

SB 725

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THE STATE SENATE
Monday, February 26, 2007

Senate Bill No. 725
As Amended

SENATE BILL NO. 725 - By: RICE and CORN of the Senate and MILLER of the House.

[revenue and taxation - providing income tax deduction - effective date]

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2358, as last amended by Section 21, Chapter 44, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2006, Section 2358), is amended to read as follows:

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

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

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

1 such interest is not included in taxable income and adjusted gross
2 income.

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

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

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

18 b. For carryovers and carrybacks to taxable years
19 beginning after December 31, 1980, the amount of any
20 net operating loss deduction allowed for the taxable
21 year shall be an amount equal to the aggregate of the
22 Oklahoma net operating loss carryovers and carrybacks
23 to such year. Oklahoma net operating losses shall be

1 separately determined by reference to Section 172 of
2 the Internal Revenue Code, 26 U.S.C., Section 172, as
3 modified by the Oklahoma Income Tax Act, Section 2351
4 et seq. of this title, and shall be allowed without
5 regard to the existence of a federal net operating
6 loss. For tax years beginning after December 31,
7 2000, the years to which such losses may be carried
8 shall be determined solely by reference to Section 172
9 of the Internal Revenue Code, 26 U.S.C., Section 172,
10 with the exception that the terms "net operating loss"
11 and "taxable income" shall be replaced with "Oklahoma
12 net operating loss" and "Oklahoma taxable income".

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

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

1 b. Income from intangible personal property, such as
2 interest, dividends, patent or copyright royalties,
3 and gains or losses from sales of such property, shall
4 be allocated in accordance with the domiciliary situs
5 of the taxpayer, except that:

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

20 (2) for taxable years beginning after December 31,
21 2003, capital or ordinary gains or losses from
22 the sale of an ownership interest in a publicly
23 traded partnership, as defined by Section 7704(b)

1 of the Internal Revenue Code of 1986, as amended,
2 shall be allocated to this state in the ratio of
3 the original cost of such partnership's tangible
4 property in this state to the original cost of
5 such partnership's tangible property everywhere,
6 as determined at the time of the sale; if more
7 than fifty percent (50%) of the value of the
8 partnership's assets consists of intangible
9 assets, capital or ordinary gains or losses from
10 the sale of an ownership interest in the
11 partnership shall be allocated to this state in
12 accordance with the sales factor of the
13 partnership for its first full tax period
14 immediately preceding its tax period during which
15 the ownership interest in the partnership was
16 sold; the provisions of this division shall only
17 apply if the capital or ordinary gains or losses
18 from the sale of an ownership interest in a
19 partnership do not constitute qualifying gain
20 receiving capital treatment as defined in
21 subparagraph a of paragraph 2 of subsection F of
22 this section,

1 (3) income from such property which is required to be
2 allocated pursuant to the provisions of paragraph
3 5 of this subsection shall be allocated as herein
4 provided;

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

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

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

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

22 (3) sales of the product stored in public warehouses
23 within the state where the shipment to such

1 warehouses is not covered by "in transit"
2 tariffs, as prescribed and allowed by the
3 Interstate Commerce Commission, to a purchaser
4 within or without the state,

5 the Oklahoma net income shall, at the option of the
6 taxpayer, be that portion of the total net income of
7 the taxpayer for federal income tax purposes derived
8 from the manufacture and/or processing and sales
9 everywhere as determined by the ratio of the sales
10 defined in this section made to the purchaser within
11 the state to the total sales everywhere. The term
12 "public warehouse" as used in this subparagraph means
13 a licensed public warehouse, the principal business of
14 which is warehousing merchandise for the public;

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

20 (1) except as otherwise provided by division (2) of
21 this subparagraph, taxable income of an insurance
22 company for a taxable year shall be apportioned
23 to this state by multiplying such income by a

1 fraction, the numerator of which is the direct
2 premiums written for insurance on property or
3 risks in this state, and the denominator of which
4 is the direct premiums written for insurance on
5 property or risks everywhere. For purposes of
6 this subsection, the term "direct premiums
7 written" means the total amount of direct
8 premiums written, assessments and annuity
9 considerations as reported for the taxable year
10 on the annual statement filed by the company with
11 the Insurance Commissioner in the form approved
12 by the National Association of Insurance
13 Commissioners, or such other form as may be
14 prescribed in lieu thereof,

