political subdivision of this
15 state to transfer or sell to a taxable entity, whether individual or
16 corporate, who shall have an actual or anticipated income tax
17 liability under Section 2355 of this title. These tax credit
18 provisions are authorized as an incentive to the State of Oklahoma,
19 its agencies and political subdivisions to encourage the expenditure
20 of funds in the development, construction and utilization of
21 electricity from zero-emission facilities as defined in subsection A
22 of this section.

23 F. The amount of the credit allowed, but not used, shall be
24 freely transferable at any time during the ten (10) years following

1 the year of qualification. Any person to whom or to which a tax
2 credit is transferred shall have only such rights to claim and use
3 the credit under the terms that would have applied to the entity by
4 whom or by which the tax credit was transferred. The provisions of
5 this subsection shall not limit the ability of a tax credit
6 transferee to reduce the tax liability of the transferee, regardless
7 of the actual tax liability of the tax credit transferor, for the
8 relevant taxable period. The transferor initially allowed the
9 credit and any subsequent transferees shall jointly file a copy of
10 any written transfer agreement with the Oklahoma Tax Commission
11 within thirty (30) days of the transfer. The written agreement
12 shall contain the name, address and taxpayer identification number
13 or social security number of the parties to the transfer, the amount
14 of the credit being transferred, the year the credit was originally
15 allowed to the transferor, and the tax year or years for which the
16 credit may be claimed. The Tax Commission may promulgate rules to
17 permit verification of the validity and timeliness of the tax credit
18 claimed upon a tax return pursuant to this subsection but shall not
19 promulgate any rules that unduly restrict or hinder the transfers of
20 such tax credit. The tax credit allowed by this section, upon the
21 election of the taxpayer, may be claimed as a payment of tax, a
22 prepayment of tax or a payment of estimated tax for purposes of
23 Section 1803 or Section 2355 of this title.

24

1 G. For electricity generation produced and sold in a calendar
2 year, the tax credit allowed by the provisions of this section, upon
3 election of the taxpayer, shall be treated and may be claimed as a
4 payment of tax, a prepayment of tax or a payment of estimated tax
5 for purposes of Section 2355 of this title on or after July 1 of the
6 following calendar year.

7 SECTION 27. AMENDATORY 68 O.S. 2001, Section 2357.33, as
8 amended by Section 1, Chapter 144, O.S.L. 2004 (68 O.S. Supp. 2007,
9 Section 2357.33), is amended to read as follows:

10 Section 2357.33 A. For taxable years beginning after December
11 31, 1999, and ending before January 1, 2013, there shall be allowed
12 a credit against the tax imposed by Section 2355 of this title for
13 amounts paid by a taxpayer operating one or more food service
14 establishments for immunizations against Hepatitis A for employees
15 of the taxpayer who work in such establishments.

16 B. As used in this section, "food service establishment" means
17 an establishment where food or drink is offered for sale or sold to
18 the public and which is licensed pursuant to the provisions of
19 Section 1-1118 of Title 63 of the Oklahoma Statutes.

20 C. The amount of the credit allowed pursuant to the provisions
21 of this section for each employee of the taxpayer shall not exceed
22 the usual and customary fee that would be allowed for an
23 immunization against Hepatitis A as approved by the State and
24 Education Employees Group Insurance Board.

1 D. The credit provided by this section shall be available to
2 the taxpayer in the tax year in which an employee was immunized and
3 shall not carry forward to subsequent tax years. Such credit shall
4 not be refunded to the taxpayer.

5 SECTION 28. AMENDATORY 68 O.S. 2001, Section 2357.40, as
6 amended by Section 6, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
7 Section 2357.40), is amended to read as follows:

8 Section 2357.40 A. Upon receiving notification from the
9 Director of the Oklahoma Tourism and Recreation Department that an
10 approved company has entered into a tourism project agreement or a
11 film and music production and development facility project agreement
12 and is entitled to the inducements provided by the Oklahoma Tourism
13 Development Act, the Oklahoma Tax Commission shall provide the
14 approved company with forms and instructions as necessary to claim
15 those inducements.

16 B. ~~An~~ Before January 1, 2014, an approved company whose
17 agreement provides that it shall expend approved costs of more than
18 Five Hundred Thousand Dollars (\$500,000.00) but less than One
19 Million Dollars (\$1,000,000.00) shall be entitled to an income tax
20 credit or a sales tax credit if the company certifies to the Tax
21 Commission that it has expended at least Five Hundred Thousand
22 Dollars (\$500,000.00) in approved costs, and the Director certifies
23 that the approved company is in compliance with the Oklahoma Tourism
24 Development Act. The Tax Commission shall then issue a tax credit

1 memorandum to the approved company granting an income tax credit or
2 sales tax credit in the amount of ten percent (10%) of the approved
3 costs. Subsequent requests for credit for additional certified
4 approved costs in excess of Five Hundred Thousand Dollars
5 (\$500,000.00) but less than One Million Dollars (\$1,000,000.00)
6 shall result in an income tax credit or sales tax credit in the
7 amount of ten percent (10%) of the approved costs. Income tax
8 credits or sales tax credits allowed pursuant to the provisions of
9 the Oklahoma Tourism Development Act shall not be transferable or
10 assignable.

11 ~~An~~ Before January 1, 2014, an approved company whose agreement
12 provides that it shall expend approved costs in excess of One
13 Million Dollars (\$1,000,000.00) shall be entitled to an income tax
14 credit or sales tax credit if the company certifies to the Tax
15 Commission that it has expended at least One Million Dollars
16 (\$1,000,000.00) in approved costs and the Director certifies that
17 the approved company is in compliance with the Oklahoma Tourism
18 Development Act. The Tax Commission shall then issue a tax credit
19 memorandum to the approved company granting an income tax credit or
20 sales tax credit in the amount of twenty-five percent (25%) of the
21 approved costs. The credit on all subsequent additional certified
22 approved costs shall be in the amount of twenty-five percent (25%)
23 of the costs.

24

1 The Tax Commission may require proof of expenditures.
2 Additional credit memoranda may be issued as the approved company
3 certifies additional expenditures of approved costs.

4 No tax credit memorandum shall be issued for any approved costs
5 expended after the expiration of two (2) years from the date the
6 agreement was signed by the Director and the approved company.

7 However, the Director, with the advice and consent of the Tax
8 Commission, may authorize tax credits for approved costs expended up
9 to four (4) years from the date the agreement was signed if the
10 Director determines that the failure to complete the tourism
11 attraction project within two (2) years resulted from:

12 1. Unanticipated and unavoidable delay in the construction of
13 the tourism attraction or film and music production and development
14 facility project;

15 2. An original completion date for the tourism attraction or
16 film and music production and development facility project, as
17 originally planned, which will be more than two (2) years from the
18 date construction began; or

19 3. A change in business ownership or business structure
20 resulting from a merger or acquisition.

21 C. 1. An income tax credit allowed pursuant to the provisions
22 of this section shall be applied to the amount of income taxes due
23 from the approved company. If the amount of an income tax credit
24 allowed pursuant to the provisions of this section exceeds the

1 amount of income taxes due for the year in which the credit is
2 granted, the amount of the credit not used may be carried forward
3 for a period not to exceed ten (10) years.

4 2. A sales tax credit allowed pursuant to the provisions of
5 this section may be used to offset a portion of the reported state
6 sales tax liability of the approved company for all sales tax
7 reporting periods following the issuance of the credit memorandum
8 subject to the following limitations:

- 9 a. only increased state sales tax liability may be offset
10 by the issued credit,
- 11 b. an approved company whose agreement provides that it
12 shall expend approved costs in excess of One Million
13 Dollars (\$1,000,000.00) shall be entitled to use only
14 ten percent (10%) of the amount of each issued credit
15 to offset increased state sales tax liability during
16 each calendar year, plus the amount of any unused
17 credit carried forward from a prior calendar year, and
18 an approved company whose agreement provides that it
19 shall expend approved costs of more than Five Hundred
20 Thousand Dollars (\$500,000.00) but less than One
21 Million Dollars (\$1,000,000.00) shall be entitled to
22 use only twenty percent (20%) of the amount of each
23 issued credit to offset increased state sales tax
24 liability during each calendar year, plus the amount

1 of any unused credit carried forward from a prior
2 calendar year, and

3 c. all issued credit memoranda shall expire at the end of
4 the month following the expiration of the agreement as
5 provided in Section 2357.39 of this title.

6 The approved company shall have no obligation to refund or
7 otherwise return any amount of this credit to the person from whom
8 the sales tax was collected.

9 D. The Tax Commission shall promulgate rules as are necessary
10 for the proper administration of the Oklahoma Tourism Development
11 Act. The Tax Commission may also develop forms and instructions as
12 necessary for an approved company to claim the income tax credit
13 provided by the Oklahoma Tourism Development Act.

14 E. The Tax Commission shall have the authority to obtain any
15 information necessary from the approved company and the Director to
16 verify that approved companies have received the proper amounts of
17 tax credits as authorized by the Oklahoma Tourism Development Act.
18 The Oklahoma Tax Commission shall demand the repayment of any
19 credits taken in excess of the credit allowed by the Oklahoma
20 Tourism Development Act.

21 SECTION 29. AMENDATORY 68 O.S. 2001, Section 2357.41, as
22 last amended by Section 15, Chapter 272, O.S.L. 2006 (68 O.S. Supp.
23 2007, Section 2357.41), is amended to read as follows:

1 Section 2357.41 A. For tax years beginning after December 31,
2 2000, and ending before January 1, 2015, there shall be allowed a
3 credit against the tax imposed by Sections 2355 and 2370 of this
4 title or that portion of the tax imposed by Section 624 or 628 of
5 Title 36 of the Oklahoma Statutes that would otherwise have been
6 apportioned to the General Revenue Fund for qualified rehabilitation
7 expenditures incurred in connection with any certified historic
8 hotel or historic newspaper plant building located in an increment
9 or incentive district created pursuant to the Local Development Act
10 or for qualified rehabilitation expenditures incurred after January
11 1, 2006, in connection with any certified historic structure.

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

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

23 D. If the credit allowed pursuant to this section exceeds the
24 amount of income taxes due or if there are no state income taxes due

1 on the income of the taxpayer, the amount of the credit allowed but
2 not used in any taxable year may be carried forward as a credit
3 against subsequent income tax liability for a period not exceeding
4 ten (10) years following the qualified expenditures.

5 E. All rehabilitation work to which the credit may be applied
6 shall be reviewed by the State Historic Preservation Office which
7 will in turn forward the information to the National Park Service
8 for certification in accordance with 36 C.F.R., Part 67. A
9 certified historic structure may be rehabilitated for any lawful use
10 or uses, including without limitation mixed uses and still retain
11 eligibility for the credit provided for in this section.

12 F. The amount of the credit allowed for any credit claimed for
13 a certified historic hotel or historic newspaper plant building or
14 any certified historic structure, but not used, shall be freely
15 transferable to subsequent transferees at any time during the five
16 (5) years following the year of qualification. Any person to whom
17 or to which a tax credit is transferred shall have only such rights
18 to claim and use the credit under the terms that would have applied
19 to the entity by whom or by which the tax credit was transferred.
20 The provisions of this subsection shall not limit the ability of a
21 tax credit transferee to reduce the tax liability of the transferee
22 regardless of the actual tax liability of the tax credit transferor
23 for the relevant taxable period. The transferor originally allowed
24 the credit and the subsequent transferee shall jointly file a copy

1 of the written credit transfer agreement with the Oklahoma Tax
2 Commission within thirty (30) days of the transfer. The written
3 agreement shall contain the name, address and taxpayer
4 identification number of the parties to the transfer, the amount of
5 credit being transferred, the year the credit was originally allowed
6 to the transferor and the tax year or years for which the credit may
7 be claimed. The Tax Commission shall develop a standard form for
8 use by subsequent transferees of the credit demonstrating
9 eligibility for the transferee to reduce its applicable tax
10 liabilities resulting from ownership of the credit. The Tax
11 Commission may promulgate rules to permit verification of the
12 validity and timeliness of a tax credit claimed upon a tax return
13 pursuant to this subsection but shall not promulgate any rules which
14 unduly restrict or hinder the transfers of such tax credit.

15 G. As used in this section:

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

20 2. "Certified historic structure" means a building that is
21 listed on the National Register of Historic Places within thirty
22 (30) months of taking the credit pursuant to this section or a
23 building located in Oklahoma which is certified by the State
24 Historic Preservation Office as contributing to the historic

1 significance of a certified historic district listed on the National
2 Register of Historic Places, or a local district that has been
3 certified by the State Historic Preservation Office as eligible for
4 listing in the National Register of Historic Places; and

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

14 SECTION 30. AMENDATORY Section 19, Chapter 472, O.S.L.
15 2003, as amended by Section 3, Chapter 518, O.S.L. 2004 (68 O.S.
16 Supp. 2007, Section 2357.45), is amended to read as follows:

17 Section 2357.45 A. 1. For tax years beginning after December
18 31, 2004, and ending before January 1, 2016, there shall be allowed
19 against the tax imposed by Section 2355 of this title, a credit for
20 any taxpayer who makes a donation to an independent biomedical
21 research institute. For calendar years 2005 and 2006, the amount of
22 the credit shall be fifty percent (50%) of the amount donated to an
23 independent biomedical research institute but in no event shall the
24 credit exceed One Thousand Dollars (\$1,000.00) for each taxpayer.

1 For calendar year 2007 and all subsequent years, the credit
2 percentage, not to exceed fifty percent (50%), shall be adjusted
3 annually so that the total estimate of the credits does not exceed
4 Two Million Dollars (\$2,000,000.00) annually. The formula to be
5 used for the percentage adjusted shall be fifty percent (50%) times
6 Two Million Dollars (\$2,000,000.00) divided by the credits claimed
7 in the preceding year. In no event shall the credit be claimed more
8 than once by a taxpayer each taxable year nor shall the credit
9 exceed One Thousand Dollars (\$1,000.00) for each taxpayer. In the
10 event the total tax credits authorized by this section exceed Two
11 Million Dollars (\$2,000,000.00) in any calendar year, the Oklahoma
12 Tax Commission shall permit any excess over Two Million Dollars
13 (\$2,000,000.00) but shall factor such excess into the percentage
14 adjustment formula for subsequent years.

15 2. For purposes of this section, "independent biomedical
16 research institute" means an organization which is exempt from
17 taxation pursuant to the provisions of Section 501(c)(3) of the
18 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) whose primary
19 focus is conducting peer-reviewed basic biomedical research. The
20 organization shall:

- 21 a. have a board of directors,
- 22 b. be able to accept grants in its own name,
- 23 c. be an identifiable institute that has its own
24 employees and administrative staff, and

1 d. receive at least Fifteen Million Dollars
2 (\$15,000,000.00) in National Institute of Health
3 funding each year.

4 B. In no event shall the amount of the credit exceed the amount
5 of any tax liability of the taxpayer.

6 C. Any credits allowed but not used in any tax year may be
7 carried over, in order, to each of the four (4) years following the
8 year of qualification.

9 D. The Tax Commission shall have the authority to prescribe
10 forms for purposes of claiming the credit authorized by this
11 section.

12 SECTION 31. AMENDATORY 68 O.S. 2001, Section 2357.81, is
13 amended to read as follows:

14 Section 2357.81 A. Subject to the limitation imposed pursuant
15 to ~~subsection C of Section 11 of this act~~ Section 842 of Title 62 of
16 the Oklahoma Statutes, for taxable years beginning after December
17 31, 2000, and ending before January 1, 2017, there shall be allowed
18 as a credit against the tax imposed pursuant to Section 2355 of
19 ~~Title 68 of the Oklahoma Statutes~~ this title, an amount equal to one
20 hundred percent (100%) of the amount of ad valorem taxes exempted
21 pursuant to the provisions of Section 860 of Title 62 of the
22 Oklahoma Statutes for an enterprise locating a new facility within
23 or expanding an existing facility within an enterprise zone as
24 designated pursuant to Section 690.2 of Title ~~68~~ 62 of the Oklahoma

1 Statutes if such facility is also located within an incentive
2 district.

3 B. The income tax credit authorized by this section shall only
4 be available, to the extent otherwise allowable, for ad valorem
5 taxes for which an exemption has been provided pursuant to Section
6 860 of Title 62 of the Oklahoma Statutes on or after January 1,
7 2001. The county assessor of the county in which the facility is
8 located, or any part of the facility, shall provide an annual
9 certification to the Oklahoma Tax Commission not later than January
10 31 of each calendar year as to the amount of ad valorem taxes which
11 would have been payable by the owner of the facility without the
12 exemption provided by Section 860 of Title 62 of the Oklahoma
13 Statutes.

14 C. In order to claim the credit authorized by this section, the
15 taxpayer shall obtain a certification from the local governing body
16 approving the incentive district which shall be acknowledged by the
17 chief elected official of the local governing body. The
18 certification shall be signed by the Director of the Oklahoma
19 Department of Commerce or designee, that the facility is located
20 within an enterprise zone. The signature required by this
21 subsection shall be acknowledged in the manner provided by law.

22 D. The credit authorized by this section shall be allowable
23 only to the extent of ad valorem taxes which would have been levied
24 upon the taxable value of real property and improvements physically

1 attached to real property constituting the eligible facility without
2 the exemption provided by Section 860 of Title 62 of the Oklahoma
3 Statutes and shall not be allowable to the extent that the credit is
4 claimed for ad valorem taxes which would have been levied upon the
5 taxable value of personal property of the enterprise even if the
6 incentive granted by the participating governmental entities in the
7 incentive district includes personal property.

8 E. If the tax credit authorized by this section exceeds the
9 amount of taxes due or if there are no state taxes due of the
10 taxpayer, the amount of the claim not used as an offset against the
11 taxes of a taxable year may be carried forward for a period not to
12 exceed ten (10) years.

13 SECTION 32. AMENDATORY Section 1, Chapter 301, O.S.L.
14 2005, as amended by Section 1, Chapter 260, O.S.L. 2006 (68 O.S.
15 Supp. 2007, Section 2357.101), is amended to read as follows:

16 Section 2357.101 A. For taxable years beginning after December
17 31, 2004, and ending before January 1, 2018, there shall be allowed
18 against the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma~~
19 ~~Statutes~~ this title, a credit equal to twenty-five percent (25%) of
20 the amount of profit made by a taxpayer from investment in an
21 existing Oklahoma film or music project with a production company to
22 pay for production costs that is reinvested by the taxpayer with the
23 production company to pay for the production cost of the production
24 company for a new Oklahoma film or music project.

1 B. In no event shall the amount of the credit provided for in
2 subsection A of this section for an eligible taxpayer exceed the tax
3 liability of the taxpayer in a calendar year.

4 C. The Oklahoma Tax Commission shall have the authority to
5 prescribe forms for purposes of claiming the credit authorized in
6 subsection A of this section. The forms shall include, but not be
7 limited to, requests for information that prove who the investment
8 was with, the amount of the original investment and the amount of
9 the profit realized from the investment.

10 D. As used in this section:

11 1. "Film" means a professional single media, multimedia program
12 or feature, which is not child pornography as defined in subsection
13 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene
14 material as defined in paragraph 1 of subsection B of Section 1024.1
15 of Title 21 of the Oklahoma Statutes including, but not limited to,
16 national advertising messages that are broadcast on a national
17 affiliate or cable network, fixed on film or digital video, which
18 can be viewed or reproduced and which is exhibited in theaters,
19 licensed for exhibition by individual television stations, groups of
20 stations, networks, cable television stations or other means or
21 licensed for home viewing markets;

22 2. "Music project" means a professional recording released on a
23 national or international level, whether via traditional
24 manufacturing or distributing or electronic distribution, using

1 technology currently in use or future technology including, but not
2 limited to, music CDs, radio commercials, jingles, cues, or
3 electronic device recordings;

4 3. "Production company" means a person who produces a film or
5 music project for exhibition in theaters, on television or
6 elsewhere;

7 4. "Total production cost" includes, but is not limited to:

- 8 a. wages or salaries of persons who have earned income
9 from working on a film or music project in this state,
10 including payments to personal services corporations
11 with respect to the services of qualified performing
12 artists, as determined under Section 62(a)(A) of the
13 Internal Revenue Code,
- 14 b. the cost of construction and operations, wardrobe,
15 accessories and related services,
- 16 c. the cost of photography, sound synchronization,
17 lighting and related services,
- 18 d. the cost of editing and related services,
- 19 e. rental of facilities and equipment, and
- 20 f. other direct costs of producing a film or music
21 project;

22 5. "Existing Oklahoma film or music project" means a film or
23 music project produced after July 1, 2005;

24

1 6. "Profit" means the amount made by the taxpayer to be
2 determined as follows:

- 3 a. the gross revenues less gross expenses, including
4 direct production, distribution and marketing costs
5 and an allocation of indirect overhead costs, of the
6 film or music project shall be multiplied by,
7 b. a ratio, the numerator of which is Oklahoma production
8 costs, as defined in paragraph 7 of this subsection,
9 and the denominator of which is total production
10 costs, as defined in paragraph 4 of this subsection,
11 which shall be multiplied by,
12 c. the percent of the taxpayer's taxable income allocated
13 to Oklahoma in a taxable year, and
14 d. subtract from the result of the formula calculated
15 pursuant to subparagraphs a through c of this
16 paragraph the profit made by a taxpayer from
17 investment in an existing Oklahoma film or music
18 project in previous taxable years. Profit shall
19 include either a net profit or net loss;

20 7. "Oklahoma production cost" means that portion of total
21 production costs which are incurred with any qualified vendor;

- 22 8. a. "Qualified vendor" means an Oklahoma entity which
23 provides goods or services to a production company and
24 for which:

1 (1) fifty percent (50%) or more of its employees are
2 Oklahoma residents, and

3 (2) fifty percent (50%) or more of gross wages, as
4 reported on Internal Revenue Service Form W-2 or
5 Form 1099, are paid to Oklahoma residents.

6 b. For purposes of this paragraph, an employee shall
7 include a self-employed individual reporting income
8 from a qualified vendor on Internal Revenue Service
9 Form 1040.

10 c. The Oklahoma Tax Commission shall prescribe forms by
11 which an entity may be certified to a production
12 company as a qualified vendor for purposes of this
13 section; and

14 9. "Investment" means costs associated with the original
15 production company. Film or music projects acquired from an
16 original production company do not qualify as investment under
17 subsection A of this section.

18 SECTION 33. AMENDATORY Section 11, Chapter 381, O.S.L.
19 2005 (68 O.S. Supp. 2007, Section 2357.102), is amended to read as
20 follows:

21 Section 2357.102 A. For taxable years beginning after December
22 31, 2005, and ending before January 1, 2011, there shall be allowed
23 a credit against the tax imposed by Section 2355 of ~~Title 68 of the~~
24 ~~Oklahoma Statutes~~ this title for the cost of the purchase of a dry

1 fire hydrant or the cost to provide an acceptable means of water
2 storage for such dry fire hydrant including a pond, tank, or other
3 storage facility with the primary purpose of fire protection within
4 the State of Oklahoma. The credit shall be equal to fifty percent
5 (50%) of the purchase price of the dry fire hydrant or the actual
6 expenditure for any new water storage construction, equipment,
7 development and installation of the dry hydrant, including pipes,
8 valves, hydrants, and labor for each installation of a dry hydrant
9 or new water storage facility but in no event shall the amount of
10 the credit exceed Five Thousand Dollars (\$5,000.00) for each
11 taxpayer.

