

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1611

By: McCullough

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 2355, as last amended by Section
9 3, Chapter 42, 2nd Extraordinary Session, O.S.L. 2006
10 (68 O.S. Supp. 2006, Section 2355), which relates to
11 Oklahoma income tax rates; establishing an optional
12 flat income tax rate; amending 68 O.S. 2001, Section
13 2358, as last amended by Section 21, Chapter 44, 2nd
14 Extraordinary Session, O.S.L. 2006 (68 O.S. Supp.
15 2006, Section 2358), which relates to adjustments to
16 Oklahoma income tax; removing certain individual
17 exemptions and deductions for taxpayers electing
18 optional flat tax rate; and providing an effective
19 date.

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

26 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2355, as
27 last amended by Section 3, Chapter 42, 2nd Extraordinary Session,
28 O.S.L. 2006 (68 O.S. Supp. 2006, Section 2355), is amended to read
29 as follows:

30 Section 2355. A. Individuals. For all taxable years beginning
31 after December 31, 1998 and before January 1, 2006, a tax is hereby
32 imposed upon the Oklahoma taxable income of every resident or
33

1 nonresident individual, which tax shall be computed at the option of
2 the taxpayer under one of the two following methods:

3 1. METHOD 1.

4 a. Single individuals and married individuals filing
5 separately not deducting federal income tax:

6 (1) 1/2% tax on first \$1,000.00 or part thereof,

7 (2) 1% tax on next \$1,500.00 or part thereof,

8 (3) 2% tax on next \$1,250.00 or part thereof,

9 (4) 3% tax on next \$1,150.00 or part thereof,

10 (5) 4% tax on next \$1,300.00 or part thereof,

11 (6) 5% tax on next \$1,500.00 or part thereof,

12 (7) 6% tax on next \$2,300.00 or part thereof, and

13 (8) (a) for taxable years beginning after December

14 31, 1998, and before January 1, 2002, 6.75%

15 tax on the remainder,

16 (b) for taxable years beginning on or after

17 January 1, 2002, and before January 1, 2004,

18 7% tax on the remainder, and

19 (c) for taxable years beginning on or after

20 January 1, 2004, 6.65% tax on the remainder.

21 b. Married individuals filing jointly and surviving

22 spouse to the extent and in the manner that a

23 surviving spouse is permitted to file a joint return

24 under the provisions of the Internal Revenue Code and

1 heads of households as defined in the Internal Revenue
2 Code not deducting federal income tax:

3 (1) 1/2% tax on first \$2,000.00 or part thereof,

4 (2) 1% tax on next \$3,000.00 or part thereof,

5 (3) 2% tax on next \$2,500.00 or part thereof,

6 (4) 3% tax on next \$2,300.00 or part thereof,

7 (5) 4% tax on next \$2,400.00 or part thereof,

8 (6) 5% tax on next \$2,800.00 or part thereof,

9 (7) 6% tax on next \$6,000.00 or part thereof, and

10 (8) (a) for taxable years beginning after December

11 31, 1998, and before January 1, 2002, 6.75%

12 tax on the remainder,

13 (b) for taxable years beginning on or after

14 January 1, 2002, and before January 1, 2004,

15 7% tax on the remainder, and

16 (c) for taxable years beginning on or after

17 January 1, 2004, 6.65% tax on the remainder.

18 2. METHOD 2.

19 a. Single individuals and married individuals filing

20 separately deducting federal income tax:

21 (1) 1/2% tax on first \$1,000.00 or part thereof,

22 (2) 1% tax on next \$1,500.00 or part thereof,

23 (3) 2% tax on next \$1,250.00 or part thereof,

24 (4) 3% tax on next \$1,150.00 or part thereof,

- 1 (5) 4% tax on next \$1,200.00 or part thereof,
- 2 (6) 5% tax on next \$1,400.00 or part thereof,
- 3 (7) 6% tax on next \$1,500.00 or part thereof,
- 4 (8) 7% tax on next \$1,500.00 or part thereof,
- 5 (9) 8% tax on next \$2,000.00 or part thereof,
- 6 (10) 9% tax on next \$3,500.00 or part thereof, and
- 7 (11) 10% tax on the remainder.