15 (2) if the principal source of premiums written by an
16 insurance company consists of premiums for
17 reinsurance accepted by it, the taxable income of
18 such company shall be apportioned to this state
19 by multiplying such income by a fraction, the
20 numerator of which is the sum of (a) direct
21 premiums written for insurance on property or
22 risks in this state, plus (b) premiums written
23 for reinsurance accepted in respect of property

1 or risks in this state, and the denominator of
2 which is the sum of (c) direct premiums written
3 for insurance on property or risks everywhere,
4 plus (d) premiums written for reinsurance
5 accepted in respect of property or risks
6 everywhere. For purposes of this paragraph,
7 premiums written for reinsurance accepted in
8 respect of property or risks in this state,
9 whether or not otherwise determinable, may at the
10 election of the company be determined on the
11 basis of the proportion which premiums written
12 for insurance accepted from companies
13 commercially domiciled in Oklahoma bears to
14 premiums written for reinsurance accepted from
15 all sources, or alternatively in the proportion
16 which the sum of the direct premiums written for
17 insurance on property or risks in this state by
18 each ceding company from which reinsurance is
19 accepted bears to the sum of the total direct
20 premiums written by each such ceding company for
21 the taxable year.

22 5. The net income or loss remaining after the separate
23 allocation in paragraph 4 of this subsection, being that which is

1 derived from a unitary business enterprise, shall be apportioned to
2 this state on the basis of the arithmetical average of three factors
3 consisting of property, payroll and sales or gross revenue
4 enumerated as subparagraphs a, b and c of this paragraph. Net
5 income or loss as used in this paragraph includes that derived from
6 patent or copyright royalties, purchase discounts, and interest on
7 accounts receivable relating to or arising from a business activity,
8 the income from which is apportioned pursuant to this subsection,
9 including the sale or other disposition of such property and any
10 other property used in the unitary enterprise. Deductions used in
11 computing such net income or loss shall not include taxes based on
12 or measured by income. Provided, for corporations whose property
13 for purposes of the tax imposed by Section 2355 of this title has an
14 initial investment cost equaling or exceeding Two Hundred Million
15 Dollars (\$200,000,000.00) and such investment is made on or after
16 July 1, 1997, or for corporations which expand their property or
17 facilities in this state and such expansion has an investment cost
18 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
19 over a period not to exceed three (3) years, and such expansion is
20 commenced on or after January 1, 2000, the three factors shall be
21 apportioned with property and payroll, each comprising twenty-five
22 percent (25%) of the apportionment factor and sales comprising fifty

1 percent (50%) of the apportionment factor. The apportionment
2 factors shall be computed as follows:

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

- 10 (1) Property, the income from which is separately
11 allocated in paragraph 4 of this subsection,
12 shall not be included in determining this
13 fraction. The numerator of the fraction shall
14 include a portion of the investment in
15 transportation and other equipment having no
16 fixed situs, such as rolling stock, buses, trucks
17 and trailers, including machinery and equipment
18 carried thereon, airplanes, salespersons'
19 automobiles and other similar equipment, in the
20 proportion that miles traveled in Oklahoma by
21 such equipment bears to total miles traveled,
22 (2) Property owned by the taxpayer is valued at its
23 original cost. Property rented by the taxpayer

1 is valued at eight times the net annual rental
2 rate. Net annual rental rate is the annual
3 rental rate paid by the taxpayer, less any annual
4 rental rate received by the taxpayer from
5 subrentals,

6 (3) The average value of property shall be determined
7 by averaging the values at the beginning and
8 ending of the tax period but the Oklahoma Tax
9 Commission may require the averaging of monthly
10 values during the tax period if reasonably
11 required to reflect properly the average value of
12 the taxpayer's property;

13 b. The payroll factor is a fraction, the numerator of
14 which is the total compensation for services rendered
15 in the state during the tax period, and the
16 denominator of which is the total compensation for
17 services rendered everywhere during the tax period.
18 "Compensation", as used in this subsection means those
19 paid-for services to the extent related to the unitary
20 business but does not include officers' salaries,
21 wages and other compensation.