12 B. In order to qualify for the tax credit provided for in
13 subsection A of this section, the dry fire hydrant or new water
14 storage facility must meet the following minimum requirements:

15 1. Each body of water or water storage structure must be able
16 to provide two hundred fifty (250) gallons per minute for a
17 continuous two-hour period during a fifty-year drought or freeze at
18 a vertical lift of eighteen (18) feet;

19 2. Each dry fire hydrant must be located within twenty-five
20 (25) feet of an all-weather roadway and must be accessible to fire
21 protection equipment; and

22 3. Dry fire hydrants shall be located a reasonable distance
23 from other dry or pressurized hydrants.

24

1 C. In no event shall the amount of the credit exceed the amount
2 of any tax liability of the taxpayer.

3 D. Any credits allowed but not used in any tax year may be
4 carried over, in order, to each of the four (4) years following the
5 year of qualification.

6 E. The Oklahoma Tax Commission and the State Fire Marshal
7 Commission shall promulgate rules to establish the requirements for
8 the construction of a dry fire hydrant or new water storage facility
9 and permit verification of eligibility of a dry fire hydrant or new
10 water storage facility for the credit provided for in subsection A
11 of this section.

12 F. As used in this section, "dry fire hydrant" means
13 nonpressurized pipes permanently installed in lakes, farm ponds, and
14 streams that provide a ready means of drawing water.

15 SECTION 34. AMENDATORY Section 2, Chapter 442, O.S.L.
16 2005 (68 O.S. Supp. 2007, Section 2357.203), is amended to read as
17 follows:

18 Section 2357.203 A. As used in this section:

19 1. "Nonqualified operating expenditures" means labor costs,
20 salary and other compensation, whether direct or indirect, paid to
21 directors, officers, limited liability company members, limited
22 liability company managers, partners or other principals or
23 employees of the business entity;

24

1 2. "Qualified direct costs" means expenditures, other than
2 nonqualified operating expenditures, to construct dog kennels,
3 fences, pens, training areas for canines, structures for office
4 space or other improvements to real property necessary for the
5 proper training of a specially trained canine, including the cost of
6 food, water, veterinary expenses and other costs directly related to
7 the operation of the training facility; and

8 3. "Specially trained canines" means dogs that are raised by a
9 person who is officially licensed as a dog breeder by the United
10 States Department of Agriculture.

11 B. For taxable years beginning after December 31, 2005, and
12 ending before January 1, 2012, there shall be allowed a credit
13 against the tax imposed pursuant to Section 2355 of ~~Title 68 of the~~
14 ~~Oklahoma Statutes~~ this title in the amount of fifty percent (50%) of
15 the qualified direct costs associated with the operation of a
16 business enterprise the principal purpose of which is the rearing of
17 specially trained canines.

18 C. The provisions of this section shall not be applicable to
19 nonqualified operating expenditures.

20 D. The credit authorized by this section shall not be used to
21 reduce the tax liability of the taxpayer to less than zero (0). Any
22 credits authorized by this section claimed for a taxable year which
23 are unable to be used may be carried over, in order, to each of the
24 five (5) subsequent taxable years.

1 E. The Oklahoma Tax Commission shall be authorized to prescribe
2 such forms as may be necessary in order to administer the tax credit
3 authorized by this section. The Tax Commission may request such
4 additional documentation as may be required from the taxpayer in
5 order to verify the eligibility for the credit authorized by this
6 section.

7 SECTION 35. AMENDATORY 68 O.S. 2001, Section 2358, as
8 last amended by Section 3, Chapter 346, O.S.L. 2007 (68 O.S. Supp.
9 2007, Section 2358), is amended to read as follows:

10 Section 2358. For all tax years beginning after December 31,
11 1981, taxable income and adjusted gross income shall be adjusted to
12 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
13 as required by this section.

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

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

22 2. There shall be deducted amounts included in such income that
23 the state is prohibited from taxing because of the provisions of the
24

1 Federal Constitution, the State Constitution, federal laws or laws
2 of Oklahoma.

3 3. ~~The~~ In any tax year ending before January 1, 2013, the
4 amount of any federal net operating loss deduction shall be adjusted
5 as follows:

6 a. For carryovers and carrybacks to taxable years
7 beginning before January 1, 1981, the amount of any
8 net operating loss deduction allowed to a taxpayer for
9 federal income tax purposes shall be reduced to an
10 amount which is the same portion thereof as the loss
11 from sources within this state, as determined pursuant
12 to this section and Section 2362 of this title, for
13 the taxable year in which such loss is sustained is of
14 the total loss for such year;

15 b. For carryovers and carrybacks to taxable years
16 beginning after December 31, 1980, the amount of any
17 net operating loss deduction allowed for the taxable
18 year shall be an amount equal to the aggregate of the
19 Oklahoma net operating loss carryovers and carrybacks
20 to such year. Oklahoma net operating losses shall be
21 separately determined by reference to Section 172 of
22 the Internal Revenue Code, 26 U.S.C., Section 172, as
23 modified by the Oklahoma Income Tax Act, ~~Section 2351~~
24 ~~et seq. of this title,~~ and shall be allowed without

1 regard to the existence of a federal net operating
2 loss. For tax years beginning after December 31,
3 2000, the years to which such losses may be carried
4 shall be determined solely by reference to Section 172
5 of the Internal Revenue Code, 26 U.S.C., Section 172,
6 with the exception that the terms "net operating loss"
7 and "taxable income" shall be replaced with "Oklahoma
8 net operating loss" and "Oklahoma taxable income".

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

14 a. Income from real and tangible personal property, such
15 as rents, oil and mining production or royalties, and
16 gains or losses from sales of such property, shall be
17 allocated in accordance with the situs of such
18 property;

19 b. Income from intangible personal property, such as
20 interest, dividends, patent or copyright royalties,
21 and gains or losses from sales of such property, shall
22 be allocated in accordance with the domiciliary situs
23 of the taxpayer, except that:
24

1 (1) where such property has acquired a nonunitary
2 business or commercial situs apart from the
3 domicile of the taxpayer such income shall be
4 allocated in accordance with such business or
5 commercial situs; interest income from
6 investments held to generate working capital for
7 a unitary business enterprise shall be included
8 in apportionable income; a resident trust or
9 resident estate shall be treated as having a
10 separate commercial or business situs insofar as
11 undistributed income is concerned, but shall not
12 be treated as having a separate commercial or
13 business situs insofar as distributed income is
14 concerned,

15 (2) for taxable years beginning after December 31,
16 2003, capital or ordinary gains or losses from
17 the sale of an ownership interest in a publicly
18 traded partnership, as defined by Section 7704(b)
19 of the Internal Revenue Code of 1986, as amended,
20 shall be allocated to this state in the ratio of
21 the original cost of such partnership's tangible
22 property in this state to the original cost of
23 such partnership's tangible property everywhere,
24 as determined at the time of the sale; if more

1 than fifty percent (50%) of the value of the
2 partnership's assets consists of intangible
3 assets, capital or ordinary gains or losses from
4 the sale of an ownership interest in the
5 partnership shall be allocated to this state in
6 accordance with the sales factor of the
7 partnership for its first full tax period
8 immediately preceding its tax period during which
9 the ownership interest in the partnership was
10 sold; the provisions of this division shall only
11 apply if the capital or ordinary gains or losses
12 from the sale of an ownership interest in a
13 partnership do not constitute qualifying gain
14 receiving capital treatment as defined in
15 subparagraph a of paragraph 2 of subsection F of
16 this section,

17 (3) income from such property which is required to be
18 allocated pursuant to the provisions of paragraph
19 5 of this subsection shall be allocated as herein
20 provided;

21 c. Net income or loss from a business activity which is
22 not a part of business carried on within or without
23 the state of a unitary character shall be separately
24

1 allocated to the state in which such activity is
2 conducted;

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

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

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

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

21 the Oklahoma net income shall, at the option of the
22 taxpayer, be that portion of the total net income of
23 the taxpayer for federal income tax purposes derived
24 from the manufacture and/or processing and sales

1 everywhere as determined by the ratio of the sales
2 defined in this section made to the purchaser within
3 the state to the total sales everywhere. The term
4 "public warehouse" as used in this subparagraph means
5 a licensed public warehouse, the principal business of
6 which is warehousing merchandise for the public;

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

12 (1) except as otherwise provided by division (2) of
13 this subparagraph, taxable income of an insurance
14 company for a taxable year shall be apportioned
15 to this state by multiplying such income by a
16 fraction, the numerator of which is the direct
17 premiums written for insurance on property or
18 risks in this state, and the denominator of which
19 is the direct premiums written for insurance on
20 property or risks everywhere. For purposes of
21 this subsection, the term "direct premiums
22 written" means the total amount of direct
23 premiums written, assessments and annuity
24 considerations as reported for the taxable year

1 on the annual statement filed by the company with
2 the Insurance Commissioner in the form approved
3 by the National Association of Insurance
4 Commissioners, or such other form as may be
5 prescribed in lieu thereof,

6 (2) if the principal source of premiums written by an
7 insurance company consists of premiums for
8 reinsurance accepted by it, the taxable income of
9 such company shall be apportioned to this state
10 by multiplying such income by a fraction, the
11 numerator of which is the sum of (a) direct
12 premiums written for insurance on property or
13 risks in this state, plus (b) premiums written
14 for reinsurance accepted in respect of property
15 or risks in this state, and the denominator of
16 which is the sum of (c) direct premiums written
17 for insurance on property or risks everywhere,
18 plus (d) premiums written for reinsurance
19 accepted in respect of property or risks
20 everywhere. For purposes of this paragraph,
21 premiums written for reinsurance accepted in
22 respect of property or risks in this state,
23 whether or not otherwise determinable, may at the
24 election of the company be determined on the

1 basis of the proportion which premiums written
2 for insurance accepted from companies
3 commercially domiciled in Oklahoma bears to
4 premiums written for reinsurance accepted from
5 all sources, or alternatively in the proportion
6 which the sum of the direct premiums written for
7 insurance on property or risks in this state by
8 each ceding company from which reinsurance is
9 accepted bears to the sum of the total direct
10 premiums written by each such ceding company for
11 the taxable year.

12 5. The net income or loss remaining after the separate
13 allocation in paragraph 4 of this subsection, being that which is
14 derived from a unitary business enterprise, shall be apportioned to
15 this state on the basis of the arithmetical average of three factors
16 consisting of property, payroll and sales or gross revenue
17 enumerated as subparagraphs a, b and c of this paragraph. Net
18 income or loss as used in this paragraph includes that derived from
19 patent or copyright royalties, purchase discounts, and interest on
20 accounts receivable relating to or arising from a business activity,
21 the income from which is apportioned pursuant to this subsection,
22 including the sale or other disposition of such property and any
23 other property used in the unitary enterprise. Deductions used in
24 computing such net income or loss shall not include taxes based on

1 or measured by income. Provided, for corporations whose property
2 for purposes of the tax imposed by Section 2355 of this title has an
3 initial investment cost equaling or exceeding Two Hundred Million
4 Dollars (\$200,000,000.00) and such investment is made on or after
5 July 1, 1997, or for corporations which expand their property or
6 facilities in this state and such expansion has an investment cost
7 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
8 over a period not to exceed three (3) years, and such expansion is
9 commenced on or after January 1, 2000, the three factors shall be
10 apportioned with property and payroll, each comprising twenty-five
11 percent (25%) of the apportionment factor and sales comprising fifty
12 percent (50%) of the apportionment factor. The apportionment
13 factors shall be computed as follows:

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

21 (1) Property, the income from which is separately
22 allocated in paragraph 4 of this subsection,
23 shall not be included in determining this
24 fraction. The numerator of the fraction shall

1 include a portion of the investment in
2 transportation and other equipment having no
3 fixed situs, such as rolling stock, buses, trucks
4 and trailers, including machinery and equipment
5 carried thereon, airplanes, salespersons'
6 automobiles and other similar equipment, in the
7 proportion that miles traveled in Oklahoma by
8 such equipment bears to total miles traveled,

9 (2) Property owned by the taxpayer is valued at its
10 original cost. Property rented by the taxpayer
11 is valued at eight times the net annual rental
12 rate. Net annual rental rate is the annual
13 rental rate paid by the taxpayer, less any annual
14 rental rate received by the taxpayer from
15 subrentals,

16 (3) The average value of property shall be determined
17 by averaging the values at the beginning and
18 ending of the tax period but the Oklahoma Tax
19 Commission may require the averaging of monthly
20 values during the tax period if reasonably
21 required to reflect properly the average value of
22 the taxpayer's property;

23 b. The payroll factor is a fraction, the numerator of
24 which is the total compensation for services rendered

1 in the state during the tax period, and the
2 denominator of which is the total compensation for
3 services rendered everywhere during the tax period.
4 "Compensation", as used in this subsection means those
5 paid-for services to the extent related to the unitary
6 business but does not include officers' salaries,
7 wages and other compensation.

8 (1) In the case of a transportation enterprise, the
9 numerator of the fraction shall include a portion
10 of such expenditure in connection with employees
11 operating equipment over a fixed route, such as
12 railroad employees, airline pilots, or bus
13 drivers, in this state only a part of the time,
14 in the proportion that mileage traveled in
15 Oklahoma bears to total mileage traveled by such
16 employees,

17 (2) In any case the numerator of the fraction shall
18 include a portion of such expenditures in
19 connection with itinerant employees, such as
20 traveling salespersons, in this state only a part
21 of the time, in the proportion that time spent in
22 Oklahoma bears to total time spent in furtherance
23 of the enterprise by such employees;
24

1 c. The sales factor is a fraction, the numerator of which
2 is the total sales or gross revenue of the taxpayer in
3 this state during the tax period, and the denominator
4 of which is the total sales or gross revenue of the
5 taxpayer everywhere during the tax period. "Sales",
6 as used in this subsection does not include sales or
7 gross revenue which are separately allocated in
8 paragraph 4 of this subsection.

9 (1) Sales of tangible personal property have a situs
10 in this state if the property is delivered or
11 shipped to a purchaser other than the United
12 States government, within this state regardless
13 of the FOB point or other conditions of the sale;
14 or the property is shipped from an office, store,
15 warehouse, factory or other place of storage in
16 this state and (a) the purchaser is the United
17 States government or (b) the taxpayer is not
18 doing business in the state of the destination of
19 the shipment.

20 (2) In the case of a railroad or interurban railway
21 enterprise, the numerator of the fraction shall
22 not be less than the allocation of revenues to
23 this state as shown in its annual report to the
24 Corporation Commission.

1 (3) In the case of an airline, truck or bus
2 enterprise or freight car, tank car, refrigerator
3 car or other railroad equipment enterprise, the
4 numerator of the fraction shall include a portion
5 of revenue from interstate transportation in the
6 proportion that interstate mileage traveled in
7 Oklahoma bears to total interstate mileage
8 traveled.

9 (4) In the case of an oil, gasoline or gas pipeline
10 enterprise, the numerator of the fraction shall
11 be either the total of traffic units of the
12 enterprise within Oklahoma or the revenue
13 allocated to Oklahoma based upon miles moved, at
14 the option of the taxpayer, and the denominator
15 of which shall be the total of traffic units of
16 the enterprise or the revenue of the enterprise
17 everywhere as appropriate to the numerator. A
18 "traffic unit" is hereby defined as the
19 transportation for a distance of one (1) mile of
20 one (1) barrel of oil, one (1) gallon of gasoline
21 or one thousand (1,000) cubic feet of natural or
22 casinghead gas, as the case may be.

23 (5) In the case of a telephone or telegraph or other
24 communication enterprise, the numerator of the

1 fraction shall include that portion of the
2 interstate revenue as is allocated pursuant to
3 the accounting procedures prescribed by the
4 Federal Communications Commission; provided that
5 in respect to each corporation or business entity
6 required by the Federal Communications Commission
7 to keep its books and records in accordance with
8 a uniform system of accounts prescribed by such
9 Commission, the intrastate net income shall be
10 determined separately in the manner provided by
11 such uniform system of accounts and only the
12 interstate income shall be subject to allocation
13 pursuant to the provisions of this subsection.
14 Provided further, that the gross revenue factors
15 shall be those as are determined pursuant to the
16 accounting procedures prescribed by the Federal
17 Communications Commission.

18 In any case where the apportionment of the three factors prescribed
19 in this paragraph attributes to Oklahoma a portion of net income of
20 the enterprise out of all appropriate proportion to the property
21 owned and/or business transacted within this state, because of the
22 fact that one or more of the factors so prescribed are not employed
23 to any appreciable extent in furtherance of the enterprise; or
24 because one or more factors not so prescribed are employed to a

1 considerable extent in furtherance of the enterprise; or because of
2 other reasons, the Tax Commission is empowered to permit, after a
3 showing by taxpayer that an excessive portion of net income has been
4 attributed to Oklahoma, or require, when in its judgment an
5 insufficient portion of net income has been attributed to Oklahoma,
6 the elimination, substitution, or use of additional factors, or
7 reduction or increase in the weight of such prescribed factors.
8 Provided, however, that any such variance from such prescribed
9 factors which has the effect of increasing the portion of net income
10 attributable to Oklahoma must not be inherently arbitrary, and
11 application of the recomputed final apportionment to the net income
12 of the enterprise must attribute to Oklahoma only a reasonable
13 portion thereof.

14 6. For calendar years 1997 and 1998, the owner of a new or
15 expanded agricultural commodity processing facility in this state
16 may exclude from Oklahoma taxable income, or in the case of an
17 individual, the Oklahoma adjusted gross income, fifteen percent
18 (15%) of the investment by the owner in the new or expanded
19 agricultural commodity processing facility. For calendar year 1999,
20 ~~and all subsequent years~~ through the calendar year ending on
21 December 31, 2014, the percentage, not to exceed fifteen percent
22 (15%), available to the owner of a new or expanded agricultural
23 commodity processing facility in this state claiming the exemption
24 shall be adjusted annually so that the total estimated reduction in

1 tax liability does not exceed One Million Dollars (\$1,000,000.00)
2 annually. The Tax Commission shall promulgate rules for determining
3 the percentage of the investment which each eligible taxpayer may
4 exclude. The exclusion provided by this paragraph shall be taken in
5 the taxable year when the investment is made. In the event the
6 total reduction in tax liability authorized by this paragraph
7 exceeds One Million Dollars (\$1,000,000.00) in any calendar year,
8 the Tax Commission shall permit any excess over One Million Dollars
9 (\$1,000,000.00) and shall factor such excess into the percentage for
10 subsequent years. Any amount of the exemption permitted to be
11 excluded pursuant to the provisions of this paragraph but not used
12 in any year may be carried forward as an exemption from income
13 pursuant to the provisions of this paragraph for a period not
14 exceeding six (6) years following the year in which the investment
15 was originally made. No exemption shall be allowed pursuant to this
16 paragraph on or after January 1, 2014.

17 For purposes of this paragraph:

- 18 a. "Agricultural commodity processing facility" means
19 building, structures, fixtures and improvements used
20 or operated primarily for the processing or production
21 of marketable products from agricultural commodities.
22 The term shall also mean a dairy operation that
23 requires a depreciable investment of at least Two
24 Hundred Fifty Thousand Dollars (\$250,000.00) and which

1 produces milk from dairy cows. The term does not
2 include a facility that provides only, and nothing
3 more than, storage, cleaning, drying or transportation
4 of agricultural commodities, and

5 b. "Facility" means each part of the facility which is
6 used in a process primarily for:

7 (1) the processing of agricultural commodities,
8 including receiving or storing agricultural
9 commodities, or the production of milk at a dairy
10 operation,

11 (2) transporting the agricultural commodities or
12 product before, during or after the processing,
13 or

14 (3) packaging or otherwise preparing the product for
15 sale or shipment.

16 7. Despite any provision to the contrary in paragraph 3 of this
17 subsection, for taxable years beginning after December 31, 1999, and
18 ending before January 1, 2015, in the case of a taxpayer which has a
19 farming loss, such farming loss shall be considered a net operating
20 loss carryback in accordance with and to the extent of the Internal
21 Revenue Code, 26 U.S.C., Section 172(b)(G). However, the amount of
22 the net operating loss carryback shall not exceed the lesser of:

23 a. Sixty Thousand Dollars (\$60,000.00), or
24

1 b. the loss properly shown on Schedule F of the Internal
2 Revenue Service Form 1040 reduced by one-half (1/2) of
3 the income from all other sources other than reflected
4 on Schedule F.

5 8. In taxable years beginning after December 31, 1995, and
6 ending before January 1, 2016, all qualified wages equal to the
7 federal income tax credit set forth in 26 U.S.C.A., Section 45A,
8 shall be deducted from taxable income. The deduction allowed
9 pursuant to this paragraph shall only be permitted for the tax years
10 in which the federal tax credit pursuant to 26 U.S.C.A., Section
11 45A, is allowed. For purposes of this paragraph, "qualified wages"
12 means those wages used to calculate the federal credit pursuant to
13 26 U.S.C.A., Section 45A.

14 9. In taxable years beginning after December 31, 2005, and
15 ending before January 1, 2017, an employer that is eligible for and
16 utilizes the Safety Pays OSHA Consultation Service provided by the
17 Oklahoma Department of Labor shall receive an exemption from taxable
18 income in the amount of One Thousand Dollars (\$1,000.00) for the tax
19 year that the service is utilized.

20 B. The taxable income of any corporation shall be further
21 adjusted to arrive at Oklahoma taxable income, except those
22 corporations electing treatment as provided in subchapter S of the
23 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
24 2365 of this title, deductions pursuant to the provisions of the

1 Accelerated Cost Recovery System as defined and allowed in the
2 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
3 Section 168, for depreciation of assets placed into service after
4 December 31, 1981, shall not be allowed in calculating Oklahoma
5 taxable income. ~~Such~~ Before January 1, 2018, such corporations
6 shall be allowed a deduction for depreciation of assets placed into
7 service after December 31, 1981, in accordance with provisions of
8 the Internal Revenue Code, 26 U.S.C., Section 1 et seq., in effect
9 immediately prior to the enactment of the Accelerated Cost Recovery
10 System. The Oklahoma tax basis for all such assets placed into
11 service after December 31, 1981, calculated in this section shall be
12 retained and utilized for all Oklahoma income tax purposes through
13 the final disposition of such assets.

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

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

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

3 C. 1. For taxable years beginning after December 31, 1987, and
4 ending before January 1, 2011, the taxable income of any corporation
5 shall be further adjusted to arrive at Oklahoma taxable income for
6 transfers of technology to qualified small businesses located in
7 Oklahoma. Such transferor corporation shall be allowed an exemption
8 from taxable income of an amount equal to the amount of royalty
9 payment received as a result of such transfer; provided, however,
10 such amount shall not exceed ten percent (10%) of the amount of
11 gross proceeds received by such transferor corporation as a result
12 of the technology transfer. Such exemption shall be allowed for a
13 period not to exceed ten (10) years from the date of receipt of the
14 first royalty payment accruing from such transfer. No exemption may
15 be claimed for transfers of technology to qualified small businesses
16 made prior to January 1, 1988.