8 b. Married individuals filing jointly and surviving
9 spouse to the extent and in the manner that a
10 surviving spouse is permitted to file a joint return
11 under the provisions of the Internal Revenue Code and
12 heads of households as defined in the Internal Revenue
13 Code deducting federal income tax:

- 14 (1) 1/2% tax on the first \$2,000.00 or part thereof,
- 15 (2) 1% tax on the next \$3,000.00 or part thereof,
- 16 (3) 2% tax on the next \$2,500.00 or part thereof,
- 17 (4) 3% tax on the next \$1,400.00 or part thereof,
- 18 (5) 4% tax on the next \$1,500.00 or part thereof,
- 19 (6) 5% tax on the next \$1,600.00 or part thereof,
- 20 (7) 6% tax on the next \$1,250.00 or part thereof,
- 21 (8) 7% tax on the next \$1,750.00 or part thereof,
- 22 (9) 8% tax on the next \$3,000.00 or part thereof,
- 23 (10) 9% tax on the next \$6,000.00 or part thereof, and
- 24 (11) 10% tax on the remainder.

1 B. Individuals. For all taxable years beginning on or after
2 January 1, 2006, a tax is hereby imposed upon the Oklahoma taxable
3 income of every resident or nonresident individual, which tax shall
4 be computed as follows:

5 1. Single individuals and married individuals filing
6 separately:

7 (a) 1/2% tax on first \$1,000.00 or part thereof,

8 (b) 1% tax on next \$1,500.00 or part thereof,

9 (c) 2% tax on next \$1,250.00 or part thereof,

10 (d) 3% tax on next \$1,150.00 or part thereof,

11 (e) 4% tax on next \$2,300.00 or part thereof,

12 (f) 5% tax on next \$1,500.00 or part thereof,

13 (g) 6.25% tax on the remainder for the 2006 tax year,

14 (h) 5.65% tax on the remainder for the 2007 tax year,

15 (i) 5.55% tax on the remainder for the 2008 tax year,

16 (j) 5.50% tax on the remainder for the 2009 tax year ~~and~~

17 any subsequent tax year unless the rate prescribed by

18 subparagraph (k) of this paragraph is in effect, and

19 (k) 5.25% tax on the remainder for the 2010 and subsequent

20 tax years. The decrease in the top marginal

21 individual income tax rate otherwise authorized by

22 this subparagraph shall be contingent upon the

23 determination required to be made by the State Board

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1 of Equalization pursuant to Section ~~3~~ 2355.1A of this
2 ~~act~~ title.

3 2. Married individuals filing jointly and surviving spouse to
4 the extent and in the manner that a surviving spouse is permitted to
5 file a joint return under the provisions of the Internal Revenue
6 Code and heads of households as defined in the Internal Revenue
7 Code:

- 8 (a) 1/2% tax on first \$2,000.00 or part thereof,
- 9 (b) 1% tax on next \$3,000.00 or part thereof,
- 10 (c) 2% tax on next \$2,500.00 or part thereof,
- 11 (d) 3% tax on next \$2,300.00 or part thereof,
- 12 (e) 4% tax on next \$2,400.00 or part thereof,
- 13 (f) 5% tax on next \$2,800.00 or part thereof,
- 14 (g) 6.25% tax on the remainder for the 2006 tax year,
- 15 (h) 5.65% tax on the remainder for the 2007 tax year,
- 16 (i) 5.55% tax on the remainder for the 2008 tax year,
- 17 (j) 5.50% tax on the remainder for the 2009 tax year and
18 any subsequent tax year unless the rate prescribed by
19 subparagraph (k) of this paragraph is in effect, and
- 20 (k) 5.25% tax on the remainder for the 2010 and subsequent
21 tax years. The decrease in the top marginal
22 individual income tax rate otherwise authorized by
23 this subparagraph shall be contingent upon the
24 determination required to be made by the State Board

1 of Equalization pursuant to Section ~~3~~ 2355.1A of this
2 ~~act~~ title.