22 (1) In the case of a transportation enterprise, the
23 numerator of the fraction shall include a portion

1 of such expenditure in connection with employees
2 operating equipment over a fixed route, such as
3 railroad employees, airline pilots, or bus
4 drivers, in this state only a part of the time,
5 in the proportion that mileage traveled in
6 Oklahoma bears to total mileage traveled by such
7 employees,

8 (2) In any case the numerator of the fraction shall
9 include a portion of such expenditures in
10 connection with itinerant employees, such as
11 traveling salespersons, in this state only a part
12 of the time, in the proportion that time spent in
13 Oklahoma bears to total time spent in furtherance
14 of the enterprise by such employees;

15 c. The sales factor is a fraction, the numerator of which
16 is the total sales or gross revenue of the taxpayer in
17 this state during the tax period, and the denominator
18 of which is the total sales or gross revenue of the
19 taxpayer everywhere during the tax period. "Sales",
20 as used in this subsection does not include sales or
21 gross revenue which are separately allocated in
22 paragraph 4 of this subsection.

1 (1) Sales of tangible personal property have a situs
2 in this state if the property is delivered or
3 shipped to a purchaser other than the United
4 States government, within this state regardless
5 of the FOB point or other conditions of the sale;
6 or the property is shipped from an office, store,
7 warehouse, factory or other place of storage in
8 this state and (a) the purchaser is the United
9 States government or (b) the taxpayer is not
10 doing business in the state of the destination of
11 the shipment.

12 (2) In the case of a railroad or interurban railway
13 enterprise, the numerator of the fraction shall
14 not be less than the allocation of revenues to
15 this state as shown in its annual report to the
16 Corporation Commission.

17 (3) In the case of an airline, truck or bus
18 enterprise or freight car, tank car, refrigerator
19 car or other railroad equipment enterprise, the
20 numerator of the fraction shall include a portion
21 of revenue from interstate transportation in the
22 proportion that interstate mileage traveled in

1 Oklahoma bears to total interstate mileage
2 traveled.

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

17 (5) In the case of a telephone or telegraph or other
18 communication enterprise, the numerator of the
19 fraction shall include that portion of the
20 interstate revenue as is allocated pursuant to
21 the accounting procedures prescribed by the
22 Federal Communications Commission; provided that
23 in respect to each corporation or business entity

1 required by the Federal Communications Commission
2 to keep its books and records in accordance with
3 a uniform system of accounts prescribed by such
4 Commission, the intrastate net income shall be
5 determined separately in the manner provided by
6 such uniform system of accounts and only the
7 interstate income shall be subject to allocation
8 pursuant to the provisions of this subsection.
9 Provided further, that the gross revenue factors
10 shall be those as are determined pursuant to the
11 accounting procedures prescribed by the Federal
12 Communications Commission.

13 In any case where the apportionment of the three factors prescribed
14 in this paragraph attributes to Oklahoma a portion of net income of
15 the enterprise out of all appropriate proportion to the property
16 owned and/or business transacted within this state, because of the
17 fact that one or more of the factors so prescribed are not employed
18 to any appreciable extent in furtherance of the enterprise; or
19 because one or more factors not so prescribed are employed to a
20 considerable extent in furtherance of the enterprise; or because of
21 other reasons, the Tax Commission is empowered to permit, after a
22 showing by taxpayer that an excessive portion of net income has been
23 attributed to Oklahoma, or require, when in its judgment an

1 insufficient portion of net income has been attributed to Oklahoma,
2 the elimination, substitution, or use of additional factors, or
3 reduction or increase in the weight of such prescribed factors.
4 Provided, however, that any such variance from such prescribed
5 factors which has the effect of increasing the portion of net income
6 attributable to Oklahoma must not be inherently arbitrary, and
7 application of the recomputed final apportionment to the net income
8 of the enterprise must attribute to Oklahoma only a reasonable
9 portion thereof.