17 2. For purposes of this subsection:

18 a. "Qualified small business" means an entity, whether
19 organized as a corporation, partnership, or
20 proprietorship, organized for profit with its
21 principal place of business located within this state
22 and which meets the following criteria:

23 (1) Capitalization of not more than Two Hundred Fifty
24 Thousand Dollars (\$250,000.00),

1 (2) Having at least fifty percent (50%) of its
2 employees and assets located in Oklahoma at the
3 time of the transfer, and

4 (3) Not a subsidiary or affiliate of the transferor
5 corporation;

6 b. "Technology" means a proprietary process, formula,
7 pattern, device or compilation of scientific or
8 technical information which is not in the public
9 domain;

10 c. "Transferor corporation" means a corporation which is
11 the exclusive and undisputed owner of the technology
12 at the time the transfer is made; and

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

16 D. 1. For taxable years beginning after December 31, 2005, and
17 ending before January 1, 2012, the taxable income of any
18 corporation, estate or trust, shall be further adjusted for
19 qualifying gains receiving capital treatment. Such corporations,
20 estates or trusts shall be allowed a deduction from Oklahoma taxable
21 income for the amount of qualifying gains receiving capital
22 treatment earned by the corporation, estate or trust during the
23 taxable year and included in the federal taxable income of such
24 corporation, estate or trust.

1 2. As used in this subsection:

2 a. "qualifying gains receiving capital treatment" means
3 the amount of net capital gains, as defined in Section
4 1222(11) of the Internal Revenue Code, included in the
5 federal income tax return of the corporation, estate
6 or trust that result from:

7 (1) the sale of real property or tangible personal
8 property located within Oklahoma that has been
9 directly or indirectly owned by the corporation,
10 estate or trust for a holding period of at least
11 five (5) years prior to the date of the
12 transaction from which such net capital gains
13 arise,

14 (2) the sale of stock or on the sale of an ownership
15 interest in an Oklahoma company, limited
16 liability company, or partnership where such
17 stock or ownership interest has been directly or
18 indirectly owned by the corporation, estate or
19 trust for a holding period of at least three (3)
20 years prior to the date of the transaction from
21 which the net capital gains arise, or

22 (3) the sale of real property, tangible personal
23 property or intangible personal property located
24 within Oklahoma as part of the sale of all or

1 substantially all of the assets of an Oklahoma
2 company, limited liability company, or
3 partnership where such property has been directly
4 or indirectly owned by such entity owned by the
5 owners of such entity, and used in or derived
6 from such entity for a period of at least three
7 (3) years prior to the date of the transaction
8 from which the net capital gains arise,

9 b. "holding period" means an uninterrupted period of
10 time. The holding period shall include any additional
11 period when the property was held by another
12 individual or entity, if such additional period is
13 included in the taxpayer's holding period for the
14 asset pursuant to the Internal Revenue Code,

15 c. "Oklahoma company", "limited liability company", or
16 "partnership" means an entity whose primary
17 headquarters have been located in Oklahoma for at
18 least three (3) uninterrupted years prior to the date
19 of the transaction from which the net capital gains
20 arise,

21 d. "direct" means the taxpayer directly owns the asset,
22 and

23 e. "indirect" means the taxpayer owns an interest in a
24 pass-through entity (or chain of pass-through

1 entities) that sells the asset that gives rise to the
2 qualifying gains receiving capital treatment.

3 (1) With respect to sales of real property or
4 tangible personal property located within
5 Oklahoma, the deduction described in this
6 subsection shall not apply unless the pass-
7 through entity that makes the sale has held the
8 property for not less than five (5) uninterrupted
9 years prior to the date of the transaction that
10 created the capital gain, and each pass-through
11 entity included in the chain of ownership has
12 been a member, partner, or shareholder of the
13 pass-through entity in the tier immediately below
14 it for an uninterrupted period of not less than
15 five (5) years.

16 (2) With respect to sales of stock or ownership
17 interest in or sales of all or substantially all
18 of the assets of an Oklahoma company, limited
19 liability company, or partnership, the deduction
20 described in this subsection shall not apply
21 unless the pass-through entity that makes the
22 sale has held the stock or ownership interest or
23 the assets for not less than three (3)
24 uninterrupted years prior to the date of the

1 transaction that created the capital gain, and
2 each pass-through entity included in the chain of
3 ownership has been a member, partner or
4 shareholder of the pass-through entity in the
5 tier immediately below it for an uninterrupted
6 period of not less than three (3) years.

7 E. The Oklahoma adjusted gross income of any individual
8 taxpayer shall be further adjusted as follows to arrive at Oklahoma
9 taxable income:

10 1. a. In the case of individuals, there shall be added or
11 deducted, as the case may be, the difference necessary
12 to allow personal exemptions of One Thousand Dollars
13 (\$1,000.00) in lieu of the personal exemptions allowed
14 by the Internal Revenue Code.

15 b. There shall be allowed an additional exemption of One
16 Thousand Dollars (\$1,000.00) for each taxpayer or
17 spouse who is blind at the close of the tax year. For
18 purposes of this subparagraph, an individual is blind
19 only if the central visual acuity of the individual
20 does not exceed 20/200 in the better eye with
21 correcting lenses, or if the visual acuity of the
22 individual is greater than 20/200, but is accompanied
23 by a limitation in the fields of vision such that the
24

1 widest diameter of the visual field subtends an angle
2 no greater than twenty (20) degrees.

3 c. There shall be allowed an additional exemption of One
4 Thousand Dollars (\$1,000.00) for each taxpayer or
5 spouse who is sixty-five (65) years of age or older at
6 the close of the tax year based upon the filing status
7 and federal adjusted gross income of the taxpayer.
8 Taxpayers with the following filing status may claim
9 this exemption if the federal adjusted gross income
10 does not exceed:

11 (1) Twenty-five Thousand Dollars (\$25,000.00) if
12 married and filing jointly;

13 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)
14 if married and filing separately;

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

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

19 Provided, for taxable years beginning after December
20 31, 1999, amounts included in the calculation of
21 federal adjusted gross income pursuant to the
22 conversion of a traditional individual retirement
23 account to a Roth individual retirement account shall
24 be excluded from federal adjusted gross income for

1 purposes of the income thresholds provided in this
2 subparagraph.

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

12 2. a. For taxable years beginning on or before December 31,
13 2005, in the case of individuals who use the standard
14 deduction in determining taxable income, there shall
15 be added or deducted, as the case may be, the
16 difference necessary to allow a standard deduction in
17 lieu of the standard deduction allowed by the Internal
18 Revenue Code, in an amount equal to the larger of
19 fifteen percent (15%) of the Oklahoma adjusted gross
20 income or One Thousand Dollars (\$1,000.00), but not to
21 exceed Two Thousand Dollars (\$2,000.00), except that
22 in the case of a married individual filing a separate
23 return such deduction shall be the larger of fifteen
24 percent (15%) of such Oklahoma adjusted gross income

1 or Five Hundred Dollars (\$500.00), but not to exceed
2 the maximum amount of One Thousand Dollars
3 (\$1,000.00),

4 b. For taxable years beginning on or after January 1,
5 2006, and before January 1, 2007, in the case of
6 individuals who use the standard deduction in
7 determining taxable income, there shall be added or
8 deducted, as the case may be, the difference necessary
9 to allow a standard deduction in lieu of the standard
10 deduction allowed by the Internal Revenue Code, in an
11 amount equal to:

12 (1) Three Thousand Dollars (\$3,000.00), if the filing
13 status is married filing joint, head of household
14 or qualifying widow; or

15 (2) Two Thousand Dollars (\$2,000.00), if the filing
16 status is single or married filing separate.

17 c. For the taxable year beginning on January 1, 2007, and
18 ending December 31, 2007, in the case of individuals
19 who use the standard deduction in determining taxable
20 income, there shall be added or deducted, as the case
21 may be, the difference necessary to allow a standard
22 deduction in lieu of the standard deduction allowed by
23 the Internal Revenue Code, in an amount equal to:

1 (1) Five Thousand Five Hundred Dollars (\$5,500.00),
2 if the filing status is married filing joint or
3 qualifying widow; or

4 (2) Four Thousand One Hundred Twenty-five Dollars
5 (\$4,125.00) for a head of household; or

6 (3) Two Thousand Seven Hundred Fifty Dollars
7 (\$2,750.00), if the filing status is single or
8 married filing separate.

9 d. For the taxable year beginning on January 1, 2008, and
10 ending December 31, 2008, in the case of individuals
11 who use the standard deduction in determining taxable
12 income, there shall be added or deducted, as the case
13 may be, the difference necessary to allow a standard
14 deduction in lieu of the standard deduction allowed by
15 the Internal Revenue Code, in an amount equal to:

16 (1) Six Thousand Five Hundred Dollars (\$6,500.00), if
17 the filing status is married filing joint or
18 qualifying widow, or

19 (2) Four Thousand Eight Hundred Seventy-five Dollars
20 (\$4,875.00) for a head of household, or

21 (3) Three Thousand Two Hundred Fifty Dollars
22 (\$3,250.00), if the filing status is single or
23 married filing separate.
24

1 e. For the taxable year beginning on January 1, 2009, and
2 ending December 31, 2009, in the case of individuals
3 who use the standard deduction in determining taxable
4 income, there shall be added or deducted, as the case
5 may be, the difference necessary to allow a standard
6 deduction in lieu of the standard deduction allowed by
7 the Internal Revenue Code, in an amount equal to:

8 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),
9 if the filing status is married filing joint or
10 qualifying widow, or

11 (2) Six Thousand Three Hundred Seventy-five Dollars
12 (\$6,375.00) for a head of household, or

13 (3) Four Thousand Two Hundred Fifty Dollars
14 (\$4,250.00), if the filing status is single or
15 married filing separate.

16 f. For taxable years beginning on or after January 1,
17 2010, in the case of individuals who use the standard
18 deduction in determining taxable income, there shall
19 be added or deducted, as the case may be, the
20 difference necessary to allow a standard deduction
21 equal to the standard deduction allowed by the
22 Internal Revenue Code of 1986, as amended, based upon
23 the amount and filing status prescribed by such Code
24

1 for purposes of filing federal individual income tax
2 returns.

3 3. In the case of resident and part-year resident individuals
4 having adjusted gross income from sources both within and without
5 the state, the itemized or standard deductions and personal
6 exemptions shall be reduced to an amount which is the same portion
7 of the total thereof as Oklahoma adjusted gross income is of
8 adjusted gross income. To the extent itemized deductions include
9 allowable moving expense, proration of moving expense shall not be
10 required or permitted but allowable moving expense shall be fully
11 deductible for those taxpayers moving within or into Oklahoma and no
12 part of moving expense shall be deductible for those taxpayers
13 moving without or out of Oklahoma. All other itemized or standard
14 deductions and personal exemptions shall be subject to proration as
15 provided by law.

16 4. A resident individual with a physical disability
17 constituting a substantial handicap to employment may deduct from
18 Oklahoma adjusted gross income such expenditures to modify a motor
19 vehicle, home or workplace as are necessary to compensate for his or
20 her handicap. A veteran certified by the Veterans Administration of
21 the federal government as having a service-connected disability
22 shall be conclusively presumed to be an individual with a physical
23 disability constituting a substantial handicap to employment. The
24 Tax Commission shall promulgate rules containing a list of

1 combinations of common disabilities and modifications which may be
2 presumed to qualify for this deduction. The Tax Commission shall
3 prescribe necessary requirements for verification.

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

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

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

1 State of Oklahoma if the extension is granted
2 pursuant to subparagraph b of this paragraph or
3 be discharged from such hospital if the extension
4 is granted pursuant to subparagraph c of this
5 paragraph; or

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

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

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

22 7. Notwithstanding anything in the Internal Revenue Code or in
23 the Oklahoma Income Tax Act to the contrary, it is expressly
24 provided that, in the case of resident individuals, amounts received

1 as dividends or distributions of earnings from savings and loan
2 associations or credit unions located in Oklahoma, and interest
3 received on savings accounts and time deposits from such sources or
4 from state and national banks or trust companies located in
5 Oklahoma, shall qualify as dividends for the purpose of the dividend
6 exclusion, and taxable income for tax years ending before January 1,
7 2013, shall be adjusted accordingly to arrive at Oklahoma taxable
8 income; provided, however, that the dividend, distribution of
9 earnings and/or interest exclusion provided for hereinabove shall
10 not be cumulative to the maximum dividend exclusion allowed by the
11 Internal Revenue Code. Any dividend exclusion already allowed by
12 the Internal Revenue Code and reflected in the taxpayer's Oklahoma
13 taxable income together with exclusion allowed herein shall not
14 exceed the total of One Hundred Dollars (\$100.00) per individual or
15 Two Hundred Dollars (\$200.00) per couple filing a joint return.

16 8. a. An individual taxpayer, whether resident or
17 nonresident, may deduct an amount equal to the federal
18 income taxes paid by the taxpayer during the taxable
19 year.

20 b. Federal taxes as described in subparagraph a of this
21 paragraph shall be deductible by any individual
22 taxpayer, whether resident or nonresident, only to the
23 extent they relate to income subject to taxation
24 pursuant to the provisions of the Oklahoma Income Tax

1 Act. The maximum amount allowable in the preceding
2 paragraph shall be prorated on the ratio of the
3 Oklahoma adjusted gross income to federal adjusted
4 gross income.

5 c. For the purpose of this paragraph, "federal income
6 taxes paid" shall mean federal income taxes, surtaxes
7 imposed on incomes or excess profits taxes, as though
8 the taxpayer was on the accrual basis. In determining
9 the amount of deduction for federal income taxes for
10 tax year 2001, the amount of the deduction shall not
11 be adjusted by the amount of any accelerated ten
12 percent (10%) tax rate bracket credit or advanced
13 refund of the credit received during the tax year
14 provided pursuant to the federal Economic Growth and
15 Tax Relief Reconciliation Act of 2001, P.L. No. 107-
16 16, and the advanced refund of such credit shall not
17 be subject to taxation.

18 d. The provisions of this paragraph shall apply to all
19 taxable years ending after December 31, 1978, and
20 beginning before January 1, 2006.

21 9. Retirement benefits not to exceed Five Thousand Five Hundred
22 Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five
23 Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand
24 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax

1 years, which are received by an individual from the civil service of
2 the United States, the Oklahoma Public Employees Retirement System,
3 the Teachers' Retirement System of Oklahoma, the Oklahoma Law
4 Enforcement Retirement System, the Oklahoma Firefighters Pension and
5 Retirement System, the Oklahoma Police Pension and Retirement
6 System, the employee retirement systems created by counties pursuant
7 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the
8 Uniform Retirement System for Justices and Judges, the Oklahoma
9 Wildlife Conservation Department Retirement Fund, the Oklahoma
10 Employment Security Commission Retirement Plan, or the employee
11 retirement systems created by municipalities pursuant to Section 48-
12 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
13 from taxable income.

14 10. In taxable years beginning after December 31, 1984, Social
15 Security benefits received by an individual shall be exempt from
16 taxable income, to the extent such benefits are included in the
17 federal adjusted gross income pursuant to the provisions of Section
18 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

19 11. For taxable years beginning after December 31, 1994, lump-
20 sum distributions from employer plans of deferred compensation,
21 which are not qualified plans within the meaning of Section 401(a)
22 of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which
23 are deposited in and accounted for within a separate bank account or
24 brokerage account in a financial institution within this state,

1 shall be excluded from taxable income in the same manner as a
2 qualifying rollover contribution to an individual retirement account
3 within the meaning of Section 408 of the Internal Revenue Code, 26
4 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage
5 account, including any earnings thereon, shall be included in
6 taxable income when withdrawn in the same manner as withdrawals from
7 individual retirement accounts within the meaning of Section 408 of
8 the Internal Revenue Code.

9 12. In taxable years beginning after December 31, 1995, and
10 ending before January 1, 2014, contributions made to and interest
11 received from a medical savings account established pursuant to
12 ~~Sections 2621 through 2623 of Title 63 of the Oklahoma Statutes~~ the
13 Medical Savings Account Act shall be exempt from taxable income.

14 13. For taxable years beginning after December 31, 1996, and
15 ending before January 1, 2015, the Oklahoma adjusted gross income of
16 any individual taxpayer who is a swine or poultry producer may be
17 further adjusted for the deduction for depreciation allowed for new
18 construction or expansion costs which may be computed using the same
19 depreciation method elected for federal income tax purposes except
20 that the useful life shall be seven (7) years for purposes of this
21 paragraph. If depreciation is allowed as a deduction in determining
22 the adjusted gross income of an individual, any depreciation
23 calculated and claimed pursuant to this section shall in no event be

24

1 a duplication of any depreciation allowed or permitted on the
2 federal income tax return of the individual.

3 14. a. In taxable years beginning after December 31, 2002,
4 and ending before January 1, 2016, nonrecurring
5 adoption expenses paid by a resident individual
6 taxpayer in connection with:

7 (1) the adoption of a minor, or

8 (2) a proposed adoption of a minor which did not
9 result in a decreed adoption,

10 may be deducted from the Oklahoma adjusted gross
11 income.

12 b. The deductions for adoptions and proposed adoptions
13 authorized by this paragraph shall not exceed Twenty
14 Thousand Dollars (\$20,000.00) per calendar year.

15 c. The Tax Commission shall promulgate rules to implement
16 the provisions of this paragraph which shall contain a
17 specific list of nonrecurring adoption expenses which
18 may be presumed to qualify for the deduction. The Tax
19 Commission shall prescribe necessary requirements for
20 verification.

21 d. "Nonrecurring adoption expenses" means adoption fees,
22 court costs, medical expenses, attorney fees and
23 expenses which are directly related to the legal
24 process of adoption of a child including, but not

1 limited to, costs relating to the adoption study,
2 health and psychological examinations, transportation
3 and reasonable costs of lodging and food for the child
4 or adoptive parents which are incurred to complete the
5 adoption process and are not reimbursed by other
6 sources. The term "nonrecurring adoption expenses"
7 shall not include attorney fees incurred for the
8 purpose of litigating a contested adoption, from and
9 after the point of the initiation of the contest,
10 costs associated with physical remodeling, renovation
11 and alteration of the adoptive parents' home or
12 property, except for a special needs child as
13 authorized by the court.

- 14 15. a. In taxable years beginning before January 1, 2005,
15 retirement benefits not to exceed the amounts
16 specified in this paragraph, which are received by an
17 individual sixty-five (65) years of age or older and
18 whose Oklahoma adjusted gross income is Twenty-five
19 Thousand Dollars (\$25,000.00) or less if the filing
20 status is single, head of household, or married filing
21 separate, or Fifty Thousand Dollars (\$50,000.00) or
22 less if the filing status is married filing joint or
23 qualifying widow, shall be exempt from taxable income.
24 In taxable years beginning after December 31, 2004,

1 retirement benefits not to exceed the amounts
2 specified in this paragraph, which are received by an
3 individual whose Oklahoma adjusted gross income is
4 less than the qualifying amount specified in this
5 paragraph, shall be exempt from taxable income.

6 b. For purposes of this paragraph, the qualifying amount
7 shall be as follows:

8 (1) in taxable years beginning after December 31,
9 2004, and prior to January 1, 2007, the
10 qualifying amount shall be Thirty-seven Thousand
11 Five Hundred Dollars (\$37,500.00) or less if the
12 filing status is single, head of household, or
13 married filing separate, or Seventy-Five Thousand
14 Dollars (\$75,000.00) or less if the filing status
15 is married filing jointly or qualifying widow,

16 (2) in the taxable year beginning January 1, 2007,
17 the qualifying amount shall be Fifty Thousand
18 Dollars (\$50,000.00) or less if the filing status
19 is single, head of household, or married filing
20 separate, or One Hundred Thousand Dollars
21 (\$100,000.00) or less if the filing status is
22 married filing jointly or qualifying widow,

23 (3) in the taxable year beginning January 1, 2008,
24 the qualifying amount shall be Sixty-two Thousand

1 Five Hundred Dollars (\$62,500.00) or less if the
2 filing status is single, head of household, or
3 married filing separate, or One Hundred Twenty-
4 five Thousand Dollars (\$125,000.00) or less if
5 the filing status is married filing jointly or
6 qualifying widow,

7 (4) in the taxable year beginning January 1, 2009,
8 the qualifying amount shall be One Hundred
9 Thousand Dollars (\$100,000.00) or less if the
10 filing status is single, head of household, or
11 married filing separate, or Two Hundred Thousand
12 Dollars (\$200,000.00) or less if the filing
13 status is married filing jointly or qualifying
14 widow, and

15 (5) in the taxable year beginning January 1, 2010,
16 and subsequent taxable years, there shall be no
17 limitation upon the qualifying amount.

18 c. For purposes of this paragraph, "retirement benefits"
19 means the total distributions or withdrawals from the
20 following:

21 (1) an employee pension benefit plan which satisfies
22 the requirements of Section 401 of the Internal
23 Revenue Code, 26 U.S.C., Section 401,
24

- 1 (2) an eligible deferred compensation plan that
- 2 satisfies the requirements of Section 457 of the
- 3 Internal Revenue Code, 26 U.S.C., Section 457,
- 4 (3) an individual retirement account, annuity or
- 5 trust or simplified employee pension that
- 6 satisfies the requirements of Section 408 of the
- 7 Internal Revenue Code, 26 U.S.C., Section 408,
- 8 (4) an employee annuity subject to the provisions of
- 9 Section 403(a) or (b) of the Internal Revenue
- 10 Code, 26 U.S.C., Section 403(a) or (b),
- 11 (5) United States Retirement Bonds which satisfy the
- 12 requirements of Section 86 of the Internal
- 13 Revenue Code, 26 U.S.C., Section 86, or
- 14 (6) lump-sum distributions from a retirement plan
- 15 which satisfies the requirements of Section
- 16 402(e) of the Internal Revenue Code, 26 U.S.C.,
- 17 Section 402(e).

18 d. The amount of the exemption provided by this paragraph
19 shall be limited to Five Thousand Five Hundred Dollars
20 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
21 Hundred Dollars (\$7,500.00) for the 2005 tax year and
22 Ten Thousand Dollars (\$10,000.00) for the tax year
23 2006 and for all subsequent tax years. Any individual
24 who claims the exemption provided for in paragraph 9

1 of this subsection shall not be permitted to claim a
2 combined total exemption pursuant to this paragraph
3 and paragraph 9 of this subsection in an amount
4 exceeding Five Thousand Five Hundred Dollars
5 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
6 Hundred Dollars (\$7,500.00) for the 2005 tax year and
7 Ten Thousand Dollars (\$10,000.00) for the 2006 tax
8 year and all subsequent tax years.