3 No deduction for federal income taxes paid shall be allowed to
4 any taxpayer to arrive at taxable income.

5 C. For taxable years beginning on or after January 1, 2009,
6 Oklahoma residents and nonresidents may elect:

7 1. To have income tax computed at three percent (3%) of taxable
8 income and be ineligible for any deduction or exemption authorized
9 or required pursuant to Section 2358 of this title; or

10 2. Have income tax computed as provided by subsection B of this
11 section with full eligibility for any deduction or exemption
12 authorized or required pursuant to Section 2358 of this title.

13 D. Nonresident aliens. In lieu of the rates set forth in
14 subsection A above, there shall be imposed on nonresident aliens, as
15 defined in the Internal Revenue Code, a tax of eight percent (8%)
16 instead of thirty percent (30%) as used in the Internal Revenue
17 Code, with respect to the Oklahoma taxable income of such
18 nonresident aliens as determined under the provision of the Oklahoma
19 Income Tax Act.

20 Every payer of amounts covered by this subsection shall deduct
21 and withhold from such amounts paid each payee an amount equal to
22 eight percent (8%) thereof. Every payer required to deduct and
23 withhold taxes under this subsection shall for each quarterly period
24 on or before the last day of the month following the close of each

1 such quarterly period, pay over the amount so withheld as taxes to
2 the Tax Commission, and shall file a return with each such payment.
3 Such return shall be in such form as the Tax Commission shall
4 prescribe. Every payer required under this subsection to deduct and
5 withhold a tax from a payee shall, as to the total amounts paid to
6 each payee during the calendar year, furnish to such payee, on or
7 before January 31, of the succeeding year, a written statement
8 showing the name of the payer, the name of the payee and the payee's
9 social security account number, if any, the total amount paid
10 subject to taxation, and the total amount deducted and withheld as
11 tax and such other information as the Tax Commission may require.
12 Any payer who fails to withhold or pay to the Tax Commission any
13 sums herein required to be withheld or paid shall be personally and
14 individually liable therefor to the State of Oklahoma.

15 ~~D.~~ E. Corporations. For all taxable years beginning after
16 December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable
17 income of every corporation doing business within this state or
18 deriving income from sources within this state in an amount equal to
19 six percent (6%) thereof.

20 There shall be no additional Oklahoma income tax imposed on
21 accumulated taxable income or on undistributed personal holding
22 company income as those terms are defined in the Internal Revenue
23 Code.

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1 ~~E.~~ F. Certain foreign corporations. In lieu of the tax imposed
2 in the first paragraph of subsection E D of this section, for all
3 taxable years beginning after December 31, 1989, there shall be
4 imposed on foreign corporations, as defined in the Internal Revenue
5 Code, a tax of six percent (6%) instead of thirty percent (30%) as
6 used in the Internal Revenue Code, where such income is received
7 from sources within Oklahoma, in accordance with the provisions of
8 the Internal Revenue Code and the Oklahoma Income Tax Act.

9 Every payer of amounts covered by this subsection shall deduct
10 and withhold from such amounts paid each payee an amount equal to
11 six percent (6%) thereof. Every payer required to deduct and
12 withhold taxes under this subsection shall for each quarterly period
13 on or before the last day of the month following the close of each
14 such quarterly period, pay over the amount so withheld as taxes to
15 the Tax Commission, and shall file a return with each such payment.
16 Such return shall be in such form as the Tax Commission shall
17 prescribe. Every payer required under this subsection to deduct and
18 withhold a tax from a payee shall, as to the total amounts paid to
19 each payee during the calendar year, furnish to such payee, on or
20 before January 31, of the succeeding year, a written statement
21 showing the name of the payer, the name of the payee and the payee's
22 social security account number, if any, the total amounts paid
23 subject to taxation, the total amount deducted and withheld as tax
24 and such other information as the Tax Commission may require. Any

1 payer who fails to withhold or pay to the Tax Commission any sums
2 herein required to be withheld or paid shall be personally and
3 individually liable therefor to the State of Oklahoma.