10 6. For calendar years 1997 and 1998, the owner of a new or
11 expanded agricultural commodity processing facility in this state
12 may exclude from Oklahoma taxable income, or in the case of an
13 individual, the Oklahoma adjusted gross income, fifteen percent
14 (15%) of the investment by the owner in the new or expanded
15 agricultural commodity processing facility. For calendar year 1999,
16 and all subsequent years, the percentage, not to exceed fifteen
17 percent (15%), available to the owner of a new or expanded
18 agricultural commodity processing facility in this state claiming
19 the exemption shall be adjusted annually so that the total estimated
20 reduction in tax liability does not exceed One Million Dollars
21 (\$1,000,000.00) annually. The Tax Commission shall promulgate rules
22 for determining the percentage of the investment which each eligible
23 taxpayer may exclude. The exclusion provided by this paragraph

1 shall be taken in the taxable year when the investment is made. In
2 the event the total reduction in tax liability authorized by this
3 paragraph exceeds One Million Dollars (\$1,000,000.00) in any
4 calendar year, the Tax Commission shall permit any excess over One
5 Million Dollars (\$1,000,000.00) and shall factor such excess into
6 the percentage for subsequent years. Any amount of the exemption
7 permitted to be excluded pursuant to the provisions of this
8 paragraph but not used in any year may be carried forward as an
9 exemption from income pursuant to the provisions of this paragraph
10 for a period not exceeding six (6) years following the year in which
11 the investment was originally made.

12 For purposes of this paragraph:

13 a. "Agricultural commodity processing facility" means
14 building, structures, fixtures and improvements used
15 or operated primarily for the processing or production
16 of marketable products from agricultural commodities.
17 The term shall also mean a dairy operation that
18 requires a depreciable investment of at least Two
19 Hundred Fifty Thousand Dollars (\$250,000.00) and which
20 produces milk from dairy cows. The term does not
21 include a facility that provides only, and nothing
22 more than, storage, cleaning, drying or transportation
23 of agricultural commodities, and

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

3 (1) the processing of agricultural commodities,
4 including receiving or storing agricultural
5 commodities, or the production of milk at a dairy
6 operation,

7 (2) transporting the agricultural commodities or
8 product before, during or after the processing,
9 or

10 (3) packaging or otherwise preparing the product for
11 sale or shipment.

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

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

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

1 8. In taxable years beginning after December 31, 1995, all
2 qualified wages equal to the federal income tax credit set forth in
3 26 U.S.C.A., Section 45A, shall be deducted from taxable income.
4 The deduction allowed pursuant to this paragraph shall only be
5 permitted for the tax years in which the federal tax credit pursuant
6 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
7 paragraph, "qualified wages" means those wages used to calculate the
8 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

15 B. The taxable income of any corporation shall be further
16 adjusted to arrive at Oklahoma taxable income, except those
17 corporations electing treatment as provided in subchapter S of the
18 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
19 2365 of this title, deductions pursuant to the provisions of the
20 Accelerated Cost Recovery System as defined and allowed in the
21 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
22 Section 168, for depreciation of assets placed into service after
23 December 31, 1981, shall not be allowed in calculating Oklahoma

1 taxable income. Such corporations shall be allowed a deduction for
2 depreciation of assets placed into service after December 31, 1981,
3 in accordance with provisions of the Internal Revenue Code, 26
4 U.S.C., Section 1 et seq., in effect immediately prior to the
5 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
6 basis for all such assets placed into service after December 31,
7 1981, calculated in this section shall be retained and utilized for
8 all Oklahoma income tax purposes through the final disposition of
9 such assets.

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

15 For assets placed in service and held by a corporation in which
16 accelerated cost recovery system was previously disallowed, an
17 adjustment to taxable income is required in the first taxable year
18 beginning after December 31, 1982, to reconcile the basis of such
19 assets to the basis allowed in the Internal Revenue Code. The
20 purpose of this adjustment is to equalize the basis and allowance
21 for depreciation accounts between that reported to the Internal
22 Revenue Service and that reported to Oklahoma.