9 16. In taxable years beginning after December 31, 1999, and
10 ending before January 1, 2017, for an individual engaged in
11 production agriculture who has filed a Schedule F form with the
12 taxpayer's federal income tax return for such taxable year, there
13 shall be excluded from taxable income any amount which was included
14 as federal taxable income or federal adjusted gross income and which
15 consists of the discharge of an obligation by a creditor of the
16 taxpayer incurred to finance the production of agricultural
17 products.

18 17. In taxable years beginning December 31, 2000, and ending
19 before January 1, 2018, an amount equal to one hundred percent
20 (100%) of the amount of any scholarship or stipend received from
21 participation in the Oklahoma Police Corps Program, as established
22 in Section 2-140.3 of Title 47 of the Oklahoma Statutes shall be
23 exempt from taxable income.

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

10 b. In taxable years beginning after December 31, 2004,
11 and ending before January 1, 2011, each taxpayer shall
12 be allowed a deduction for contributions to accounts
13 established pursuant to the Oklahoma College Savings
14 Plan Act. The maximum annual deduction shall equal
15 the amount of contributions to all such accounts plus
16 any contributions to such accounts by the taxpayer for
17 prior taxable years after December 31, 2004, which
18 were not deducted, but in no event shall the deduction
19 for each tax year exceed Ten Thousand Dollars
20 (\$10,000.00) for each individual taxpayer or Twenty
21 Thousand Dollars (\$20,000.00) for taxpayers filing a
22 joint return. Any amount of a contribution that is
23 not deducted by the taxpayer in the year for which the
24 contribution is made may be carried forward as a

1 deduction from income for the succeeding five (5)
2 years. For taxable years beginning after December 31,
3 2005, deductions may be taken for contributions and
4 rollovers made during a taxable year and up to April
5 15 of the succeeding year, or the due date of a
6 taxpayer's state income tax return, excluding
7 extensions, whichever is later. Provided, a deduction
8 for the same contribution may not be taken for two (2)
9 different taxable years.

10 c. In taxable years beginning after December 31, 2006,
11 deductions for contributions made pursuant to
12 subparagraph b of this paragraph shall be limited as
13 follows:

14 (1) for a taxpayer who qualified for the five-year
15 carryforward election and who takes a rollover or
16 non-qualified withdrawal during that period, the
17 tax deduction otherwise available pursuant to
18 subparagraph b of this paragraph shall be reduced
19 by the amount which is equal to the rollover or
20 non-qualified withdrawal, and

21 (2) for a taxpayer who elects to take a rollover or
22 non-qualified withdrawal within the same tax year
23 in which a contribution was made to the
24 taxpayer's account, the tax deduction otherwise

1 available pursuant to subparagraph b of this
2 paragraph shall be reduced by the amount of the
3 contribution which is equal to the rollover or
4 non-qualified withdrawal.

5 d. If a taxpayer elects to take a rollover on a
6 contribution for which a deduction has been taken
7 pursuant to subparagraph b of this paragraph within
8 one year of the date of contribution, the amount of
9 such rollover shall be included in the adjusted gross
10 income of the taxpayer in the taxable year of the
11 rollover.

12 e. If a taxpayer makes a non-qualified withdrawal of
13 contributions for which a deduction was taken pursuant
14 to subparagraph b of this paragraph, such non-
15 qualified withdrawal and any earnings thereon shall be
16 included in the adjusted gross income of the taxpayer
17 in the taxable year of the non-qualified withdrawal.

18 f. As used in this paragraph:

19 (1) "non-qualified withdrawal" means a withdrawal
20 from an Oklahoma College Savings Plan account
21 other than one of the following:

22 (a) a qualified withdrawal,
23
24

1 (b) a withdrawal made as a result of the death
2 or disability of the designated beneficiary
3 of an account,

4 (c) a withdrawal that is made on the account of
5 a scholarship or the allowance or payment
6 described in Section 135(d)(1)(B) or (C) or
7 by the Internal Revenue Code, received by
8 the designated beneficiary to the extent the
9 amount of the refund does not exceed the
10 amount of the scholarship, allowance, or
11 payment, or

12 (d) a rollover or change of designated
13 beneficiary as permitted by subsection F of
14 Section 3970.7 of Title 70 of Oklahoma
15 Statutes, and

16 (2) "rollover" means the transfer of funds from the
17 Oklahoma College Savings Plan to any other plan
18 under Section 529 of the Internal Revenue Code.

19 19. For taxable years beginning after December 31, 2005,
20 retirement benefits received by an individual from any component of
21 the Armed Forces of the United States in an amount not to exceed the
22 greater of seventy-five percent (75%) of such benefits or Ten
23 Thousand Dollars (\$10,000.00) shall be exempt from taxable income
24

1 but in no case less than the amount of the exemption provided by
2 paragraph 15 of this subsection.

3 20. For taxable years beginning after December 31, 2006,
4 retirement benefits received by federal civil service retirees,
5 including survivor annuities, paid in lieu of Social Security
6 benefits shall be exempt from taxable income to the extent such
7 benefits are included in the federal adjusted gross income pursuant
8 to the provisions of Section 86 of the Internal Revenue Code, 26
9 U.S.C., Section 86, according to the following schedule:

- 10 a. in the taxable year beginning January 1, 2007, twenty
11 percent (20%) of such benefits shall be exempt,
- 12 b. in the taxable year beginning January 1, 2008, forty
13 percent (40%) of such benefits shall be exempt,
- 14 c. in the taxable year beginning January 1, 2009, sixty
15 percent (60%) of such benefits shall be exempt,
- 16 d. in the taxable year beginning January 1, 2010, eighty
17 percent (80%) of such benefits shall be exempt, and
- 18 e. in the taxable year beginning January 1, 2011, and
19 subsequent taxable years, one hundred percent (100%)
20 of such benefits shall be exempt.

21 F. 1. For taxable years beginning after December 31, 2004, and
22 ending before January 1, 2012, a deduction from the Oklahoma
23 adjusted gross income of any individual taxpayer shall be allowed
24 for qualifying gains receiving capital treatment that are included

1 in the federal adjusted gross income of such individual taxpayer
2 during the taxable year.

3 2. As used in this subsection:

4 a. "qualifying gains receiving capital treatment" means
5 the amount of net capital gains, as defined in Section
6 1222(11) of the Internal Revenue Code, included in an
7 individual taxpayer's federal income tax return that
8 result from:

- 9 (1) the sale of real property or tangible personal
10 property located within Oklahoma that has been
11 directly or indirectly owned by the individual
12 taxpayer for a holding period of at least five
13 (5) years prior to the date of the transaction
14 from which such net capital gains arise,
- 15 (2) the sale of stock or the sale of a direct or
16 indirect ownership interest in an Oklahoma
17 company, limited liability company, or
18 partnership where such stock or ownership
19 interest has been directly or indirectly owned by
20 the individual taxpayer for a holding period of
21 at least two (2) years prior to the date of the
22 transaction from which the net capital gains
23 arise, or

24

1 (3) the sale of real property, tangible personal
2 property or intangible personal property located
3 within Oklahoma as part of the sale of all or
4 substantially all of the assets of an Oklahoma
5 company, limited liability company, or
6 partnership or an Oklahoma proprietorship
7 business enterprise where such property has been
8 directly or indirectly owned by such entity or
9 business enterprise or owned by the owners of
10 such entity or business enterprise for a period
11 of at least two (2) years prior to the date of
12 the transaction from which the net capital gains
13 arise,

14 b. "holding period" means an uninterrupted period of
15 time. The holding period shall include any additional
16 period when the property was held by another
17 individual or entity, if such additional period is
18 included in the taxpayer's holding period for the
19 asset pursuant to the Internal Revenue Code,

20 c. "Oklahoma company," "limited liability company," or
21 "partnership" means an entity whose primary
22 headquarters have been located in Oklahoma for at
23 least three (3) uninterrupted years prior to the date
24

1 of the transaction from which the net capital gains
2 arise,

3 d. "direct" means the individual taxpayer directly owns
4 the asset,

5 e. "indirect" means the individual taxpayer owns an
6 interest in a pass-through entity (or chain of pass-
7 through entities) that sells the asset that gives rise
8 to the qualifying gains receiving capital treatment.

9 (1) With respect to sales of real property or
10 tangible personal property located within
11 Oklahoma, the deduction described in this
12 subsection shall not apply unless the pass-
13 through entity that makes the sale has held the
14 property for not less than five (5) uninterrupted
15 years prior to the date of the transaction that
16 created the capital gain, and each pass-through
17 entity included in the chain of ownership has
18 been a member, partner, or shareholder of the
19 pass-through entity in the tier immediately below
20 it for an uninterrupted period of not less than
21 five (5) years.

22 (2) With respect to sales of stock or ownership
23 interest in or sales of all or substantially all
24 of the assets of an Oklahoma company, limited

1 liability company, partnership or Oklahoma
2 proprietorship business enterprise, the deduction
3 described in this subsection shall not apply
4 unless the pass-through entity that makes the
5 sale has held the stock or ownership interest for
6 not less than two (2) uninterrupted years prior
7 to the date of the transaction that created the
8 capital gain, and each pass-through entity
9 included in the chain of ownership has been a
10 member, partner or shareholder of the pass-
11 through entity in the tier immediately below it
12 for an uninterrupted period of not less than two
13 (2) years. For purposes of this division,
14 uninterrupted ownership prior to the effective
15 date of this act shall be included in the
16 determination of the required holding period
17 prescribed by this division, and

18 f. "Oklahoma proprietorship business enterprise" means a
19 business enterprise whose income and expenses have
20 been reported on Schedule C or F of an individual
21 taxpayer's federal income tax return, or any similar
22 successor schedule published by the Internal Revenue
23 Service and whose primary headquarters have been
24 located in Oklahoma for at least three (3)

1 uninterrupted years prior to the date of the
2 transaction from which the net capital gains arise.

3 SECTION 36. AMENDATORY 68 O.S. 2001, Section 2358.3, is
4 amended to read as follows:

5 Section 2358.3 A Before January 1, 2013, a person who
6 contributes money to a political party or to a candidate or
7 candidate committee shall be entitled to deduct the amount
8 contributed, not to exceed One Hundred Dollars (\$100.00) in any one
9 tax year, from the person's adjusted gross income in the computation
10 of Oklahoma income tax.

11 SECTION 37. AMENDATORY 68 O.S. 2001, Section 2358.4, is
12 amended to read as follows:

13 Section 2358.4 A. For taxable years beginning after December
14 31, 2000, and ending before January 1, 2014, at the election of an
15 individual engaged in a farming business, the tax imposed by Section
16 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title for such
17 taxable year shall be equal to the sum of:

18 1. A tax computed under such section on taxable income reduced
19 by elected farm income; and

20 2. The increase in tax imposed by Section 2355 of ~~Title 68 of~~
21 ~~the Oklahoma Statutes~~ this title which would result if taxable
22 income for each of the three (3) prior taxable years were increased
23 by an amount equal to one-third (1/3) of the elected farm income.

1 Any adjustment under this section for any taxable year shall be
2 taken into account in applying this section for any subsequent
3 taxable year.

4 B. As used in this section:

5 1. "Elected farm income" means so much of the taxable income
6 for the taxable year which is attributable to any farming business,
7 and which is specified in the election under subsection A of this
8 section. For purposes of this paragraph, a gain from the sale or
9 other disposition of property, other than land, regularly used by
10 the taxpayer in such a farming business for a substantial period
11 shall be treated as attributable to such a farming business;

12 2. "Individual" shall not mean or include any estate or trust;
13 and

14 3. "Farming business" shall have the same meaning as the term
15 is defined in the Internal Revenue Code, 26 U.S.C., Section
16 263A(e)(4).

17 C. The Oklahoma Tax Commission shall promulgate any necessary
18 rules to implement the provisions of this section.

19 SECTION 38. AMENDATORY Section 3, Chapter 515, O.S.L.
20 2004 (68 O.S. Supp. 2007, Section 2358.7), is amended to read as
21 follows:

22 Section 2358.7 A. For taxable years beginning after December
23 31, 2004, and ending before January 1, 2015, there shall be allowed
24

1 as a credit against the tax imposed pursuant to Section 2355 of
2 ~~Title 68 of the Oklahoma Statutes~~ this title in an amount equal to:

3 1. Two Hundred Dollars (\$200.00) each year for which a
4 volunteer firefighter provides proof of certification as required by
5 subsection B of this section; and

6 2. Four Hundred Dollars (\$400.00) each year following the
7 taxable years for which a taxpayer is eligible for the credit
8 provided by paragraph 1 of this subsection for a volunteer
9 firefighter providing proof of certification as required by
10 subsection D of this section.

11 B. In order to claim the tax credit authorized by paragraph 1
12 of subsection A of this section, a volunteer firefighter shall be
13 required to provide adequate documentation to the Oklahoma Tax
14 Commission of at least twelve (12) credited hours toward the
15 Volunteer Firefighter Practices program offered by Oklahoma State
16 University Fire Service Training prior to or during the first
17 taxable year for which a tax credit is claimed pursuant to paragraph
18 1 of subsection A of this section.

19 C. For each year subsequent to the first year for which a
20 volunteer firefighter may claim the tax credit authorized by
21 paragraph 1 of subsection A of this section, in order to claim any
22 further tax credits pursuant to paragraph 1 of subsection A of this
23 section, the volunteer firefighter shall be required to provide
24 documentation that the firefighter has completed an additional six

1 (6) hours of Fire Service Training Volunteer Firefighter Practices
2 program until such program or its equivalent is completed. For
3 purposes of this subsection, equivalency shall be determined by
4 Oklahoma State University Fire Service Training. For purposes of
5 this subsection, Firefighter I, Firefighter II or Firefighter III
6 certifications or their equivalents may be provided in lieu of the
7 Volunteer Firefighter Practices certification.

8 D. After having completed at least thirty (30) hours of
9 instruction and having completed the Volunteer Firefighter Practices
10 program, in order to be eligible for the tax credit authorized by
11 paragraph 2 of subsection A of this section, the volunteer
12 firefighter shall:

13 1. Attend and receive certification for annual chemical,
14 biological, radiological and nuclear (CBRN) response training and
15 weapons of mass destruction (WMD) training of at least one (1) hour
16 per subject, respectively;

17 2. Complete at least six (6) hours of continuing education each
18 year until the volunteer firefighter completes a certification as
19 Firefighter I or its equivalent. For purposes of this paragraph,
20 equivalency shall be determined by Oklahoma State University Fire
21 Service Training;

22 3. Provide documentation from the fire chief of the applicable
23 department that the firefighter has been provided and participated
24 in all annual training as required by federal and state authorities

1 including, but not limited to, annual fit testing for breathing
2 apparatus, "right-to-know" laws, Homeland Defense, CBRN, WMD or
3 other applicable requirements; and

4 4. Provide documentation from the fire chief of the applicable
5 department that the volunteer firefighter has met the requirements
6 under the fire department's constitution and bylaws and is a member
7 in good standing of the department together with a record of the
8 total number of years of service in good standing with such
9 department.

10 E. In order to assist the Oklahoma Tax Commission with the
11 administration of the tax credits authorized by this section, the
12 Oklahoma State University Fire Service Training program shall
13 provide to all fire departments a uniform document that indicates
14 the annual training hours and continuing education training hours
15 completed by each volunteer firefighter through the Fire Service
16 Training program.

17 F. The Office of the State Fire Marshal shall prescribe a
18 reporting form for use by volunteer fire departments and by
19 volunteer firefighters in order to provide the certifications
20 required by this section.

21 G. The Oklahoma Tax Commission may require copies of such
22 documentation provided by Oklahoma State University Fire Service
23 Training program or the Office of the State Fire Marshal regarding
24

1 training history to verify eligibility for the tax credits provided
2 by this section.

3 SECTION 39. AMENDATORY 70 O.S. 2001, Section 6014, is
4 amended to read as follows:

5 Section 6014. A. ~~The~~ Before January 1, 2016, the property of
6 the Trust and its income and operation shall be exempt from all
7 taxation by this state or any of its political subdivisions. On or
8 after January 1, 2013, the income of the Trust shall be subject to
9 taxation by this state and any of its political subdivisions.

10 B. ~~The~~ Before January 1, 2016, the purchaser may deduct from
11 taxable income the amount of payment made under an advance tuition
12 payment contract during the tax year.

13 C. An advance tuition payment contract is not a security
14 subject to regulation by the state. An advance tuition contract may
15 not be sold or otherwise transferred by the purchaser or qualified
16 beneficiary without the prior approval of the Regents.

17 SECTION 40. AMENDATORY 74 O.S. 2001, Section 2106, is
18 amended to read as follows:

19 Section 2106. A. ~~An~~ Before January 1, 2017, an export trading
20 company, with a registered office or other office in this state,
21 shall be exempt from state corporate income tax and franchise tax
22 for a period of two (2) years from the date the Commission certifies
23 the export trading company as a qualified export trading company. A
24 copy of such certificate shall be filed with the Oklahoma Tax

1 Commission which shall verify compliance with this act prior to
2 allowing the tax exemption provided for herein. For purposes of the
3 Export Trading Company Act, an export trading company shall be
4 deemed to have an office in Oklahoma if it performs export trade
5 services in this state.

6 B. Export trading companies shall not qualify for the tax
7 exemptions of this section for sales made within the United States.

8 C. A subsidiary or affiliate of a qualified export trading
9 company shall not be entitled to the tax exemptions provided for in
10 this section unless such subsidiary or affiliate is certified as a
11 qualified export trading company pursuant to Section 2107 of this
12 title.

13 SECTION 41. AMENDATORY 74 O.S. 2001, Section 5064.7, is
14 amended to read as follows:

15 Section 5064.7 A. The following incentives shall be available
16 to inventors for products developed and manufactured in this state
17 and to instate manufacturers of said products; provided, to qualify
18 for the incentives, the product shall be patented or have patent
19 pending pursuant to federal law and shall be registered with the
20 Oklahoma Center for the Advancement of Science and Technology
21 (OCAST):

22 1. ~~Royalty~~ Before January 1, 2018, royalty earned by an
23 inventor from a product developed and manufactured in this state
24 shall be exempt from state income tax for a period of seven (7)

1 years, or the time period eligible subject to the limitations of
2 this subsection, from January 1 of the first year in which such
3 royalty is received as long as the manufacturer remains in the
4 state; and

5 2. An instate manufacturer of a product developed in this state
6 by an inventor shall be eligible for a tax credit, as provided for
7 in Section 2357.4 of Title 68 of the Oklahoma Statutes. In
8 addition, before January 1, 2018, such manufacturer may exclude from
9 Oklahoma taxable income, or in the case of an individual, the
10 Oklahoma adjusted gross income, sixty-five percent (65%) of the cost
11 of depreciable property purchased and utilized directly in
12 manufacturing the product. The maximum exclusion shall not exceed
13 Five Hundred Thousand Dollars (\$500,000.00). If the exclusion
14 allowed by this paragraph exceeds the Oklahoma taxable income, or in
15 the case of an individual, the Oklahoma adjusted gross income, the
16 amount of the exclusion that is in excess of such income may be
17 carried forward as an exclusion against subsequent Oklahoma taxable
18 income or in the case of an individual, subsequent Oklahoma adjusted
19 gross income, for a period not to exceed four (4) years. For the
20 purposes of this paragraph, "depreciable property" means machinery,
21 fixtures, equipment, buildings, or substantial improvements thereto,
22 placed in service in this state during the taxable year.

23
24

1 B. The Oklahoma Tax Commission, in conjunction with the
2 Oklahoma Center for the Advancement of Science and Technology, shall
3 promulgate rules to implement the provisions of this section.

4 SECTION 42. AMENDATORY 74 O.S. 2001, Section 5075, is
5 amended to read as follows:

6 Section 5075. A. ~~Income~~ Before January 1, 2011, income earned
7 by a sponsor from rental fees, service fees or any other form of
8 payment for services provided to a tenant as an operator of an
9 incubator, or for providing funding for such a facility, shall be
10 exempt from state income tax for a period not to exceed ten (10)
11 years from the date of the tenant's occupancy in an incubator or for
12 the time period eligible subject to the limitations of this
13 subsection.

14 B. The Oklahoma Tax Commission shall promulgate rules and
15 regulations to implement the provisions of this section.

16 SECTION 43. AMENDATORY 74 O.S. 2001, Section 5078, as
17 amended by Section 11, Chapter 486, O.S.L. 2003 (74 O.S. Supp. 2007,
18 Section 5078), is amended to read as follows:

19 Section 5078. A. ~~For~~ Before January 1, 2012, for a period of
20 up to ten (10) years from the date of tenant's occupancy in an
21 incubator, or for the time period eligible subject to the
22 limitations of this subsection, income earned by the tenant as a
23 result of activities conducted as an occupant in an incubator,
24 including income distributed to partners, shareholders of a

1 corporation for which a Subchapter S election is in effect and to
2 the members of a limited liability company, shall be exempt from
3 state income tax. The exemption provided by this section shall
4 remain in effect for such activities by such tenant after the date
5 the tenant is no longer an occupant in an incubator, but not to
6 exceed a total duration of ten (10) years for any tenant, or for the
7 time period eligible subject to the limitations of this subsection.

8 B. In order to qualify for the income tax exemption for the
9 sixth through tenth year as authorized by this section, the tenant
10 must make at least seventy-five percent (75%) of its gross sales
11 constituting the principal business activity of the business to
12 buyers located outside the state or to buyers whose principal
13 business activity is conducted outside the state or to the federal
14 government or to buyers located within the state if the product or
15 service is resold to an out-of-state customer or buyer for ultimate
16 use. Provided, if a tenant does not achieve the qualifying
17 percentage for any one of the above tax years, the tenant shall not
18 be disqualified for subsequent tax years in which the qualifying
19 percentage is achieved.