4 ~~F.~~ G. Fiduciaries. A tax is hereby imposed upon the Oklahoma
5 taxable income of every trust and estate at the same rates as are
6 provided in subsection B of this section for single individuals.
7 Fiduciaries are not allowed a deduction for any federal income tax
8 paid.

9 ~~G.~~ H. Tax rate tables. For all taxable years beginning after
10 December 31, 1991, in lieu of the tax imposed by subsection A or B
11 of this section, as applicable there is hereby imposed for each
12 taxable year on the taxable income of every individual, whose
13 taxable income for such taxable year does not exceed the ceiling
14 amount, a tax determined under tables, applicable to such taxable
15 year which shall be prescribed by the Tax Commission and which shall
16 be in such form as it determines appropriate. In the table so
17 prescribed, the amounts of the tax shall be computed on the basis of
18 the rates prescribed by subsections A and B of this section. For
19 purposes of this subsection, the term "ceiling amount" means, with
20 respect to any taxpayer, the amount determined by the Tax Commission
21 for the tax rate category in which such taxpayer falls.

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

3 Section 2358. For all tax years beginning after December 31,
4 1981, taxable income and adjusted gross income shall be adjusted to
5 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
6 as required by this section.

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

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

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

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

21 a. For carryovers and carrybacks to taxable years
22 beginning before January 1, 1981, the amount of any
23 net operating loss deduction allowed to a taxpayer for
24 federal income tax purposes shall be reduced to an

1 amount which is the same portion thereof as the loss
2 from sources within this state, as determined pursuant
3 to this section and Section 2362 of this title, for
4 the taxable year in which such loss is sustained is of
5 the total loss for such year;

6 b. For carryovers and carrybacks to taxable years
7 beginning after December 31, 1980, the amount of any
8 net operating loss deduction allowed for the taxable
9 year shall be an amount equal to the aggregate of the
10 Oklahoma net operating loss carryovers and carrybacks
11 to such year. Oklahoma net operating losses shall be
12 separately determined by reference to Section 172 of
13 the Internal Revenue Code, 26 U.S.C., Section 172, as
14 modified by the Oklahoma Income Tax Act, Section 2351
15 et seq. of this title, and shall be allowed without
16 regard to the existence of a federal net operating
17 loss. For tax years beginning after December 31,
18 2000, the years to which such losses may be carried
19 shall be determined solely by reference to Section 172
20 of the Internal Revenue Code, 26 U.S.C., Section 172,
21 with the exception that the terms "net operating loss"
22 and "taxable income" shall be replaced with "Oklahoma
23 net operating loss" and "Oklahoma taxable income".
24

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

6 a. Income from real and tangible personal property, such
7 as rents, oil and mining production or royalties, and
8 gains or losses from sales of such property, shall be
9 allocated in accordance with the situs of such
10 property;

11 b. Income from intangible personal property, such as
12 interest, dividends, patent or copyright royalties,
13 and gains or losses from sales of such property, shall
14 be allocated in accordance with the domiciliary situs
15 of the taxpayer, except that:

16 (1) where such property has acquired a nonunitary
17 business or commercial situs apart from the
18 domicile of the taxpayer such income shall be
19 allocated in accordance with such business or
20 commercial situs; interest income from
21 investments held to generate working capital for
22 a unitary business enterprise shall be included
23 in apportionable income; a resident trust or
24 resident estate shall be treated as having a

1 separate commercial or business situs insofar as
2 undistributed income is concerned, but shall not
3 be treated as having a separate commercial or
4 business situs insofar as distributed income is
5 concerned,

6 (2) for taxable years beginning after December 31,
7 2003, capital or ordinary gains or losses from
8 the sale of an ownership interest in a publicly
9 traded partnership, as defined by Section 7704(b)
10 of the Internal Revenue Code of 1986, as amended,
11 shall be allocated to this state in the ratio of
12 the original cost of such partnership's tangible
13 property in this state to the original cost of
14 such partnership's tangible property everywhere,
15 as determined at the time of the sale; if more
16 than fifty percent (50%) of the value of the
17 partnership's assets consists of intangible
18 assets, capital or ordinary gains or losses from
19 the sale of an ownership interest in the
20 partnership shall be allocated to this state in
21 accordance with the sales factor of the
22 partnership for its first full tax period
23 immediately preceding its tax period during which
24 the ownership interest in the partnership was