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

15 2. For purposes of this subsection:

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

21 (1) Capitalization of not more than Two Hundred Fifty
22 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, the
17 taxable income of any corporation, estate or trust, shall be further
18 adjusted for qualifying gains receiving capital treatment. Such
19 corporations, estates or trusts shall be allowed a deduction from
20 Oklahoma taxable income for the amount of qualifying gains receiving
21 capital treatment earned by the corporation, estate or trust during
22 the taxable year and included in the federal taxable income of such
23 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 was:

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

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

- 1 b. "holding period" means an uninterrupted period of
2 time,
- 3 c. "Oklahoma company", "limited liability company", or
4 "partnership" means an entity whose primary
5 headquarters have been located in Oklahoma for at
6 least three (3) uninterrupted years prior to the date
7 of the transaction from which the net capital gains
8 arise,
- 9 d. "direct" means the taxpayer directly owns the asset,
10 and
- 11 e. "indirect" means the taxpayer owns an interest in a
12 pass-through entity (or chain of pass-through
13 entities) that sells the asset that gives rise to the
14 qualifying gains receiving capital treatment.
- 15 (1) With respect to sales of real or personal
16 property located within Oklahoma, the deduction
17 described in this subsection shall not apply
18 unless the pass-through entity that makes the
19 sale has held the property for not less than five
20 (5) uninterrupted years prior to the date of the
21 transaction that created the capital gain, and
22 each pass-through entity included in the chain of
23 ownership has been a member, partner, or

1 shareholder of the pass-through entity in the
2 tier immediately below it for an uninterrupted
3 period of not less than five (5) years.

4 (2) With respect to sales of stock or ownership
5 interest in an Oklahoma company, limited
6 liability company, or partnership, the deduction
7 described in this subsection shall not apply
8 unless the pass-through entity that makes the
9 sale has held the stock or ownership interest for
10 not less than three (3) uninterrupted years prior
11 to the date of the transaction that created the
12 capital gain, and each pass-through entity
13 included in the chain of ownership has been a
14 member, partner or shareholder of the pass-
15 through entity in the tier immediately below it
16 for an uninterrupted period of not less than
17 three (3) years.

18 E. The Oklahoma adjusted gross income of any individual
19 taxpayer shall be further adjusted as follows to arrive at Oklahoma
20 taxable income:

21 1. a. In the case of individuals, there shall be added or
22 deducted, as the case may be, the difference necessary
23 to allow personal exemptions of One Thousand Dollars

1 (\$1,000.00) in lieu of the personal exemptions allowed
2 by the Internal Revenue Code.

3 b. There shall be allowed an additional exemption of One
4 Thousand Dollars (\$1,000.00) for each taxpayer or
5 spouse who is blind at the close of the tax year. For
6 purposes of this subparagraph, an individual is blind
7 only if the central visual acuity of the individual
8 does not exceed 20/200 in the better eye with
9 correcting lenses, or if the visual acuity of the
10 individual is greater than 20/200, but is accompanied
11 by a limitation in the fields of vision such that the
12 widest diameter of the visual field subtends an angle
13 no greater than twenty (20) degrees.

14 c. There shall be allowed an additional exemption of One
15 Thousand Dollars (\$1,000.00) for each taxpayer or
16 spouse who is sixty-five (65) years of age or older at
17 the close of the tax year based upon the filing status
18 and federal adjusted gross income of the taxpayer.
19 Taxpayers with the following filing status may claim
20 this exemption if the federal adjusted gross income
21 does not exceed:

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

- 1 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)
2 if married and filing separately;
3 (3) Fifteen Thousand Dollars (\$15,000.00) if single;
4 and
5 (4) Nineteen Thousand Dollars (\$19,000.00) if a
6 qualifying head of household.

7 Provided, for taxable years beginning after December
8 31, 1999, amounts included in the calculation of
9 federal adjusted gross income pursuant to the
10 conversion of a traditional individual retirement
11 account to a Roth individual retirement account shall
12 be excluded from federal adjusted gross income for
13 purposes of the income thresholds provided in this
14 subparagraph.

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

1 deduction allowed by the Internal Revenue Code, in an
2 amount equal to:

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

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

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

15 (1) Four Thousand Dollars (\$4,000.00), if the filing
16 status is married filing joint, head of household
17 or qualifying widow; or

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

20 3. In the case of resident and part-year resident individuals
21 having adjusted gross income from sources both within and without
22 the state, the itemized or standard deductions and personal
23 exemptions shall be reduced to an amount which is the same portion

1 of the total thereof as Oklahoma adjusted gross income is of
2 adjusted gross income. To the extent itemized deductions include
3 allowable moving expense, proration of moving expense shall not be
4 required or permitted but allowable moving expense shall be fully
5 deductible for those taxpayers moving within or into Oklahoma and no
6 part of moving expense shall be deductible for those taxpayers
7 moving without or out of Oklahoma. All other itemized or standard
8 deductions and personal exemptions shall be subject to proration as
9 provided by law.