20 The Oklahoma Tax Commission shall promulgate rules to implement
21 the provisions of this section.

22 SECTION 44. AMENDATORY 68 O.S. 2001, Section 1354, as
23 last amended by Section 5, Chapter 155, O.S.L. 2007 (68 O.S. Supp.
24 2007, Section 1354), is amended to read as follows:

1 Section 1354. A. There is hereby levied upon all sales, not
2 otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of
3 four and one-half percent (4.5%) of the gross receipts or gross
4 proceeds of each sale of the following:

5 1. Tangible personal property, except newspapers and
6 periodicals sold before January 1, 2011;

7 2. Natural or artificial gas, electricity, ice, steam, or any
8 other utility or public service, except water, sewage and refuse
9 sold before January 1, 2012. Provided, the rate of four and one-
10 half percent (4.5%) shall not apply to sales subject to the
11 provisions of paragraph 6 of Section 1357 of this title;

12 3. Transportation for hire to persons by common carriers,
13 including railroads both steam and electric, motor transportation
14 companies, pullman car companies, airlines, and other means of
15 transportation for hire, excluding sales before January 1, 2013 of:

16 a. transportation services provided by a tourism service
17 broker which are incidental to the rendition of
18 tourism brokerage services by such broker to a
19 customer regardless of whether or not such
20 transportation services are actually owned and
21 operated by the tourism service broker. For purposes
22 of this subsection, "tourism service broker" means any
23 person, firm, association or corporation or any
24 employee of such person, firm, association or

1 corporation which, for a fee, commission or other
2 valuable consideration, arranges or offers to arrange
3 trips, tours or other vacation or recreational travel
4 plans for a customer, and

- 5 b. transportation services provided by a funeral
6 establishment to family members and other persons for
7 purposes of conducting a funeral in this state;

8 4. Intrastate, interstate and international telecommunications
9 services sourced to this state in accordance with Section 1354.30 of
10 this title and ancillary services. Provided:

- 11 a. the term "telecommunications services" shall mean the
12 electronic transmission, conveyance, or routing of
13 voice, data, audio, video, or any other information or
14 signals to a point, or between or among points. The
15 term "telecommunications services" includes such
16 transmission, conveyance, or routing in which computer
17 processing applications are used to act on the form,
18 code or protocol of the content for purposes of
19 transmission, conveyance or routing without regard to
20 whether such service is referred to as voice-over
21 Internet protocol services or is classified by the
22 Federal Communications Commission as enhanced or value
23 added. "Telecommunications services" do not include:
24

- 1 (1) data processing and information services that
- 2 allow data to be generated, acquired, stored,
- 3 processed, or retrieved and delivered by an
- 4 electronic transmission to a purchaser where such
- 5 purchaser's primary purpose for the underlying
- 6 transaction is the processed data or information,
- 7 (2) installation or maintenance of wiring or
- 8 equipment on a customer's premises,
- 9 (3) tangible personal property,
- 10 (4) advertising, including but not limited to
- 11 directory advertising,
- 12 (5) billing and collection services provided to third
- 13 parties,
- 14 (6) Internet access services,
- 15 (7) radio and television audio and video programming
- 16 services, regardless of the medium, including the
- 17 furnishing of transmission, conveyance and
- 18 routing of such services by the programming
- 19 service provider. Radio and television audio and
- 20 video programming services shall include, but not
- 21 be limited to, cable service as defined in 47
- 22 U.S.C. 522(6) and audio and video programming
- 23 services delivered by commercial mobile radio
- 24 service providers, as defined in 47 C.F.R. 20.3;

1 (8) ancillary services, or

2 (9) digital products delivered electronically,
3 including but not limited to, software, music,
4 video, reading materials or ring tones,

5 b. the term "interstate" means a "telecommunications
6 service" that originates in one United States state,
7 or a United States territory or possession, and
8 terminates in a different United States state or a
9 United States territory or possession,

10 c. the term "intrastate" means a telecommunications
11 service that originates in one United States state or
12 a United States territory or possession, and
13 terminates in the same United States state or a United
14 States territory or possession,

15 d. the term "ancillary services" means services that are
16 associated with or incidental to the provision of
17 telecommunications services, including but not limited
18 to "detailed telecommunications billing", "directory
19 assistance", "vertical service", and "voice mail
20 services".

21 e. in the case of a bundled transaction that includes
22 telecommunication service, ancillary service, internet
23 access or audio or video programming service:

24

1 (1) if the price is attributable to products that are
2 taxable and products that are nontaxable, the
3 portion of the price attributable to the
4 nontaxable products may be subject to tax unless
5 the provider can identify by reasonable and
6 verifiable standards such portion for its books
7 and records kept in the regular course of
8 business for other purposes, including, but not
9 limited to, nontax purposes, and

10 (2) the provisions of this paragraph shall apply
11 unless otherwise provided by federal law,

12 f. a sale of prepaid calling service or prepaid wireless
13 calling service shall be taxable at the time of sale
14 to the customer;

15 5. Telecommunications nonrecurring charges, which means an
16 amount billed for the installation, connection, change or initiation
17 of telecommunications services received by a customer;

18 6. Printing or printed matter of all types, kinds, or character
19 and, except for services sold before January 1, 2014, of printing,
20 copying or photocopying performed by a privately owned scientific
21 and educational library sustained by monthly or annual dues paid by
22 members sharing the use of such services with students interested in
23 the study of geology, petroleum engineering or related subjects, any
24 service of printing or overprinting, including the copying of

1 information by mimeograph, multigraph, or by otherwise duplicating
2 written or printed matter in any manner, or the production of
3 microfiche containing information from magnetic tapes or other media
4 furnished by customers;

5 7. Service of furnishing rooms by hotel, apartment hotel,
6 public rooming house, motel, public lodging house, or tourist camp;

7 8. Service of furnishing storage or parking privileges by auto
8 hotels or parking lots;

9 9. Computer hardware, software, coding sheets, cards, magnetic
10 tapes or other media on which prewritten programs have been coded,
11 punched, or otherwise recorded, including the gross receipts from
12 the licensing of software programs;

13 10. Foods, confections, and all drinks sold or dispensed by
14 hotels, restaurants, or other dispensers, and sold for immediate
15 consumption upon the premises or delivered or carried away from the
16 premises for consumption elsewhere;

17 11. Advertising of all kinds, types, and characters, including
18 any and all devices used for advertising purposes except those
19 specifically exempt pursuant to the provisions of Section 1357 of
20 this title;

21 12. Dues or fees to clubs including free or complimentary dues
22 or fees which have a value equivalent to the charge that would have
23 otherwise been made, including any fees paid for the use of
24

1 facilities or services rendered at a health spa or club or any
2 similar facility or business;

3 13. Tickets for admission to or voluntary contributions made to
4 places of amusement, sports, entertainment, exhibition, display, or
5 other recreational events or activities, including free or
6 complimentary admissions which have a value equivalent to the charge
7 that would have otherwise been made;

8 14. Charges made for the privilege of entering or engaging in
9 any kind of activity, such as tennis, racquetball, or handball, when
10 spectators are charged no admission fee;

11 15. Charges made for the privilege of using items for
12 amusement, sports, entertainment, or recreational activity, such as
13 trampolines or golf carts;

14 16. The rental of equipment for amusement, sports,
15 entertainment, or other recreational activities, such as bowling
16 shoes, skates, golf carts, or other sports or athletic equipment;

17 17. The gross receipts from sales from any vending machine
18 without any deduction for rental to locate the vending machine on
19 the premises of a person who is not the owner or any other
20 deductions therefrom;

21 18. The gross receipts or gross proceeds from the rental or
22 lease of tangible personal property, including rental or lease of
23 personal property when the rental or lease agreement requires the
24 vendor to launder, clean, repair, or otherwise service the rented or

1 leased property on a regular basis, without any deduction for the
2 cost of the service rendered. If the rental or lease charge is
3 based on the retail value of the property at the time of making the
4 rental or lease agreement and the expected life of the property, and
5 the rental or lease charge is separately stated from the service
6 cost in the statement, bill, or invoice delivered to the consumer,
7 the cost of services rendered shall be deducted from the gross
8 receipts or gross proceeds;

9 19. Flowers, plants, shrubs, trees, and other floral items,
10 whether or not produced by the vendor, sold by persons engaged in
11 florist or nursery business in this state, including all orders
12 taken by an Oklahoma business for delivery in another state. All
13 orders taken outside this state for delivery within this state shall
14 not be subject to the taxes levied in this section;

15 20. Tangible personal property sold to persons, peddlers,
16 solicitors, or other salesmen, for resale when there is likelihood
17 that this state will lose tax revenue due to the difficulty of
18 enforcing the provisions of the Oklahoma Sales Tax Code because of:

- 19 a. the operation of the business,
- 20 b. the nature of the business,
- 21 c. the turnover of independent contractors,
- 22 d. the lack of place of business in which to display a
23 permit or keep records,
- 24 e. lack of adequate records,

- 1 f. the fact that the persons are minors or transients,
- 2 g. the fact that the persons are engaged in service
- 3 businesses, or
- 4 h. any other reasonable reason;

5 21. Any taxable services and tangible personal property
6 including materials, supplies, and equipment sold to contractors for
7 the purpose of developing and improving real estate even though said
8 real estate is intended for resale as real property, hereby declared
9 to be sales to consumers or users, however, taxable materials,
10 supplies and equipment sold to contractors as provided by this
11 subsection which are purchased as a result of and subsequent to the
12 date of a contract entered into either prior to the effective date
13 of any law increasing the rate of sales tax imposed by this article,
14 or entered into prior to the effective date of an ordinance or other
15 measure increasing the sales tax levy of a political subdivision
16 shall be subject to the rate of sales tax applicable, as of the date
17 such contract was entered into, to sales of such materials, supplies
18 and equipment if such purchases are required in order to complete
19 the contract. Such rate shall be applicable to purchases made
20 pursuant to the contract or any change order under the contract
21 until the contract or any change order has been completed, accepted
22 and the contractor has been discharged from any further obligation
23 under the contract or change order or until two (2) years from the
24 date on which the contract was entered into whichever occurs first.

1 The increased sales tax rate shall be applicable to all such
2 purchases at the time of sale and the contractor shall file a claim
3 for refund before the expiration of three (3) years after the date
4 of contract completion or five (5) years after the contract was
5 entered into, whichever occurs earlier. However, the Oklahoma Tax
6 Commission shall prescribe rules and regulations and shall provide
7 procedures for the refund to a contractor of sales taxes collected
8 on purchases eligible for the lower sales tax rate authorized by
9 this subsection; and

10 22. Any taxable services and tangible personal property sold to
11 persons who are primarily engaged in selling their services, such as
12 repairmen, hereby declared to be sales to consumers or users.

13 B. All solicitations or advertisements in print or electronic
14 media by Group Three vendors, for the sale of tangible property to
15 be delivered within this state, shall contain a notice that the sale
16 is subject to Oklahoma sales tax, unless the sale is exempt from
17 such taxation.

18 SECTION 45. AMENDATORY 68 O.S. 2001, Section 1356, as
19 last amended by Section 5, Chapter 353, O.S.L. 2007 (68 O.S. Supp.
20 2007, Section 1356), is amended to read as follows:

21 Section 1356. Exemptions - Governmental and nonprofit entities.

22 There are hereby specifically exempted from the tax levied by
23 Section 1350 et seq. of this title:
24

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

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

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

19 4. Sales made directly by county, district or state fair
20 authorities of this state, upon the premises of the fair authority,
21 for the sole benefit of the fair authority or sales of admission
22 tickets to such fairs or fair events at any location in the state
23 authorized by county, district or state fair authorities; provided,
24 the exemption provided by this paragraph for admission tickets to

1 fair events shall apply only to any portion of the admission price
2 that is retained by or distributed to the fair authority. As used
3 in this paragraph, "fair event" shall be limited to an event held on
4 the premises of the fair authority in conjunction with and during
5 the time period of a county, district or state fair;

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

10 6. ~~Dues~~ Before January 1, 2015, dues paid to fraternal,
11 religious, civic, charitable or educational societies or
12 organizations by regular members thereof, provided, such societies
13 or organizations operate under what is commonly termed the lodge
14 plan or system, and provided such societies or organizations do not
15 operate for a profit which inures to the benefit of any individual
16 member or members thereof to the exclusion of other members and dues
17 paid monthly or annually to privately owned scientific and
18 educational libraries by members sharing the use of services
19 rendered by such libraries with students interested in the study of
20 geology, petroleum engineering or related subjects;

21 7. Sale of tangible personal property or services to or by
22 churches, except sales made in the course of business for profit or
23 savings, competing with other persons engaged in the same or a
24 similar business or sale of tangible personal property or services

1 by an organization exempt from federal income tax pursuant to
2 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
3 made on behalf of or at the request of a church or churches if the
4 sale of such property is conducted not more than once each calendar
5 year for a period not to exceed three (3) days by the organization
6 and proceeds from the sale of such property are used by the church
7 or churches or by the organization for charitable purposes. Sales
8 exempt pursuant to this paragraph shall be subject to the tax levied
9 by Section 1350 et seq. of this title on and after January 1, 2016;

10 8. The amount of proceeds received before January 1, 2017, from
11 the sale of admission tickets which is separately stated on the
12 ticket of admission for the repayment of money borrowed by any
13 accredited state-supported college or university or any public trust
14 of which a county in this state is the beneficiary, for the purpose
15 of constructing or enlarging any facility to be used for the staging
16 of an athletic event, a theatrical production, or any other form of
17 entertainment, edification or cultural cultivation to which entry is
18 gained with a paid admission ticket. Such facilities include, but
19 are not limited to, athletic fields, athletic stadiums, field
20 houses, amphitheaters and theaters. To be eligible for this sales
21 tax exemption, the amount separately stated on the admission ticket
22 shall be a surcharge which is imposed, collected and used for the
23 sole purpose of servicing or aiding in the servicing of debt

24

1 incurred by the college or university to effect the capital
2 improvements hereinbefore described;

3 9. Sales of tangible personal property or services made before
4 January 1, 2018, to the council organizations or similar state
5 supervisory organizations of the Boy Scouts of America, Girl Scouts
6 of U.S.A. and the Campfire Boys and Girls;

7 10. Sale of tangible personal property or services to any
8 county, municipality, rural water district, public school district,
9 the institutions of The Oklahoma State System of Higher Education,
10 the Grand River Dam Authority, the Northeast Oklahoma Public
11 Facilities Authority, the Oklahoma Municipal Power Authority, City
12 of Tulsa-Rogers County Port Authority, Muskogee City-County Port
13 Authority, the Oklahoma Department of Veterans Affairs, the Broken
14 Bow Economic Development Authority, Ardmore Development Authority,
15 Durant Industrial Authority, Oklahoma Ordnance Works Authority or to
16 any person with whom any of the above-named subdivisions or agencies
17 of this state has duly entered into a public contract pursuant to
18 law, necessary for carrying out such public contract or to any
19 subcontractor to such a public contract. Any person making
20 purchases on behalf of such subdivision or agency of this state
21 shall certify, in writing, on the copy of the invoice or sales
22 ticket to be retained by the vendor that the purchases are made for
23 and on behalf of such subdivision or agency of this state and set
24 out the name of such public subdivision or agency. Any person who

1 wrongfully or erroneously certifies that purchases are for any of
2 the above-named subdivisions or agencies of this state or who
3 otherwise violates this section shall be guilty of a misdemeanor and
4 upon conviction thereof shall be fined an amount equal to double the
5 amount of sales tax involved or incarcerated for not more than sixty
6 (60) days or both;

7 11. Sales of tangible personal property or services made before
8 January 1, 2011, to private institutions of higher education and
9 private elementary and secondary institutions of education
10 accredited by the State Department of Education or registered by the
11 State Board of Education for purposes of participating in federal
12 programs or accredited as defined by the Oklahoma State Regents for
13 Higher Education which are exempt from taxation pursuant to the
14 provisions of the Internal Revenue Code, 26 U.S.C., Section
15 501(c) (3), including materials, supplies, and equipment used in the
16 construction and improvement of buildings and other structures owned
17 by the institutions and operated for educational purposes.

18 Any person, firm, agency or entity making purchases on behalf of
19 any institution, agency or subdivision in this state, shall certify
20 in writing, on the copy of the invoice or sales ticket the nature of
21 the purchases, and violation of this paragraph shall be a
22 misdemeanor as set forth in paragraph 10 of this section;

23 12. Tuition and educational fees paid before January 1, 2012,
24 to private institutions of higher education and private elementary

1 and secondary institutions of education accredited by the State
2 Department of Education or registered by the State Board of
3 Education for purposes of participating in federal programs or
4 accredited as defined by the Oklahoma State Regents for Higher
5 Education which are exempt from taxation pursuant to the provisions
6 of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

7 13. a. Sales of tangible personal property made before
8 January 1, 2013, by:

- 9 (1) a public school,
- 10 (2) a private school offering instruction for grade
11 levels kindergarten through twelfth grade,
- 12 (3) a public school district,
- 13 (4) a public or private school board,
- 14 (5) a public or private school student group or
15 organization,
- 16 (6) a parent-teacher association or organization
17 other than as specified in subparagraph b of this
18 paragraph, or
- 19 (7) public or private school personnel for purposes
20 of raising funds for the benefit of a public or
21 private school, public school district, public or
22 private school board or public or private school
23 student group or organization, or

24

1 b. Sales of tangible personal property made before
2 January 1, 2013, by or to nonprofit parent-teacher
3 associations or organizations exempt from taxation
4 pursuant to the provisions of the Internal Revenue
5 Code, 26 U.S.C., Section 501(c)(3).

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

13 14. Sales of tangible personal property made before January 1,
14 2014, by:

- 15 a. local 4-H clubs,
- 16 b. county, regional or state 4-H councils,
- 17 c. county, regional or state 4-H committees,
- 18 d. 4-H leader associations,
- 19 e. county, regional or state 4-H foundations, and
- 20 f. authorized 4-H camps and training centers.

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

1 15. The first Seventy-five Thousand Dollars (\$75,000.00) each
2 year before January 1, 2015, from sale of tickets and concessions at
3 athletic events by each organization exempt from taxation pursuant
4 to the provisions of the Internal Revenue Code, 26 U.S.C., Section
5 501(c)(4);

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

11 17. Sales of tangible personal property or services made before
12 January 1, 2016, to fire departments organized pursuant to Section
13 592 of Title 18 of the Oklahoma Statutes which items are to be used
14 for the purposes of the fire department. Any person making
15 purchases on behalf of any such fire department shall certify, in
16 writing, on the copy of the invoice or sales ticket to be retained
17 by the vendor that the purchases are made for and on behalf of such
18 fire department and set out the name of such fire department. Any
19 person who wrongfully or erroneously certifies that the purchases
20 are for any such fire department or who otherwise violates the
21 provisions of this section shall be deemed guilty of a misdemeanor
22 and upon conviction thereof, shall be fined an amount equal to
23 double the amount of sales tax involved or incarcerated for not more
24 than sixty (60) days, or both;

1 18. Complimentary or free tickets for admission to places of
2 amusement, sports, entertainment, exhibition, display or other
3 recreational events or activities which are issued before January 1,
4 2017, through a box office or other entity which is operated by a
5 state institution of higher education with institutional employees
6 or by a municipality with municipal employees;

7 19. The first Fifteen Thousand Dollars (\$15,000.00) each year
8 before January 1, 2018, from sales of tangible personal property by
9 fire departments organized pursuant to Titles 11, 18, or 19 of the
10 Oklahoma Statutes for the purposes of raising funds for the benefit
11 of the fire department. Fire departments selling tangible personal
12 property for the purposes of raising funds shall be limited to no
13 more than six (6) days each year to raise such funds in order to
14 receive the exemption granted by this paragraph;

15 20. Sales of tangible personal property or services made before
16 January 1, 2011, to any Boys & Girls Clubs of America affiliate in
17 this state which is not affiliated with the Salvation Army and which
18 is exempt from taxation pursuant to the provisions of the Internal
19 Revenue Code, 26 U.S.C., Section 501(c)(3);

20 21. Sales of tangible personal property or services made before
21 January 1, 2012, to any organization, which takes court-adjudicated
22 juveniles for purposes of rehabilitation, and which is exempt from
23 taxation pursuant to the provisions of the Internal Revenue Code, 26
24 U.S.C., Section 501(c)(3), provided that at least fifty percent

1 (50%) of the juveniles served by such organization are court
2 adjudicated and the organization receives state funds in an amount
3 less than ten percent (10%) of the annual budget of the
4 organization;

5 22. Sales of tangible personal property or services made before
6 January 1, 2013, to:

7 a. any federally qualified community health center as
8 defined in Section 254c of Title 42 of the United
9 States Code,

10 b. any migrant health center as defined in Section 254b
11 of Title 42 of the United States Code,

12 c. any clinic receiving disbursements of state monies
13 from the Indigent Health Care Revolving Fund pursuant
14 to the provisions of Section 66 of Title 56 of the
15 Oklahoma Statutes,

16 d. any community based health center which meets all of
17 the following criteria:

18 (1) provides primary care services at no cost to the
19 recipient, and

20 (2) is exempt from taxation pursuant to the
21 provisions of Section 501(c)(3) of the Internal
22 Revenue Code, 26 U.S.C., Section 501(c)(3), and

23 e. any community mental health center as defined in
24 Section 3-302 of Title 43A of the Oklahoma Statutes;

1 23. Dues or fees paid before January 1, 2014, including free or
2 complimentary dues or fees which have a value equivalent to the
3 charge that could have otherwise been made, to YMCAs, YWCAs or
4 municipally-owned recreation centers for the use of facilities and
5 programs;

6 24. The first Fifteen Thousand Dollars (\$15,000.00) each year
7 before January 1, 2015, from sales of tangible personal property or
8 services to or by a cultural organization established to sponsor and
9 promote educational, charitable and cultural events for
10 disadvantaged children, and which organization is exempt from
11 taxation pursuant to the provisions of the Internal Revenue Code, 26
12 U.S.C., Section 501(c)(3);

13 25. Sales of tangible personal property or services made before
14 January 1, 2016, to museums or other entities which have been
15 accredited by the American Association of Museums. Any person
16 making purchases on behalf of any such museum or other entity shall
17 certify, in writing, on the copy of the invoice or sales ticket to
18 be retained by the vendor that the purchases are made for and on
19 behalf of such museum or other entity and set out the name of such
20 museum or other entity. Any person who wrongfully or erroneously
21 certifies that the purchases are for any such museum or other entity
22 or who otherwise violates the provisions of this paragraph shall be
23 deemed guilty of a misdemeanor and, upon conviction thereof, shall
24 be fined an amount equal to double the amount of sales tax involved

1 or incarcerated for not more than sixty (60) days, or by both such
2 fine and incarceration;

3 26. Sales of tickets for admission made before January 1, 2017,
4 by any museum accredited by the American Association of Museums. In
5 order to be eligible for the exemption provided by this paragraph,
6 an amount equivalent to the amount of the tax which would otherwise
7 be required to be collected pursuant to the provisions of Section
8 1350 et seq. of this title shall be separately stated on the
9 admission ticket and shall be collected and used for the sole
10 purpose of servicing or aiding in the servicing of debt incurred by
11 the museum to effect the construction, enlarging or renovation of
12 any facility to be used for entertainment, edification or cultural
13 cultivation to which entry is gained with a paid admission ticket;

14 27. Sales of tangible personal property or services occurring
15 on or after June 1, 1995, and before January 1, 2018, to children's
16 homes which are supported or sponsored by one or more churches,
17 members of which serve as trustees of the home;

18 28. Sales of tangible personal property or services made before
19 January 1, 2011, to the organization known as the Disabled American
20 Veterans, Department of Oklahoma, Inc., and subordinate chapters
21 thereof;

22 29. Sales of tangible personal property or services made before
23 January 1, 2012, to youth camps which are supported or sponsored by
24

1 one or more churches, members of which serve as trustees of the
2 organization;

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

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

11 32. Sales of tangible personal property or services made before
12 January 1, 2013, to any spaceport user, as defined in the Oklahoma
13 Space Industry Development Act;

14 33. ~~The~~ Before January 1, 2014, the sale, use, storage,
15 consumption, or distribution in this state, whether by the importer,
16 exporter, or another person, of any satellite or any associated
17 launch vehicle, including components of, and parts and motors for,
18 any such satellite or launch vehicle, imported or caused to be
19 imported into this state for the purpose of export by means of
20 launching into space. This exemption provided by this paragraph
21 shall not be affected by:

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

24 b. the failure of a launch to occur or be successful, or

1 c. the absence of any transfer or title to, or possession
2 of, the satellite or launch vehicle after launch;

3 34. ~~The~~ Before January 1, 2015, the sale, lease, use, storage,
4 consumption, or distribution in this state of any space facility,
5 space propulsion system or space vehicle, satellite, or station of
6 any kind possessing space flight capacity, including components
7 thereof;

8 35. ~~The~~ Before January 1, 2015, the sale, lease, use, storage,
9 consumption, or distribution in this state of tangible personal
10 property, placed on or used aboard any space facility, space
11 propulsion system or space vehicle, satellite, or station possessing
12 space flight capacity, which is launched into space, irrespective of
13 whether such tangible property is returned to this state for
14 subsequent use, storage, or consumption in any manner;

15 36. ~~The~~ Before January 1, 2015, the sale, lease, use, storage,
16 consumption, or distribution in this state of tangible personal
17 property meeting the definition of "section 38 property" as defined
18 in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of
19 1986, that is an integral part of and used primarily in support of
20 space flight; however, section 38 property used in support of space
21 flight shall not include general office equipment, any boat, mobile
22 home, motor vehicle, or other vehicle of a class or type required to
23 be registered, licensed, titled, or documented in this state or by
24 the United States government, or any other property not specifically

1 suited to supporting space activity. The term "in support of space
2 flight", for purposes of this paragraph, means the altering,
3 monitoring, controlling, regulating, adjusting, servicing, or
4 repairing of any space facility, space propulsion systems or space
5 vehicle, satellite, or station possessing space flight capacity,
6 including the components thereof;

7 37. The Before January 1, 2015, the purchase or lease of
8 machinery and equipment for use at a fixed location in this state,
9 which is used exclusively in the manufacturing, processing,
10 compounding, or producing of any space facility, space propulsion
11 system or space vehicle, satellite, or station of any kind
12 possessing space flight capacity. Provided, the exemption provided
13 for in this paragraph shall not be allowed unless the purchaser or
14 lessee signs an affidavit stating that the item or items to be
15 exempted are for the exclusive use designated herein. Any person
16 furnishing a false affidavit to the vendor for the purpose of
17 evading payment of any tax imposed by Section 1354 of this title
18 shall be subject to the penalties provided by law. As used in this
19 paragraph, "machinery and equipment" means "section 38 property" as
20 defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue
21 Code of 1986, which is used as an integral part of the
22 manufacturing, processing, compounding, or producing of items of
23 tangible personal property. Such term includes parts and

24

1 accessories only to the extent that the exemption thereof is
2 consistent with the provisions of this paragraph;

3 38. The amount of a surcharge or any other amount which is
4 separately stated on an admission ticket which is imposed, collected
5 and used before January 1, 2016, for the sole purpose of
6 constructing, remodeling or enlarging facilities of a public trust
7 having a municipality or county as its sole beneficiary;

8 39. Sales of tangible personal property or services made before
9 January 1, 2017, which are directly used in or for the benefit of a
10 state park in this state, which are made to an organization which is
11 exempt from taxation pursuant to the provisions of the Internal
12 Revenue Code, 26 U.S.C., Section 501(c)(3) and which is organized
13 primarily for the purpose of supporting one or more state parks
14 located in this state;

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

17 41. Sales of tangible personal property or services for use on
18 campus or school construction projects for the benefit of
19 institutions of The Oklahoma State System of Higher Education,
20 private institutions of higher education accredited by the Oklahoma
21 State Regents for Higher Education or any public school or school
22 district when such projects are financed by or through the use of
23 nonprofit entities which are exempt from taxation pursuant to the

24

1 provisions of the Internal Revenue Code, 26 U.S.C., Section
2 501(c)(3);

3 42. Sales of tangible personal property or services made before
4 January 1, 2018, by an organization which is exempt from taxation
5 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
6 Section 501(c)(3), in the course of conducting a national
7 championship sports event, but only if all or a portion of the
8 payment in exchange therefor would qualify as the receipt of a
9 qualified sponsorship payment described in Internal Revenue Code, 26
10 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph
11 shall be exempt from all Oklahoma sales, use, excise and gross
12 receipts taxes;

13 43. Sales of tangible personal property or services made before
14 January 1, 2011, to or by an organization which:

- 15 a. is exempt from taxation pursuant to the provisions of
16 the Internal Revenue Code, 26 U.S.C., Section
17 501(c)(3),
- 18 b. is affiliated with a comprehensive university within
19 The Oklahoma State System of Higher Education, and
- 20 c. has been organized primarily for the purpose of
21 providing education and teacher training and
22 conducting events relating to robotics;

23 44. The first Fifteen Thousand Dollars (\$15,000.00) each year
24 before January 1, 2012, from sales of tangible personal property to

1 or by youth athletic teams which are part of an athletic
2 organization exempt from taxation pursuant to the provisions of the
3 Internal Revenue Code, 26 U.S.C., Section 501(c)(4), for the
4 purposes of raising funds for the benefit of the team;

5 45. Sales of tickets for admission to a collegiate athletic
6 event that is held before January 1, 2013, in a facility owned or
7 operated by a municipality or a public trust of which the
8 municipality is the sole beneficiary and that actually determines or
9 is part of a tournament or tournament process for determining a
10 conference tournament championship, a conference championship, or a
11 national championship;

12 46. Sales of tangible personal property or services made before
13 January 1, 2014, to or by an organization which is exempt from
14 taxation pursuant to the provisions of the Internal Revenue Code, 26
15 U.S.C., Section 501(c)(3) and is operating the Oklahoma City
16 National Memorial and Museum, an affiliate of the National Park
17 System;

18 47. Sales of tangible personal property or services made before
19 January 1, 2015, to organizations which are exempt from federal
20 taxation pursuant to the provisions of Section 501(c)(3) of the
21 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), the memberships
22 of which are limited to honorably discharged veterans, and which
23 furnish financial support to area veterans' organizations to be used
24 for the purpose of constructing a memorial or museum;

1 48. Sales of tangible personal property or services on or after
2 January 1, 2003, and before January 1, 2016, to an organization
3 which is exempt from taxation pursuant to the provisions of the
4 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) that is
5 expending monies received from a private foundation grant in
6 conjunction with expenditures of local sales tax revenue to
7 construct a local public library;

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

13 50. ~~Effective~~ On or after July 1, 2005, and before January 1,
14 2017, sales of tangible personal property or services to the Career
15 Technology Student Organizations under the direction and supervision
16 of the Oklahoma Department of Career and Technology Education;

17 51. Sales of tangible personal property made before January 1,
18 2018, to a public trust having either a single city, town or county
19 or multiple cities, towns or counties or combination thereof as
20 beneficiary or beneficiaries or a nonprofit organization which is
21 exempt from taxation pursuant to the provisions of the Internal
22 Revenue Code, 26 U.S.C., Section 501(c)(3) for the purpose of
23 constructing improvements to or expanding a hospital or nursing home
24 owned and operated by any such public trust or nonprofit entity

1 prior to the effective date of this act in counties with a
2 population of less than one hundred thousand (100,000) persons,
3 according to the most recent Federal Decennial Census. As used in
4 this paragraph, "constructing improvements to or expanding" shall
5 not mean any expense for routine maintenance or general repairs and
6 shall require a project cost of at least One Hundred Thousand
7 Dollars (\$100,000.00). For purposes of this paragraph, sales made
8 to a contractor or subcontractor that enters into a contractual
9 relationship with a public trust or nonprofit entity as described by
10 this paragraph shall be considered sales made to the public trust or
11 nonprofit entity. The exemption authorized by this paragraph shall
12 be administered in the form of a refund from the sales tax revenues
13 apportioned pursuant to Section 1353 of this title and the vendor
14 shall be required to collect the sales tax otherwise applicable to
15 the transaction. The purchaser may apply for a refund of the sales
16 tax paid in the manner prescribed by this paragraph. Within thirty
17 (30) days after the end of each fiscal year, any purchaser that is
18 entitled to make application for a refund based upon the exempt
19 treatment authorized by this paragraph may file an application for
20 refund of the sales taxes paid during such preceding fiscal year.
21 The Tax Commission shall prescribe a form for purposes of making the
22 application for refund. The Tax Commission shall determine whether
23 or not the total amount of sales tax exemptions claimed by all
24 purchasers is equal to or less than Six Hundred Fifty Thousand

1 Dollars (\$650,000.00). If such claims are less than or equal to
2 that amount, the Tax Commission shall make refunds to the purchasers
3 in the full amount of the documented and verified sales tax amounts.
4 If such claims by all purchasers are in excess of Six Hundred Fifty
5 Thousand Dollars (\$650,000.00), the Tax Commission shall determine
6 the amount of each purchaser's claim, the total amount of all claims
7 by all purchasers, and the percentage each purchaser's claim amount
8 bears to the total. The resulting percentage determined for each
9 purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars
10 (\$650,000.00) to determine the amount of refundable sales tax to be
11 paid to each purchaser. The pro rata refund amount shall be the
12 only method to recover sales taxes paid during the preceding fiscal
13 year and no balance of any sales taxes paid on a pro rata basis
14 shall be the subject of any subsequent refund claim pursuant to this
15 paragraph;

16 52. ~~Effective~~ On or after July 1, 2006, and before January 1,
17 2011, sales of tangible personal property or services to any
18 organization which assists, trains, educates, and provides housing
19 for physically and mentally handicapped persons and which is exempt
20 from taxation pursuant to the provisions of the Internal Revenue
21 Code, 26 U.S.C., Section 501(c)(3) and that receives at least
22 eighty-five percent (85%) of its annual budget from state or federal
23 funds. In order to receive the benefit of the exemption authorized
24 by this paragraph, the taxpayer shall be required to make payment of

1 the applicable sales tax at the time of sale to the vendor in the
2 manner otherwise required by law. Notwithstanding any other
3 provision of the Oklahoma Uniform Tax Procedure Code to the
4 contrary, the taxpayer shall be authorized to file a claim for
5 refund of sales taxes paid that qualify for the exemption authorized
6 by this paragraph for a period of one (1) year after the date of the
7 sale transaction. The taxpayer shall be required to provide
8 documentation as may be prescribed by the Oklahoma Tax Commission in
9 support of the refund claim. The total amount of sales tax
10 qualifying for exempt treatment pursuant to this paragraph shall not
11 exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00) each
12 fiscal year. Claims for refund shall be processed in the order in
13 which such claims are received by the Oklahoma Tax Commission. If a
14 claim otherwise timely filed exceeds the total amount of refunds
15 payable for a fiscal year, such claim shall be barred;

16 53. The first Two Thousand Dollars (\$2,000.00) each year before
17 January 1, 2012, of sales of tangible personal property or services
18 to, by, or for the benefit of a qualified neighborhood watch
19 organization that is endorsed or supported by or working directly
20 with a law enforcement agency with jurisdiction in the area in which
21 the neighborhood watch organization is located. As used in this
22 paragraph, "qualified neighborhood watch organization" means an
23 organization that is a not-for-profit corporation under the laws of
24 the State of Oklahoma that was created to help prevent criminal

1 activity in an area through community involvement and interaction
2 with local law enforcement and which is one of the first two
3 thousand organizations which makes application to the Oklahoma Tax
4 Commission for the exemption after the effective date of this act;

5 54. Sales of tangible personal property to a nonprofit
6 organization, exempt from taxation pursuant to the provisions of the
7 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized
8 primarily for the purpose of providing services to homeless persons
9 during the day and located in a metropolitan area with a population
10 in excess of five hundred thousand (500,000) persons according to
11 the latest Federal Decennial Census. The exemption authorized by
12 this paragraph shall be applicable to sales of tangible personal
13 property to a qualified entity occurring on or after January 1,
14 2005, and before January 1, 2013;

15 55. Sales of tangible personal property or services made before
16 January 1, 2014, by an organization which is exempt from taxation
17 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
18 Section 501(c)(3) made during auction events the principal purpose
19 of which is to provide funding for the preservation of wetlands and
20 habitat for wild ducks;

21 56. Sales of tangible personal property or services made before
22 January 1, 2015, by an organization which is exempt from taxation
23 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
24 Section 501(c)(3) made during auction events the principal purpose

1 of which is to provide funding for the preservation and conservation
2 of wild turkeys;

3 57. Sales of tangible personal property or services made before
4 January 1, 2016, to an organization which:

5 a. is exempt from taxation pursuant to the provisions of
6 the Internal Revenue Code, 26 U.S.C., Section
7 501(c)(3), and

8 b. is part of a network of community-based, autonomous
9 member organizations that meets the following
10 criteria:

11 (1) serves people with workplace disadvantages and
12 disabilities by providing job training and
13 employment services, as well as job placement
14 opportunities and post-employment support,

15 (2) has locations in the United States and at least
16 twenty other countries,

17 (3) collects donated clothing and household goods to
18 sell in retail stores and provides contract labor
19 services to business and government, and

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

1 58. Sales of tickets made on or after September 21, 2005, and
2 before January 1, 2017, and complimentary or free tickets for
3 admission issued on or after September 21, 2005, and before January
4 1, 2017, which have a value equivalent to the charge that would have
5 otherwise been made, for admission to a professional athletic event
6 in which a team in the National Basketball Association is a
7 participant, which is held in a facility owned or operated by a
8 municipality, a county or a public trust of which a municipality or
9 a county is the sole beneficiary, and sales of tickets made on or
10 after the effective date of this act, and complimentary or free
11 tickets for admission issued on or after the effective date of this
12 act, which have a value equivalent to the charge that would have
13 otherwise been made, for admission to a professional athletic event
14 in which a team in the National Hockey League is a participant,
15 which is held in a facility owned or operated by a municipality, a
16 county or a public trust of which a municipality or a county is the
17 sole beneficiary;

18 59. Sales made before January 1, 2018, of tickets for admission
19 and complimentary or free tickets for admission which have a value
20 equivalent to the charge that would have otherwise been made to a
21 professional sporting event involving ice hockey, baseball,
22 basketball, football or arena football, or soccer. As used in this
23 paragraph, "professional sporting event" means an organized athletic
24 competition between teams that are members of an organized league or

1 association with centralized management, other than a national
2 league or national association, that imposes requirements for
3 participation in the league upon the teams, the individual athletes
4 or both, and which uses a salary structure to compensate the
5 athletes;

6 60. Sales of tickets made before January 1, 2011, for admission
7 to an annual event sponsored by an educational and charitable
8 organization of women which is exempt from taxation pursuant to the
9 provisions of the Internal Revenue Code, 26 U.S.C., Section
10 501(c)(3) and has as its mission promoting volunteerism, developing
11 the potential of women and improving the community through the
12 effective action and leadership of trained volunteers;

13 61. Sales of tangible personal property or services made before
14 January 1, 2012, to an organization, which is exempt from taxation
15 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
16 Section 501(c)(3), and which is itself a member of an organization
17 which is exempt from taxation pursuant to the provisions of the
18 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), if the
19 membership organization is primarily engaged in advancing the
20 purposes of its member organizations through fundraising, public
21 awareness or other efforts for the benefit of its member
22 organizations, and if the member organization is primarily engaged
23 either in providing educational services and programs concerning
24 health-related diseases and conditions to individuals suffering from

1 such health-related diseases and conditions or their caregivers and
2 family members or support to such individuals, or in health-related
3 research as to such diseases and conditions, or both. In order to
4 qualify for the exemption authorized by this paragraph, the member
5 nonprofit organization shall be required to provide proof to the
6 Oklahoma Tax Commission of its membership status in the membership
7 organization;

8 62. Sales of tangible personal property or services made before
9 January 1, 2013, to or by an organization which is part of a
10 national volunteer women's service organization dedicated to
11 promoting patriotism, preserving American history and securing
12 better education for children and which has at least 168,000 members
13 in 3,000 chapters across the United States;

14 63. Sales of tangible personal property or services made before
15 January 1, 2014, to or by a YWCA or YMCA organization which is part
16 of a national nonprofit community service organization working to
17 meet the health and social service needs of its members across the
18 United States;

19 64. Sales of tangible personal property or services made before
20 January 1, 2015, to or by a veteran's organization which is exempt
21 from taxation pursuant to the provisions of the Internal Revenue
22 Code, 26 U.S.C., Section 501 (c) (19) and which is known as the
23 Veterans of Foreign Wars of the United States, Oklahoma Chapters;

24

1 65. Sales of boxes of food before January 1, 2016, by a church
2 or by an organization, which is exempt from taxation pursuant to the
3 provisions of the Internal Revenue Code, 26 U.S.C., Section
4 501(c)(3). To qualify under the provisions of this paragraph, the
5 organization must be organized for the primary purpose of feeding
6 needy individuals or to encourage volunteer service by requiring
7 such service in order to purchase food. These boxes shall only
8 contain edible staple food items;

9 66. Sales of tangible personal property or services made before
10 January 1, 2017, to any person with whom a church has duly entered
11 into a construction contract, necessary for carrying out such
12 contract or to any subcontractor to such a construction contract;

13 67. Sales of tangible personal property or services made before
14 January 1, 2018, used exclusively for charitable or educational
15 purposes, to or by an organization which:

- 16 a. is exempt from taxation pursuant to the provisions of
17 the Internal Revenue Code, 26 U.S.C., Section
18 501(c)(3),
- 19 b. has filed a Not-for-Profit Certificate of
20 Incorporation in this state, and
- 21 c. is organized for the purpose of:
 - 22 (1) providing training and education to
23 developmentally disabled individuals,

24

1 (2) educating the community about the rights,
2 abilities and strengths of developmentally
3 disabled individuals, and

4 (3) promoting unity among developmentally disabled
5 individuals in their community and geographic
6 area;

7 68. Sales of tangible personal property or services made before
8 January 1, 2011, to any organization which is a shelter for abused,
9 neglected, or abandoned children and which is exempt from taxation
10 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
11 Section 501(c)(3); provided, until July 1, 2008, such exemption
12 shall apply only to eligible shelters for children from birth to age
13 twelve (12) and after July 1, 2008, such exemption shall apply to
14 eligible shelters for children from birth to age eighteen (18);

15 69. Sales of tangible personal property or services made before
16 January 1, 2012, to a child care center which is licensed pursuant
17 to the Oklahoma Child Care Facilities Licensing Act and which:

18 a. possesses a 3-star rating from the Department of Human
19 Services Reaching for the Stars Program or a national
20 accreditation, and

21 b. allows on site universal pre-kindergarten education to
22 be provided to four-year-old children through a
23 contractual agreement with any public school or school
24 district.

1 For the purposes of this paragraph, sales made to any person,
2 firm, agency or entity that has entered previously into a
3 contractual relationship with a child care center for construction
4 and improvement of buildings and other structures owned by the child
5 care center and operated for educational purposes shall be
6 considered sales made to a child care center. Any such person,
7 firm, agency or entity making purchases on behalf of a child care
8 center shall certify in writing, on the copy of the invoice or sales
9 ticket the nature of the purchase. Any such person, or person
10 acting on behalf of a firm, agency or entity making purchases on
11 behalf of a child care center in violation of this paragraph shall
12 be guilty of a misdemeanor and upon conviction thereof shall be
13 fined an amount equal to double the amount of sales tax involved or
14 incarcerated for not more than sixty (60) days or both; and

15 70. a. Sales of tangible personal property made before
16 January 1, 2013, to a service organization of mothers
17 who have children who are serving or who have served
18 in the military, which service organization is exempt
19 from taxation pursuant to the provisions of the
20 Internal Revenue Code, 26 U.S.C., Section 501(c)(19)
21 and which is known as the Blue Star Mothers of
22 America, Inc. The exemption provided by this
23 paragraph shall only apply to the purchase of tangible
24 personal property actually sent to United States

1 military personnel overseas who are serving in a
2 combat zone and not to any other tangible personal
3 property purchased by the organization. Provided,
4 this exemption shall not apply to any sales tax levied
5 by a city, town, county, or any other jurisdiction in
6 this state.

7 b. The exemption authorized by this paragraph shall be
8 administered in the form of a refund from the sales
9 tax revenues apportioned pursuant to Section 1353 of
10 this title, and the vendor shall be required to
11 collect the sales tax otherwise applicable to the
12 transaction. The purchaser may apply for a refund of
13 the state sales tax paid in the manner prescribed by
14 this paragraph. Within sixty (60) days after the end
15 of each calendar quarter, any purchaser that is
16 entitled to make application for a refund based upon
17 the exempt treatment authorized by this paragraph may
18 file an application for refund of the state sales
19 taxes paid during such preceding calendar quarter.
20 The Tax Commission shall prescribe a form for purposes
21 of making the application for refund.

22 c. A purchaser who applies for a refund pursuant to this
23 paragraph shall certify that the items were actually
24 sent to military personnel overseas in a combat zone.

1 Any purchaser that applies for a refund for the
2 purchase of items that are not authorized for
3 exemption under this paragraph shall be subject to a
4 penalty in the amount of Five Hundred Dollars
5 (\$500.00).