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

22 5. In any taxable year the first One Thousand Five Hundred
23 Dollars (\$1,500.00) received by any person from the United States as

1 salary or compensation in any form, other than retirement benefits,
2 as a member of any component of the Armed Forces of the United
3 States shall be deducted from taxable income. Whenever the filing
4 of a timely income tax return by a member of the Armed Forces of the
5 United States is made impracticable or impossible of accomplishment
6 by reason of:

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

- 17 (1) Such individual shall return to the United States
- 18 if the extension is granted pursuant to
- 19 subparagraph a of this paragraph, return to the
- 20 State of Oklahoma if the extension is granted
- 21 pursuant to subparagraph b of this paragraph or
- 22 be discharged from such hospital if the extension

1 is granted pursuant to subparagraph c of this
2 paragraph; or

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

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

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

19 7. Notwithstanding anything in the Internal Revenue Code or in
20 the Oklahoma Income Tax Act to the contrary, it is expressly
21 provided that, in the case of resident individuals, amounts received
22 as dividends or distributions of earnings from savings and loan
23 associations or credit unions located in Oklahoma, and interest

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

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

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

1 paragraph shall be prorated on the ratio of the
2 Oklahoma adjusted gross income to federal adjusted
3 gross income.

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

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

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

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

10 12. In taxable years beginning after December 31, 1995,
11 contributions made to and interest received from a medical savings
12 account established pursuant to Sections 2621 through 2623 of Title
13 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

1 allowed or permitted on the federal income tax return of the
2 individual.

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

6 (1) the adoption of a minor, or

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

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

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

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

20 d. "Nonrecurring adoption expenses" means adoption fees,
21 court costs, medical expenses, attorney fees and
22 expenses which are directly related to the legal
23 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.

1 In taxable years beginning after December 31, 2004,
2 retirement benefits not to exceed the amounts
3 specified in this paragraph, which are received by an
4 individual whose Oklahoma adjusted gross income is
5 less than the qualifying amount specified in this
6 paragraph, shall be exempt from taxable income.

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

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

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

1 (3) in the taxable year beginning January 1, 2008,
2 the qualifying amount shall be Sixty-two Thousand
3 Five Hundred Dollars (\$62,500.00) or less if the
4 filing status is single, head of household, or
5 married filing separate, or One Hundred Twenty-
6 five Thousand Dollars (\$125,000.00) or less if
7 the filing status is married filing jointly or
8 qualifying widow,

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

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

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

- 1 (1) an employee pension benefit plan which satisfies
2 the requirements of Section 401 of the Internal
3 Revenue Code, 26 U.S.C., Section 401,
- 4 (2) an eligible deferred compensation plan that
5 satisfies the requirements of Section 457 of the
6 Internal Revenue Code, 26 U.S.C., Section 457,
- 7 (3) an individual retirement account, annuity or
8 trust or simplified employee pension that
9 satisfies the requirements of Section 408 of the
10 Internal Revenue Code, 26 U.S.C., Section 408,
- 11 (4) an employee annuity subject to the provisions of
12 Section 403(a) or (b) of the Internal Revenue
13 Code, 26 U.S.C., Section 403(a) or (b),
- 14 (5) United States Retirement Bonds which satisfy the
15 requirements of Section 86 of the Internal
16 Revenue Code, 26 U.S.C., Section 86, or
- 17 (6) lump-sum distributions from a retirement plan
18 which satisfies the requirements of Section
19 402(e) of the Internal Revenue Code, 26 U.S.C.,
20 Section 402(e).

21 d. The amount of the exemption provided by this paragraph
22 shall be limited to Five Thousand Five Hundred Dollars
23 (\$5,500.00) for the 2004 tax year, Seven Thousand Five

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

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

21 17. In taxable years beginning December 31, 2000, an amount
22 equal to one hundred percent (100%) of the amount of any scholarship
23 or stipend received from participation in the Oklahoma Police Corps

1 Program, as established in Section 2-140.3 of Title 47 of the
2 Oklahoma Statutes shall be exempt from taxable income.

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

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

1 contribution that is not deducted by the taxpayer in
2 the year for which the contribution is made may be
3 carried forward as a deduction from income for the
4 succeeding five (5) years.