6 SECTION 46. AMENDATORY 68 O.S. 2001, Section 1357, as
7 last amended by Section 1, Chapter 253, O.S.L. 2007 (68 O.S. Supp.
8 2007, Section 1357), is amended to read as follows:

9 Section 1357. There are hereby specifically exempted from the
10 tax levied by the Oklahoma Sales Tax Code:

11 1. Transportation which occurs before January 1, 2014, of
12 school pupils to and from elementary schools or high schools in
13 motor or other vehicles;

14 2. Transportation which occurs before January 1, 2015, of
15 persons where the fare of each person does not exceed One Dollar
16 (\$1.00), or local transportation of persons within the corporate
17 limits of a municipality except by taxicabs;

18 3. Sales for resale to persons engaged in the business of
19 reselling the articles purchased, whether within or without the
20 state, provided that such sales to residents of this state are made
21 to persons to whom sales tax permits have been issued as provided in
22 the Oklahoma Sales Tax Code. This exemption shall not apply to the
23 sales of articles made to persons holding permits when such persons
24 purchase items for their use and which they are not regularly

1 engaged in the business of reselling; neither shall this exemption
2 apply to sales of tangible personal property to peddlers, solicitors
3 and other salespersons who do not have an established place of
4 business and a sales tax permit. The exemption provided by this
5 paragraph shall apply to sales of motor fuel or diesel fuel to a
6 Group Five vendor, but the use of such motor fuel or diesel fuel by
7 the Group Five vendor shall not be exempt from the tax levied by the
8 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
9 is exempt from sales tax when the motor fuel is for shipment outside
10 this state and consumed by a common carrier by rail in the conduct
11 of its business. The sales tax shall apply to the purchase of motor
12 fuel or diesel fuel in Oklahoma by a common carrier by rail when
13 such motor fuel is purchased for fueling, within this state, of any
14 locomotive or other motorized flanged wheel equipment;

15 4. Sales made before January 1, 2016, of advertising space in
16 newspapers and periodicals;

17 5. Sales of programs relating to sporting and entertainment
18 events, and sales of advertising on billboards (including signage,
19 posters, panels, marquees, or on other similar surfaces, whether
20 indoors or outdoors) or in programs relating to sporting and
21 entertainment events, and sales of any advertising, to be displayed
22 at or in connection with a sporting event, via the Internet,
23 electronic display devices, or through public address or broadcast
24 systems. The exemption authorized by this paragraph shall be

1 effective for all sales made on or after January 1, 2001, and before
2 January 1, 2017;

3 6. Sales made before January 1, 2018, of any advertising, other
4 than the advertising described by paragraph 5 of this section, via
5 the Internet, electronic display devices, or through the electronic
6 media, including radio, public address or broadcast systems,
7 television (whether through closed circuit broadcasting systems or
8 otherwise), and cable and satellite television, and the servicing of
9 any advertising devices;

10 7. Eggs, feed, supplies, machinery and equipment purchased
11 before January 1, 2011, by persons regularly engaged in the business
12 of raising worms, fish, any insect or any other form of terrestrial
13 or aquatic animal life and used for the purpose of raising same for
14 marketing. This exemption shall only be granted and extended to the
15 purchaser when the items are to be used and in fact are used in the
16 raising of animal life as set out above. Each purchaser shall
17 certify, in writing, on the invoice or sales ticket retained by the
18 vendor that the purchaser is regularly engaged in the business of
19 raising such animal life and that the items purchased will be used
20 only in such business. The vendor shall certify to the Oklahoma Tax
21 Commission that the price of the items has been reduced to grant the
22 full benefit of the exemption. Violation hereof by the purchaser or
23 vendor shall be a misdemeanor;

24

1 8. Sale of natural or artificial gas and electricity, and
2 associated delivery or transmission services, when sold exclusively
3 for residential use before January 1, 2012. Provided, this
4 exemption shall not apply to any sales tax levied by a city or town,
5 or a county, or any other jurisdiction in this state;

6 9. In addition to the exemptions authorized by Section 1357.6
7 of this title, sales of drugs sold before January 1, 2013, pursuant
8 to a prescription written for the treatment of human beings by a
9 person licensed to prescribe the drugs, and sales of insulin and
10 medical oxygen. Provided, this exemption shall not apply to over-
11 the-counter drugs;

12 10. Transfers of title or possession of empty, partially
13 filled, or filled returnable oil and chemical drums made before
14 January 1, 2014, to any person who is not regularly engaged in the
15 business of selling, reselling or otherwise transferring empty,
16 partially filled, or filled returnable oil drums;

17 11. Sales made before January 1, 2015, of one-way utensils,
18 paper napkins, paper cups, disposable hot containers and other one-
19 way carry out materials to a vendor of meals or beverages;

20 12. Sales of food or food products for home consumption which
21 are purchased in whole or in part with coupons issued pursuant to
22 the federal food stamp program as authorized by Sections 2011
23 through 2029 of Title 7 of the United States Code, as to that
24 portion purchased with such coupons. The exemption provided for

1 such sales shall be inapplicable to such sales upon the effective
2 date of any federal law that removes the requirement of the
3 exemption as a condition for participation by the state in the
4 federal food stamp program;

5 13. Sales of food or food products, or any equipment or
6 supplies used in the preparation of the food or food products made
7 before January 1, 2016, to or by an organization which:

8 a. is exempt from taxation pursuant to the provisions of
9 Section 501(c)(3) of the Internal Revenue Code, 26
10 U.S.C., Section 501(c)(3), and which provides and
11 delivers prepared meals for home consumption to
12 elderly or homebound persons as part of a program
13 commonly known as "Meals on Wheels" or "Mobile Meals",
14 or

15 b. is exempt from taxation pursuant to the provisions of
16 Section 501(c)(3) of the Internal Revenue Code, 26
17 U.S.C., Section 501(c)(3), and which receives federal
18 funding pursuant to the Older Americans Act of 1965,
19 as amended, for the purpose of providing nutrition
20 programs for the care and benefit of elderly persons;

21 14. a. Sales of tangible personal property or services made
22 before January 1, 2017, to or by organizations which
23 are exempt from taxation pursuant to the provisions of
24

1 Section 501(c)(3) of the Internal Revenue Code, 26
2 U.S.C., Section 501(c)(3), and:

3 (1) are primarily involved in the collection and
4 distribution of food and other household products
5 to other organizations that facilitate the
6 distribution of such products to the needy and
7 such distributee organizations are exempt from
8 taxation pursuant to the provisions of Section
9 501(c)(3) of the Internal Revenue Code, 26
10 U.S.C., Section 501(c)(3), or

11 (2) facilitate the distribution of such products to
12 the needy.

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

17 15. Sales of tangible personal property or services made before
18 January 1, 2018, to children's homes which are located on church-
19 owned property and are operated by organizations exempt from
20 taxation pursuant to the provisions of the Internal Revenue Code, 26
21 U.S.C., Section 501(c)(3);

22 16. Sales made before January 1, 2011, of computers, data
23 processing equipment, related peripherals and telephone, telegraph
24 or telecommunications service and equipment for use in a qualified

1 aircraft maintenance or manufacturing facility. For purposes of
2 this paragraph, "qualified aircraft maintenance or manufacturing
3 facility" means a new or expanding facility primarily engaged in
4 aircraft repair, building or rebuilding whether or not on a factory
5 basis, whose total cost of construction exceeds the sum of Five
6 Million Dollars (\$5,000,000.00) and which employs at least two
7 hundred fifty (250) new full-time-equivalent employees, as certified
8 by the Oklahoma Employment Security Commission, upon completion of
9 the facility. In order to qualify for the exemption provided for by
10 this paragraph, the cost of the items purchased by the qualified
11 aircraft maintenance or manufacturing facility shall equal or exceed
12 the sum of Two Million Dollars (\$2,000,000.00);

13 17. Sales made before January 1, 2012, of tangible personal
14 property consumed or incorporated in the construction or expansion
15 of a qualified aircraft maintenance or manufacturing facility as
16 defined in paragraph 16 of this section. For purposes of this
17 paragraph, sales made to a contractor or subcontractor that has
18 previously entered into a contractual relationship with a qualified
19 aircraft maintenance or manufacturing facility for construction or
20 expansion of such a facility shall be considered sales made to a
21 qualified aircraft maintenance or manufacturing facility;

22 18. Sales made before January 1, 2013, of the following
23 telecommunications services:
24

1 a. Interstate and International "800 service". "800
2 service" means a "telecommunications service" that
3 allows a caller to dial a toll-free number without
4 incurring a charge for the call. The service is
5 typically marketed under the name "800", "855", "866",
6 "877", and "888" toll-free calling, and any subsequent
7 numbers designated by the Federal Communications
8 Commission, or

9 b. Interstate and International "900 service". "900
10 service" means an inbound toll "telecommunications
11 service" purchased by a subscriber that allows the
12 subscriber's customers to call in to the subscriber's
13 prerecorded announcement or live service. "900
14 service" does not include the charge for: collection
15 services provided by the seller of the
16 "telecommunications services" to the subscriber, or
17 service or product sold by the subscriber to the
18 subscriber's customer. The service is typically
19 marketed under the name "900" service, and any
20 subsequent numbers designated by the Federal
21 Communications Commission,

22 c. Interstate and International "private communications
23 service". "Private communications service" means a
24 "telecommunications service" that entitles the

1 customer to exclusive or priority use of a
2 communications channel or group of channels between or
3 among termination points, regardless of the manner in
4 which such channel or channels are connected, and
5 includes switching capacity, extension lines,
6 stations, and any other associated services that are
7 provided in connection with the use of such channel or
8 channels,

9 d. "Value-added nonvoice data service". "Value-added
10 nonvoice data service" means a service that otherwise
11 meets the definition of "telecommunications services"
12 in which computer processing applications are used to
13 act on the form, content, code, or protocol of the
14 information or data primarily for a purpose other than
15 transmission, conveyance or routing,

16 e. Interstate and International telecommunications
17 service which is:

18 (1) rendered by a company for private use within its
19 organization, or

20 (2) used, allocated, or distributed by a company to
21 its affiliated group,

22 f. Regulatory assessments and charges, including charges
23 to fund the Oklahoma Universal Service Fund, the
24

1 Oklahoma Lifeline Fund and the Oklahoma High Cost
2 Fund, and

3 g. Telecommunications nonrecurring charges, including but
4 not limited to the installation, connection, change or
5 initiation of telecommunications services which are
6 not associated with a retail consumer sale;

7 19. Sales made before January 1, 2014, of railroad track spikes
8 manufactured and sold for use in this state in the construction or
9 repair of railroad tracks, switches, sidings and turnouts;

10 20. Sales made before January 1, 2015, of aircraft and aircraft
11 parts provided such sales occur at a qualified aircraft maintenance
12 facility. As used in this paragraph, "qualified aircraft
13 maintenance facility" means a facility operated by an air common
14 carrier at which there were employed at least two thousand (2,000)
15 full-time-equivalent employees in the preceding year as certified by
16 the Oklahoma Employment Security Commission and which is primarily
17 related to the fabrication, repair, alteration, modification,
18 refurbishing, maintenance, building or rebuilding of commercial
19 aircraft or aircraft parts used in air common carriage. For
20 purposes of this paragraph, "air common carrier" shall also include
21 members of an affiliated group as defined by Section 1504 of the
22 Internal Revenue Code, 26 U.S.C., Section 1504;

1 21. Sales made before January 1, 2016, of machinery and
2 equipment purchased and used by persons and establishments primarily
3 engaged in computer services and data processing:

4 a. as defined under Industrial Group Numbers 7372 and
5 7373 of the Standard Industrial Classification (SIC)
6 Manual, latest version, which derive at least fifty
7 percent (50%) of their annual gross revenues from the
8 sale of a product or service to an out-of-state buyer
9 or consumer, and

10 b. as defined under Industrial Group Number 7374 of the
11 SIC Manual, latest version, which derive at least
12 eighty percent (80%) of their annual gross revenues
13 from the sale of a product or service to an out-of-
14 state buyer or consumer.

15 Eligibility for the exemption set out in this paragraph shall be
16 established, subject to review by the Tax Commission, by annually
17 filing an affidavit with the Tax Commission stating that the
18 facility so qualifies and such information as required by the Tax
19 Commission. For purposes of determining whether annual gross
20 revenues are derived from sales to out-of-state buyers or consumers,
21 all sales to the federal government shall be considered to be to an
22 out-of-state buyer or consumer;

23 22. Sales made before January 1, 2017, of prosthetic devices to
24 an individual for use by such individual. For purposes of this

1 paragraph, "prosthetic device" shall have the same meaning as
2 provided in Section 1357.6 of this title, but shall not include
3 corrective eye glasses, contact lenses or hearing aids;

4 23. Sales of tangible personal property or services to a motion
5 picture or television production company to be used or consumed in
6 connection with an eligible production. For purposes of this
7 paragraph, "eligible production" means a documentary, special, music
8 video, or a television commercial or television program that will
9 serve as a pilot for or be a segment of an ongoing dramatic or
10 situation comedy series filmed or taped for network or national or
11 regional syndication or a feature-length motion picture intended for
12 theatrical release or for network or national or regional
13 syndication or broadcast. The provisions of this paragraph shall
14 apply to sales occurring on or after July 1, 1996, and before
15 January 1, 2018. In order to qualify for the exemption, the motion
16 picture or television production company shall file any
17 documentation and information required to be submitted pursuant to
18 rules promulgated by the Tax Commission;

19 24. Sales of diesel fuel sold before January 1, 2011, for
20 consumption by commercial vessels, barges and other commercial
21 watercraft;

22 25. Sales of tangible personal property or services made before
23 January 1, 2012, to tax-exempt independent nonprofit biomedical
24 research foundations that provide educational programs for Oklahoma

1 science students and teachers and to tax-exempt independent
2 nonprofit community blood banks headquartered in this state;

3 26. ~~Effective~~ On or after May 6, 1992, and before January 1,
4 2013, sales of wireless telecommunications equipment to a vendor who
5 subsequently transfers the equipment at no charge or for a
6 discounted charge to a consumer as part of a promotional package or
7 as an inducement to commence or continue a contract for wireless
8 telecommunications services;

9 27. ~~Effective~~ On or after January 1, 1991, and before January
10 1, 2014, leases of rail transportation cars to haul coal to coal-
11 fired plants located in this state which generate electric power;

12 28. ~~Beginning~~ On or after July 1, 2005, and before January 1,
13 2015, sales of aircraft engine repairs, modification, and
14 replacement parts, sales of aircraft frame repairs and modification,
15 aircraft interior modification, and paint, and sales of services
16 employed in the repair, modification and replacement of parts of
17 aircraft engines, aircraft frame and interior repair and
18 modification, and paint;

19 29. Sales of materials and supplies before January 1, 2016, to
20 the owner or operator of a ship, motor vessel or barge that is used
21 in interstate or international commerce if the materials and
22 supplies:

23

24

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

6 30. Sales of tangible personal property made before January 1,
7 2017, at estate sales at which such property is offered for sale on
8 the premises of the former residence of the decedent by a person who
9 is not required to be licensed pursuant to the Transient Merchant
10 Licensing Act, or who is not otherwise required to obtain a sales
11 tax permit for the sale of such property pursuant to the provisions
12 of Section 1364 of this title; provided:

- 13 a. such sale or event may not be held for a period
14 exceeding three (3) consecutive days,
15 b. the sale must be conducted within six (6) months of
16 the date of death of the decedent, and
17 c. the exemption allowed by this paragraph shall not be
18 allowed for property that was not part of the
19 decedent's estate;

20 31. ~~Beginning~~ On or after January 1, 2004, and before January
21 1, 2018, sales of electricity and associated delivery and
22 transmission services, when sold exclusively for use by an oil and
23 gas operator for reservoir dewatering projects and associated
24 operations commencing on or after July 1, 2003, in which the initial

1 water-to-oil ratio is greater than or equal to five-to-one water-to-
2 oil, and such oil and gas development projects have been classified
3 by the Corporation Commission as a reservoir dewatering unit;

4 32. Sales of prewritten computer software before January 1,
5 2011, that is delivered electronically. For purposes of this
6 paragraph, "delivered electronically" means delivered to the
7 purchaser by means other than tangible storage media;

8 33. Sales of modular dwelling units before January 1, 2012,
9 when built at a production facility and moved in whole or in parts,
10 to be assembled on-site, and permanently affixed to the real
11 property and used for residential or commercial purposes. The
12 exemption provided by this paragraph shall equal forty-five percent
13 (45%) of the total sales price of the modular dwelling unit. For
14 purposes of this paragraph, "modular dwelling unit" means a
15 structure that is not subject to the motor vehicle excise tax
16 imposed pursuant to Section 2103 of this title;

17 34. Sales of tangible personal property or services to persons
18 who are residents of Oklahoma and have been honorably discharged
19 from active service in any branch of the Armed Forces of the United
20 States or Oklahoma National Guard and who have been certified by the
21 United States Department of Veterans Affairs or its successor to be
22 in receipt of disability compensation at the one-hundred-percent
23 rate and the disability shall be permanent and have been sustained
24 through military action or accident or resulting from disease

1 contracted while in such active service; provided, sales for the
2 benefit of the person to a spouse of the eligible person or to a
3 member of the household in which the eligible person resides and who
4 is authorized to make purchases on the person's behalf, when such
5 eligible person is not present at the sale, shall also be exempt for
6 purposes of this paragraph. Sales qualifying for the exemption
7 authorized by this paragraph shall not exceed Twenty-five Thousand
8 Dollars (\$25,000.00) per year per individual. Upon request of the
9 Tax Commission, a person asserting or claiming the exemption
10 authorized by this paragraph shall provide a statement, executed
11 under oath, that the total sales amounts for which the exemption is
12 applicable have not exceeded Twenty-five Thousand Dollars
13 (\$25,000.00) per year. If the amount of such exempt sales exceeds
14 such amount, the sales tax in excess of the authorized amount shall
15 be treated as a direct sales tax liability and may be recovered by
16 the Tax Commission in the same manner provided by law for other
17 taxes, including penalty and interest;

18 35. Sales of electricity before January 1, 2013, to the
19 operator, specifically designated by the Oklahoma Corporation
20 Commission, of a spacing unit or lease from which oil is produced or
21 attempted to be produced using enhanced recovery methods, including,
22 but not limited to, increased pressure in a producing formation
23 through the use of water or saltwater if the electrical usage is
24 associated with and necessary for the operation of equipment

1 required to inject or circulate fluids in a producing formation for
2 the purpose of forcing oil or petroleum into a wellbore for eventual
3 recovery and production from the wellhead. In order to be eligible
4 for the sales tax exemption authorized by this paragraph, the total
5 content of oil recovered after the use of enhanced recovery methods
6 shall not exceed one percent (1%) by volume. The exemption
7 authorized by this paragraph shall be applicable only to the state
8 sales tax rate and shall not be applicable to any county or
9 municipal sales tax rate;

10 36. Sales made before January 1, 2014, of intrastate charter
11 and tour bus transportation. As used in this paragraph, "intrastate
12 charter and tour bus transportation" means the transportation of
13 persons from one location in this state to another location in this
14 state in a motor vehicle which has been constructed in such a manner
15 that it may lawfully carry more than eighteen persons, and which is
16 ordinarily used or rented to carry persons for compensation.
17 Provided, this exemption shall not apply to regularly scheduled bus
18 transportation for the general public;

19 37. Sales of vitamins, minerals and dietary supplements made
20 before January 1, 2015, by a licensed chiropractor to a person who
21 is the patient of such chiropractor at the physical location where
22 the chiropractor provides chiropractic care or services to such
23 patient. The provisions of this paragraph shall not be applicable
24

1 to any drug, medicine or substance for which a prescription by a
2 licensed physician is required;

3 38. Sales of goods, wares, merchandise, tangible personal
4 property, machinery and equipment made before January 1, 2016, to a
5 web search portal located in this state which derives at least
6 eighty percent (80%) of its annual gross revenue from the sale of a
7 product or service to an out-of-state buyer or consumer. For
8 purposes of this paragraph, "web search portal" means an
9 establishment classified under NAICS code 518112 which operates web
10 sites that use a search engine to generate and maintain extensive
11 databases of Internet addresses and content in an easily searchable
12 format;

13 39. Sales made before January 1, 2017, of tangible personal
14 property consumed or incorporated in the construction or expansion
15 of a facility for a corporation organized under Section 437 et seq.
16 of Title 18 of the Oklahoma Statutes as a rural electric
17 cooperative. For purposes of this paragraph, sales made to a
18 contractor or subcontractor that has previously entered into a
19 contractual relationship with a rural electric cooperative for
20 construction or expansion of a facility shall be considered sales
21 made to a rural electric cooperative; and

22 40. Sales of tangible personal property or services made before
23 January 1, 2018, to a business primarily engaged in the repair of
24 consumer electronic goods, including, but not limited to, cell

1 phones, compact disc players, personal computers, MP3 players,
2 digital devices for the storage and retrieval of information through
3 hard-wired or wireless computer or Internet connections, if the
4 devices are sold to the business by the original manufacturer of
5 such devices and the devices are repaired, refitted or refurbished
6 for sale by the entity qualifying for the exemption authorized by
7 this paragraph directly to retail consumers or if the devices are
8 sold to another business entity for sale to retail consumers.

9 SECTION 47. AMENDATORY 68 O.S. 2001, Section 1357.7, is
10 amended to read as follows:

11 Section 1357.7 There are hereby specifically exempted from the
12 tax levied by this article, sales of horses after January 1, 1989,
13 and before January 1, 2011.

14 SECTION 48. AMENDATORY Section 1, Chapter 462, O.S.L.
15 2003 (68 O.S. Supp. 2007, Section 1357.9), is amended to read as
16 follows:

17 Section 1357.9 A. ~~There~~ Until January 1, 2012, there are
18 exempt from the taxes imposed by Section ~~1351~~ 1350 et seq. of ~~Title~~
19 ~~68 of the Oklahoma Statutes~~ this title service transactions among
20 related entities.

21 B. For purposes of this section, "related entity" includes
22 persons as defined by subsection (b) of Section 267 of the Internal
23 Revenue Code.

24

1 C. An exemption authorized by this section does not apply to a
2 service that would have been taxable under Section ~~1351~~ 1350 et seq.
3 of ~~Title 68 of the Oklahoma Statutes~~ this title as it existed on
4 July 1, 2003.

5 D. Services that are exempt under this section may not be
6 purchased for resale by the providing company.

7 E. Tangible personal property that is transferred as an
8 integral part of a service exempted under this section may not be
9 purchased for resale by the providing company.

10 SECTION 49. AMENDATORY Section 3, Chapter 136, O.S.L.
11 2007 (68 O.S. Supp. 2007, Section 1357.10), is amended to read as
12 follows:

13 Section 1357.10 A. ~~The~~ Before January 1, 2013, the sale of an
14 article of clothing or footwear designed to be worn on or about the
15 human body shall be exempt from the tax imposed by Section 1354 of
16 ~~Title 68 of the Oklahoma Statutes~~ this title if:

17 1. The sales price of the article is less than One Hundred
18 Dollars (\$100.00); and

19 2. The sale takes place during a period beginning at 12:01 a.m.
20 on the first Friday in August and ending at 12 midnight on the
21 following Sunday, covering a period of three (3) days.

22 B. Subsection A of this section shall not apply to:

23 1. Any special clothing or footwear that is primarily designed
24 for athletic activity or protective use and that is not normally

1 worn except when used for athletic activity or protective use for
2 which it is designed;

3 2. Accessories, including jewelry, handbags, luggage,
4 umbrellas, wallets, watches, and similar items carried on or about
5 the human body, without regard to whether worn on the body in a
6 manner characteristic of clothing; and

7 3. The rental of clothing or footwear.

8 C. The Oklahoma Tax Commission shall promulgate any necessary
9 rules to implement the provisions of this section.

10 SECTION 50. AMENDATORY 68 O.S. 2001, Section 1358 is
11 amended to read as follows:

12 Section 1358. Exemptions - Agriculture.

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

15 1. Sales made before January 1, 2014, of agricultural products
16 produced in this state by the producer thereof directly to the
17 consumer or user when such articles are sold at or from a farm and
18 not from some other place of business, as follows:

19 a. farm, orchard or garden products, and

20 b. dairy products sold by a dairy producer or farmer who
21 owns all the cows from which the dairy products
22 offered for sale are produced;

23 provided, the provisions of this paragraph shall not be construed as
24 exempting sales by florists, nursery operators or chicken

1 hatcherries, or sales of dairy products by any other business except
2 as set out herein;

3 2. Livestock, including cattle, horses, mules or other domestic
4 or draft animals, sold before January 1, 2015, by the producer by
5 private treaty or at a special livestock sale;

6 3. ~~Sale~~ Sales made before January 1, 2016, of baby chicks,
7 turkey poults and starter pullets used in the commercial production
8 of chickens, turkeys and eggs, provided that the purchaser
9 certifies, in writing, on the copy of the invoice or sales ticket to
10 be retained by the vendor that the pullets will be used primarily
11 for egg production;

12 4. ~~Sale~~ Sales made before January 1, 2017, of salt, grains,
13 tankage, oyster shells, mineral supplements, limestone and other
14 generally recognized animal feeds for the following purposes and
15 subject to the following limitations:

16 a. feed which is fed to poultry and livestock, including
17 breeding stock and wool-bearing stock, for the purpose
18 of producing eggs, poultry, milk or meat for human
19 consumption,

20 b. feed purchased in Oklahoma for the purpose of being
21 fed to and which is fed by the purchaser to horses,
22 mules or other domestic or draft animals used directly
23 in the producing and marketing of agricultural
24 products, and

1 c. any stock tonics, water purifying products, stock
2 sprays, disinfectants or other such agricultural
3 supplies.