5 19. For taxable years beginning after December 31, 2005,
6 retirement benefits received by an individual from any component of
7 the Armed Forces of the United States in an amount not to exceed the
8 greater of seventy-five percent (75%) of such benefits or Ten
9 Thousand Dollars (\$10,000.00) shall be exempt from taxable income
10 but in no case less than the amount of the exemption provided by
11 paragraph 15 of this subsection.

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

- 19 a. in the taxable year beginning January 1, 2007, twenty
20 percent (20%) of such benefits shall be exempt,
21 b. in the taxable year beginning January 1, 2008, forty
22 percent (40%) of such benefits shall be exempt,

- 1 c. in the taxable year beginning January 1, 2009, sixty
2 percent (60%) of such benefits shall be exempt,
3 d. in the taxable year beginning January 1, 2010, eighty
4 percent (80%) of such benefits shall be exempt, and
5 e. in the taxable year beginning January 1, 2011, and
6 subsequent taxable years, one hundred percent (100%)
7 of such benefits shall be exempt.

- 8 21. a. In taxable years beginning after December 31, 2007, in
9 addition to any other deductions or exemptions which
10 are allowed by law, there shall be allowed a deduction
11 in an amount equal to the exemption allowed for a
12 dependent pursuant to 26 U.S.C.A., Section 151 for any
13 individual taxpayer whose Oklahoma adjusted gross
14 income is Thirty-five Thousand Dollars (\$35,000.00) or
15 less if the filing status is single, head of
16 household, or married filing separate, or Fifty
17 Thousand Dollars (\$50,000.00) or less if the filing
18 status is married filing jointly or qualifying widow
19 if the taxpayer provides at least one-half of the
20 total cost of support for a relative seventy (70)
21 years of age or older who resides in the taxpayer's
22 home for more than one-half of the tax year.
23 b. For purposes of this paragraph:

1 (1) "relative" means the taxpayer's:

2 (a) son, daughter, stepson, stepdaughter or a
3 descendant of such child;

4 (b) brother, sister, stepsister or stepbrother;

5 (c) father, mother or an ancestor of either,
6 stepfather or stepmother;

7 (d) son or daughter of a brother or sister;

8 (e) aunt or uncle; and

9 (f) son-in-law, daughter-in-law, father-in-law,
10 mother-in-law, brother-in-law or sister-in-
11 law,

12 (2) "cost of support" shall include amounts spent to
13 provide food, lodging, clothing, medical and
14 dental care, recreation, transportation and
15 similar necessities.

16 c. The Oklahoma Tax Commission shall promulgate rules to
17 implement the provisions of this paragraph.

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

23 2. As used in this subsection:

1 a. "qualifying gains receiving capital treatment" means
2 the amount of net capital gains, as defined in Section
3 1222(11) of the Internal Revenue Code, included in an
4 individual taxpayer's federal income tax return that
5 result from:

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

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

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

- 1 c. "Oklahoma company," "limited liability company," or
2 "partnership" means an entity whose primary
3 headquarters have been located in Oklahoma for at
4 least three (3) uninterrupted years prior to the date
5 of the transaction from which the net capital gains
6 arise,
- 7 d. "direct" means the individual taxpayer directly owns
8 the asset, and
- 9 e. "indirect" means the individual taxpayer owns an
10 interest in a pass-through entity (or chain of pass-
11 through entities) that sells the asset that gives rise
12 to the qualifying gains receiving capital treatment.
- 13 (1) With respect to sales of real or personal
14 property located within Oklahoma, the deduction
15 described in this subsection shall not apply
16 unless the pass-through entity that makes the
17 sale has held the property for not less than five
18 (5) uninterrupted years prior to the date of the
19 transaction that created the capital gain, and
20 each pass-through entity included in the chain of
21 ownership has been a member, partner, or
22 shareholder of the pass-through entity in the

1 tier immediately below it for an uninterrupted
2 period of not less than five (5) years.

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

17 SECTION 2. This act shall become effective November 1, 2007.

18 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-20-07 - DO PASS,
19 As Amended and Coauthored.