4 "Poultry" shall not be construed to include any fowl other than
5 domestic fowl kept and raised for the market or production of eggs.

6 "Livestock" shall not be construed to include any pet animals such
7 as dogs, cats, birds or such other fur-bearing animals. This
8 exemption shall only be granted and extended where the purchaser of
9 feed that is to be used and in fact is used for a purpose that would
10 bring about an exemption hereunder executes an invoice or sales
11 ticket in duplicate on a form to be prescribed by the Oklahoma Tax
12 Commission. The purchaser may demand and receive a copy of the
13 invoice or sales ticket and the vendor shall retain a copy;

14 5. Sales made before January 1, 2018, of items to be and in
15 fact used in the production of agricultural products. Sale of the
16 following items shall be subject to the following limitations:

17 a. sales of agricultural fertilizer to any person
18 regularly engaged, for profit, in the business of
19 farming or ranching,

20 b. sales of agricultural fertilizer to any person engaged
21 in the business of applying such materials on a
22 contract or custom basis to land owned or leased and
23 operated by persons regularly engaged, for profit, in
24 the business of farming or ranching. In addition to

1 providing the vendor proof of eligibility as provided
2 in Section 1358.1 of this title, the purchaser shall
3 provide the name or names of such owner or lessee and
4 operator and the location of the lands on which said
5 materials are to be applied to each such land,

6 c. sales of agricultural fertilizer, pharmaceuticals and
7 biologicals to persons engaged in the business of
8 applying such materials on a contract or custom basis
9 shall not be considered to be sales to contractors
10 under this article, and said sales shall not be
11 considered to be taxable sales within the meaning of
12 the Oklahoma Sales Tax Code. As used in this section,
13 "agricultural fertilizer", "pharmaceuticals" and
14 "biologicals" mean any substance sold and used for
15 soil enrichment or soil corrective purposes or for
16 promoting the growth and productivity of plants or
17 animals,

18 d. sales of agricultural seed or plants to any person
19 regularly engaged, for profit, in the business of
20 farming or ranching. This section shall not be
21 construed as exempting from sales tax, seed which is
22 packaged and sold for use in noncommercial flower and
23 vegetable gardens, and
24

1 e. sales of agricultural chemical pesticides to any
2 person regularly engaged, for profit, in the business
3 of farming or ranching. For the purposes of this
4 subparagraph, "agricultural chemical pesticides" shall
5 include any substance or mixture of substances
6 intended for preventing, destroying, repelling or
7 mitigating any insect, snail, slug, rodent, bird,
8 nematode, fungus, weed or any other form of
9 terrestrial or aquatic plant or animal life or virus,
10 bacteria or other microorganism, except viruses,
11 bacteria or other microorganisms on or in living man,
12 or any substance or mixture of substances intended for
13 use as a plant regulator, defoliant or desiccant.

14 The exemption provided in this paragraph shall only be granted
15 and extended to the purchaser where the items are to be used and in
16 fact are used in the production of agricultural products;

17 6. ~~Sale~~ Sales made before January 1, 2011, of farm machinery,
18 repair parts thereto or fuel, oil, lubricants and other substances
19 used for operation and maintenance of the farm machinery to be used
20 directly on a farm or ranch in the production, cultivation,
21 planting, sowing, harvesting, processing, spraying, preservation or
22 irrigation of any livestock, poultry, agricultural or dairy products
23 produced from such lands. The exemption specified in this paragraph
24 shall apply to such farm machinery, repair parts or fuel, oil,

1 lubricants and other substances used by persons engaged in the
2 business of custom production, cultivation, planting, sowing,
3 harvesting, processing, spraying, preservation, or irrigation of any
4 livestock, poultry, agricultural, or dairy products for farmers or
5 ranchers. The exemption provided for herein shall not apply to
6 motor vehicles;

7 7. Sales of supplies, machinery and equipment made before
8 January 1, 2012, to persons regularly engaged in the business of
9 raising evergreen trees for retail sale in which such trees are cut
10 down on the premises by the consumer purchasing such tree. This
11 exemption shall only be granted and extended when the items in fact
12 are used in the raising of such evergreen trees; and

13 8. Sales of materials, supplies and equipment made before
14 January 1, 2013, to an agricultural permit holder or to any person
15 with whom the permit holder has contracted to construct facilities
16 which are or which will be used directly in the production of any
17 livestock, including, but not limited to, facilities used in the
18 production and storage of feed for livestock owned by the permit
19 holder. Any person making purchases on behalf of the agricultural
20 permit holder shall certify, in writing, on the copy of the invoice
21 or sales ticket to be retained by the vendor that the purchases are
22 made for and on behalf of such permit holder and set out the name
23 and permit number of such holder. Any person who wrongfully or
24 erroneously certifies that purchases are for an agricultural permit

1 holder or who otherwise violates this subsection shall be guilty of
2 a misdemeanor and upon conviction thereof shall be punishable by a
3 fine of an amount equal to double the amount of sales tax involved
4 or imprisonment in the county jail for not more than sixty (60) days
5 or by both such fine and imprisonment.

6 B. As used in this section and Section 1358.1 of this title:

7 1. "Agricultural products" shall include horses; and

8 2. "Ranching" or "ranch" shall include the business, or
9 facilities for the business, of raising horses.

10 Provided, sales of items at race meetings as defined in Section
11 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt
12 pursuant to the provisions of this section and Section 1358.1 of
13 this title.

14 SECTION 51. AMENDATORY 68 O.S. 2001, Section 1359, as
15 last amended by Section 8, Chapter 44, 2nd Extraordinary Session,
16 O.S.L. 2006 (68 O.S. Supp. 2007, Section 1359), is amended to read
17 as follows:

18 Section 1359. Exemptions - Manufacturing.

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

21 1. Sales of goods, wares, merchandise, tangible personal
22 property, machinery and equipment made before January 1, 2014, to a
23 manufacturer for use in a manufacturing operation. Goods, wares,
24 merchandise, property, machinery and equipment used in a

1 nonmanufacturing activity or process as set forth in paragraph 9 of
2 Section 1352 of this title shall not be eligible for the exemption
3 provided for in this subsection by virtue of the activity or process
4 being performed in conjunction with or integrated into a
5 manufacturing operation;

6 2. Ethyl alcohol when sold before January 1, 2015, and used for
7 the purpose of blending same with motor fuel on which motor fuel tax
8 is levied by Section 500.4 of this title;

9 3. Sales of containers when sold before January 1, 2016, to a
10 person regularly engaged in the business of reselling empty or
11 filled containers or when purchased for the purpose of packaging raw
12 products of farm, garden, or orchard for resale to the consumer or
13 processor. This exemption shall not apply to the sale of any
14 containers used more than once and which are ordinarily known as
15 returnable containers, except returnable soft drink bottles and the
16 cartons, crates, pallets, and containers used to transport
17 returnable soft drink bottles. Each and every transfer of title or
18 possession of such returnable containers in this state to any person
19 who is not regularly engaged in the business of selling, reselling
20 or otherwise transferring empty or filled containers shall be
21 taxable under this Code. Additionally, this exemption shall not
22 apply to the sale of labels or other materials delivered along with
23 items sold but which are not necessary or absolutely essential to
24 the sale of the sold merchandise;

1 4. Sales of or transfers of title to or possession of any
2 containers, after June 30, 1987, and before January 1, 2017, used or
3 to be used more than once and which are ordinarily known as
4 returnable containers and which do or will contain beverages defined
5 by paragraphs 4 and 14 of Section 506 of Title 37 of the Oklahoma
6 Statutes, or water for human consumption and the cartons, crates,
7 pallets, and containers used to transport such returnable
8 containers;

9 5. Sale of tangible personal property when sold before January
10 1, 2018, by the manufacturer to a person who transports it to a
11 state other than Oklahoma for immediate and exclusive use in a state
12 other than Oklahoma. Provided, no sales at a retail outlet shall
13 qualify for the exemption under this paragraph;

14 6. ~~Machinery~~ Before January 1, 2011, the sale of machinery,
15 equipment, fuels and chemicals or other materials incorporated into
16 and directly used or consumed in the process of treatment to
17 substantially reduce the volume or harmful properties of hazardous
18 waste at treatment facilities specifically permitted pursuant to the
19 Oklahoma Hazardous Waste Management Act and operated at the place of
20 waste generation, or facilities approved by the Department of
21 Environmental Quality for the cleanup of a site of contamination.
22 The term "hazardous" waste may include low-level radioactive waste
23 for the purpose of this paragraph;

24

1 7. Except as otherwise provided by subsection I of Section 3658
2 of this title pursuant to which the exemption authorized by this
3 paragraph may not be claimed, sales of tangible personal property
4 before January 1, 2012, to a qualified manufacturer or distributor
5 to be consumed or incorporated in a new manufacturing or
6 distribution facility or to expand an existing manufacturing or
7 distribution facility. For purposes of this paragraph, sales made
8 to a contractor or subcontractor that has previously entered into a
9 contractual relationship with a qualified manufacturer or
10 distributor for construction or expansion of a manufacturing or
11 distribution facility shall be considered sales made to a qualified
12 manufacturer or distributor. For the purposes of this paragraph,
13 "qualified manufacturer or distributor" means:

14 a. any manufacturing enterprise whose total cost of
15 construction of a new or expanded facility exceeds the
16 sum of Five Million Dollars (\$5,000,000.00) and in
17 which at least one hundred (100) new full-time-
18 equivalent employees, as certified by the Oklahoma
19 Employment Security Commission, are added and
20 maintained for a period of at least thirty-six (36)
21 months as a direct result of the new or expanded
22 facility,

23 b. any manufacturing enterprise whose total cost of
24 construction of a new or expanded facility exceeds the

1 sum of Ten Million Dollars (\$10,000,000.00) and the
2 combined cost of construction material, machinery,
3 equipment and other tangible personal property exempt
4 from sales tax under the provisions of this paragraph
5 exceeds the sum of Fifty Million Dollars
6 (\$50,000,000.00) and in which at least seventy-five
7 (75) new full-time-equivalent employees, as certified
8 by the Oklahoma Employment Security Commission, are
9 added and maintained for a period of at least thirty-
10 six (36) months as a direct result of the new or
11 expanded facility,

12 c. any manufacturing enterprise whose total cost of
13 construction of an expanded facility exceeds the sum
14 of Three Hundred Million Dollars (\$300,000,000.00) and
15 in which the manufacturer has and maintains an average
16 employment level of at least one thousand seven
17 hundred fifty (1,750) full-time-equivalent employees,
18 as certified by the Employment Security Commission, or

19 d. any enterprise primarily engaged in the general
20 wholesale distribution of groceries defined or
21 classified in the North American Industry
22 Classification System (NAICS) Manual under Industry
23 Groups No. 4244 and 4245 and which has at least
24 seventy-five percent (75%) of its total sales to in-

1 state customers or buyers and whose total cost of
2 construction of a new or expanded facility exceeds the
3 sum of Forty Million Dollars (\$40,000,000.00) with
4 such construction commencing on or after July 1, 2005,
5 and before December 31, 2005, and which at least fifty
6 new full-time-equivalent employees, as certified by
7 the Oklahoma Employment Security Commission, are added
8 and maintained for a period of at least thirty-six
9 (36) months as a direct result of the new or expanded
10 facility.

11 For purposes of this paragraph, the total cost of construction
12 shall include building and construction material and engineering and
13 architectural fees or charges directly associated with the
14 construction of a new or expanded facility. The total cost of
15 construction shall not include attorney fees. For purposes of
16 subparagraph c of this paragraph, the total cost of construction
17 shall also include the cost of qualified depreciable property as
18 defined in Section 2357.4 of this title and labor services performed
19 in the construction of an expanded facility. For the purpose of
20 subparagraph d of this paragraph, the total cost of construction
21 shall also include the cost of all parking, security and dock
22 structures or facilities necessary to manage, process or secure
23 vehicles used to receive and/or distribute groceries through such a
24 facility. The employment requirement of this paragraph can be

1 satisfied by the employment of a portion of the required number of
2 new full-time-equivalent employees at a manufacturing or
3 distribution facility that is related to or supported by the new or
4 expanded manufacturing or distribution facility as long as both
5 facilities are owned by one person or business entity. For purposes
6 of this section, "manufacturing facility" shall mean building and
7 land improvements used in manufacturing as defined in Section 1352
8 of this title and shall also mean building and land improvements
9 used for the purpose of packing, repackaging, labeling or assembling
10 for distribution to market, products at least seventy percent (70%)
11 of which are made in Oklahoma by the same company but at an off-
12 site, in-state manufacturing or distribution facility or facilities.
13 It shall not include a retail outlet unless the retail outlet is
14 operated in conjunction with and on the same site or premises as the
15 manufacturing facility. Up to ten percent (10%) of the square feet
16 of a manufacturing or distribution facility building may be devoted
17 to office space used to provide clerical support for the
18 manufacturing operation. Such ten percent (10%) may be in a
19 separate building as long as it is part of the same contiguous tract
20 of property on which the manufacturing or distribution facility is
21 located. Only sales of tangible personal property made after June
22 1, 1988, and before January 1, 2012, shall be eligible for the
23 exemption provided by this paragraph. The exemption authorized
24 pursuant to subparagraph d of this paragraph shall only become

1 effective when the governing body of the municipality in which the
2 enterprise is located approves a resolution expressing the
3 municipality's support for the construction for such new or expanded
4 facility. Upon approval by the municipality, the municipality shall
5 forward a copy of such resolution to the Oklahoma Tax Commission;

6 8. Sales before January 1, 2013, of tangible personal property
7 purchased and used by a licensed radio or television station in
8 broadcasting. This exemption shall not apply unless such machinery
9 and equipment is used directly in the manufacturing process, is
10 necessary for the proper production of a broadcast signal or is such
11 that the failure of the machinery or equipment to operate would
12 cause broadcasting to cease. This exemption begins with the
13 equipment used in producing live programming or the electronic
14 equipment directly behind the satellite receiving dish or antenna,
15 and ends with the transmission of the broadcast signal from the
16 broadcast antenna system. For purposes of this paragraph, "proper
17 production" shall include, but not be limited to, machinery or
18 equipment required by Federal Communications Commission rules and
19 regulations;

20 9. Sales before January 1, 2014, of tangible personal property
21 purchased or used by a licensed cable television operator in
22 cablecasting. This exemption shall not apply unless such machinery
23 and equipment is used directly in the manufacturing process, is
24 necessary for the proper production of a cablecast signal or is such

1 that the failure of the machinery or equipment to operate would
2 cause cablecasting to cease. This exemption begins with the
3 equipment used in producing local programming or the electronic
4 equipment behind the satellite receiving dish, microwave tower or
5 antenna, and ends with the transmission of the signal from the
6 cablecast head-end system. For purposes of this paragraph, "proper
7 production" shall include, but not be limited to, machinery or
8 equipment required by Federal Communications Commission rules and
9 regulations;

10 10. Sales of packaging materials before January 1, 2015, for
11 use in packing, shipping or delivering tangible personal property
12 for sale when sold to a producer of agricultural products. This
13 exemption shall not apply to the sale of any packaging material
14 which is ordinarily known as a returnable container;

15 11. Sales before January 1, 2016, of any pattern used in the
16 process of manufacturing iron, steel or other metal castings. The
17 exemption provided by this paragraph shall be applicable
18 irrespective of ownership of the pattern provided that such pattern
19 is used in the commercial production of metal castings;

20 12. Deposits or other charges made before January 1, 2017, and
21 which are subsequently refunded for returnable cartons, crates,
22 pallets, and containers used to transport cement and cement
23 products;

24

1 13. ~~Beginning~~ On or after January 1, 1998, and before January
2 1, 2018, machinery, electricity, fuels, explosives and materials,
3 excluding chemicals, used in the mining of coal in this state;

4 14. Deposits, rent or other charges made before January 1,
5 2011, for returnable cartons, crates, pallets, and containers used
6 to transport mushrooms or mushroom products from a farm for resale
7 to the consumer or processor; and

8 15. Sales made before January 1, 2012, of tangible personal
9 property and services used or consumed in all phases of the
10 extraction and manufacturing of crushed stone and sand, including
11 but not limited to site preparation, dredging, overburden removal,
12 explosive placement and detonation, onsite material hauling and/or
13 transfer, material washing, screening and/or crushing, product
14 weighing and site reclamation.

15 SECTION 52. AMENDATORY 68 O.S. 2001, Section 1360, as
16 amended by Section 1, Chapter 346, O.S.L. 2007 (68 O.S. Supp. 2007,
17 Section 1360), is amended to read as follows:

18 Section 1360. Exemptions - Corporations - Partnerships.

19 There are hereby specifically exempted from the tax levied in
20 this article:

21 1. The transfer of tangible personal property, made before
22 January 1, 2013, as follows:

23 a. from one corporation to another corporation pursuant
24 to a reorganization. As used in this subparagraph the

1 term "reorganization" means a statutory merger or
2 consolidation or the acquisition by a corporation of
3 substantially all of the properties of another
4 corporation when the consideration is solely all or a
5 part of the voting stock of the acquiring corporation,
6 or of its parent or subsidiary corporation,

7 b. in connection with the winding up, dissolution or
8 liquidation of a corporation only when there is a
9 distribution in kind to the shareholders of the
10 property of such corporation,

11 c. to a corporation for the purpose of organization of
12 such corporation where the former owners of the
13 property transferred are immediately after the
14 transfer in control of the corporation, and the value
15 of the stock or securities received by each is
16 substantially in proportion to the value of such
17 person's interest in the property transferred by all
18 the former owners,

19 d. to a partnership in the organization of such
20 partnership if the former owners of the property
21 transferred are, immediately after the transfer,
22 members of such partnership and the value of the
23 interest in the partnership, received by each, is
24 substantially in proportion to the value of such

1 person's interest in the property transferred by all
2 former owners,

3 e. from a partnership to the members thereof when made in
4 kind in the dissolution of such partnership,

5 f. to a limited liability company in the organization of
6 the limited liability company if the former owners of
7 the property transferred are, immediately after the
8 transfer, members of the limited liability company and
9 the value of the interest in the limited liability
10 company received by each is substantially in
11 proportion to the value of the interest in the
12 property transferred by all the former owners, and

13 g. from a limited liability company to the members
14 thereof when made in kind in the dissolution of the
15 limited liability company; and

16 2. Sale of an interest in tangible personal property to a
17 partner or other person who after such sale owns a joint interest in
18 such tangible personal property where the Oklahoma Sales or Use Tax
19 has previously been paid on such tangible personal property.

20 SECTION 53. AMENDATORY 68 O.S. 2001, Section 1404, is
21 amended to read as follows:

22 Section 1404. The provisions of Section 1401 et seq. of this
23 title shall not apply:
24

1 1. In respect to the use of any article of tangible personal
2 property brought into the State of Oklahoma by a nonresident
3 individual, visiting in this state, for his or her personal use or
4 enjoyment, while within the state;

5 2. In respect to the use of tangible personal property
6 purchased for resale before being used;

7 3. In respect to the use of any article of tangible personal
8 property on which a tax, equal to or in excess of that levied by
9 Section 1401 et seq. of this title, has been paid by the person
10 using such tangible personal property in this state, whether such
11 tax was levied under the laws of this state or some other state of
12 the United States. If any article of tangible personal property has
13 already been subjected to a tax, by this or any other state, in
14 respect to its sale or use, in an amount less than the tax imposed
15 by Section 1401 et seq. of this title, the provisions of Section
16 1401 et seq. of this title shall apply to it by a rate measured by
17 the difference only between the rate herein provided and the rate by
18 which the previous tax upon the sale or use was computed. Provided,
19 that no credit shall be given for taxes paid in another state, if
20 that state does not grant like credit for taxes paid in Oklahoma;

21 4. In respect to the use of tangible personal property now
22 specifically exempted from taxation under Oklahoma Sales Tax Code;

23 5. In respect to the use of any article or tangible personal
24 property brought into the state by an individual with intent to

1 become a resident of this state where such personal property is for
2 such individual's personal use or enjoyment;

3 6. ~~In~~ Before January 1, 2014, in respect to the use of any
4 article of tangible personal property used or to be used by
5 commercial airlines or railroads;

6 7. ~~In~~ Before January 1, 2015, in respect to livestock purchased
7 outside this state and brought into this state for feeding or
8 breeding purposes, and which is later resold; and

9 8. ~~Effective~~ On or after January 1, 1991, and before January 1,
10 2016, in respect to the use of rail transportation cars to haul coal
11 to coal-fired plants located in this state which generate electric
12 power.

13 SECTION 54. AMENDATORY 68 O.S. 2001, Section 54003, is
14 amended to read as follows:

15 Section 54003. A. There are hereby specifically exempted from
16 the taxes levied by Section 1354 and Section 1402 of ~~Title 68 of the~~
17 ~~Oklahoma Statutes~~ this title sales made before January 1, 2017, of
18 qualified purchases to a qualified purchaser which is primarily
19 engaged in computer services and data processing as defined under
20 Industrial Group Numbers 7372, 7373, 7374 and 7375 of the SIC
21 Manual, latest revision, or a qualified purchaser which is primarily
22 engaged in research and development as defined under Industrial
23 Group Numbers 8731, 8732, 8733 and 8734 of the SIC Manual, latest
24 revision.

1 B. A qualified purchaser which is primarily engaged in computer
2 services and data processing as defined under Industrial Group
3 Number 7374 of the SIC Manual, latest revision, shall be required to
4 have a minimum of One Hundred Thousand Dollars (\$100,000.00) in
5 qualified purchases in order to be eligible to receive the exemption
6 provided for in this section.

7 C. In order to be eligible to receive the exemption provided
8 for in this section, a new or expanding business shall not include
9 the existing employee positions of any business enterprise that is
10 directly or beneficially owned by a corporation, trust, joint
11 venture, proprietorship, or partnership doing business in this state
12 as of January 1, 1992.

13 D. Eligibility to receive the exemption provided for in this
14 subsection pursuant to the requirement to derive fifty percent (50%)
15 of revenues from out-of-state buyers or consumers and pursuant to
16 the requirement that the business be primarily engaged in computer
17 services and data processing or in research and development shall be
18 established, subject to review by the Oklahoma Tax Commission, by
19 annually filing an affidavit with the ~~Oklahoma~~ Tax Commission
20 stating that the business so qualifies and such other information as
21 required by the Tax Commission. For purposes of determining whether
22 annual gross revenues are derived from sales to out-of-state buyers
23 or consumers, all sales to the federal government shall be
24 considered to be sales to an out-of-state buyer or consumer.

1 SECTION 55. This act shall become effective November 1, 2010.

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