1 sold; the provisions of this division shall only
2 apply if the capital or ordinary gains or losses
3 from the sale of an ownership interest in a
4 partnership do not constitute qualifying gain
5 receiving capital treatment as defined in
6 subparagraph a of paragraph 2 of subsection F of
7 this section,

8 (3) income from such property which is required to be
9 allocated pursuant to the provisions of paragraph
10 5 of this subsection shall be allocated as herein
11 provided;

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

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

20 (1) sales having a situs without this state, shipped
21 directly to a point from without the state to a
22 purchaser within the state, commonly known as
23 interstate sales,
24

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

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

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

22 e. In the case of insurance companies, Oklahoma taxable
23 income shall be taxable income of the taxpayer for
24 federal tax purposes, as adjusted for the adjustments

1 provided pursuant to the provisions of paragraphs 1
2 and 2 of this subsection, apportioned as follows:

3 (1) except as otherwise provided by division (2) of
4 this subparagraph, taxable income of an insurance
5 company for a taxable year shall be apportioned
6 to this state by multiplying such income by a
7 fraction, the numerator of which is the direct
8 premiums written for insurance on property or
9 risks in this state, and the denominator of which
10 is the direct premiums written for insurance on
11 property or risks everywhere. For purposes of
12 this subsection, the term "direct premiums
13 written" means the total amount of direct
14 premiums written, assessments and annuity
15 considerations as reported for the taxable year
16 on the annual statement filed by the company with
17 the Insurance Commissioner in the form approved
18 by the National Association of Insurance
19 Commissioners, or such other form as may be
20 prescribed in lieu thereof,

21 (2) if the principal source of premiums written by an
22 insurance company consists of premiums for
23 reinsurance accepted by it, the taxable income of
24 such company shall be apportioned to this state

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

1 premiums written by each such ceding company for
2 the taxable year.

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

1 apporportioned with property and payroll, each comprising twenty-five
2 percent (25%) of the apporportionment factor and sales comprising fifty
3 percent (50%) of the apporportionment factor. The apporportionment
4 factors shall be computed as follows:

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

12 (1) Property, the income from which is separately
13 allocated in paragraph 4 of this subsection,
14 shall not be included in determining this
15 fraction. The numerator of the fraction shall
16 include a portion of the investment in
17 transportation and other equipment having no
18 fixed situs, such as rolling stock, buses, trucks
19 and trailers, including machinery and equipment
20 carried thereon, airplanes, salespersons'
21 automobiles and other similar equipment, in the
22 proportion that miles traveled in Oklahoma by
23 such equipment bears to total miles traveled,
24

1 (2) Property owned by the taxpayer is valued at its
2 original cost. Property rented by the taxpayer
3 is valued at eight times the net annual rental
4 rate. Net annual rental rate is the annual
5 rental rate paid by the taxpayer, less any annual
6 rental rate received by the taxpayer from
7 subrentals,

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

15 b. The payroll factor is a fraction, the numerator of
16 which is the total compensation for services rendered
17 in the state during the tax period, and the
18 denominator of which is the total compensation for
19 services rendered everywhere during the tax period.
20 "Compensation", as used in this subsection means those
21 paid-for services to the extent related to the unitary
22 business but does not include officers' salaries,
23 wages and other compensation.
24

1 (1) In the case of a transportation enterprise, the
2 numerator of the fraction shall include a portion
3 of such expenditure in connection with employees
4 operating equipment over a fixed route, such as
5 railroad employees, airline pilots, or bus
6 drivers, in this state only a part of the time,
7 in the proportion that mileage traveled in
8 Oklahoma bears to total mileage traveled by such
9 employees,

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

17 c. The sales factor is a fraction, the numerator of which
18 is the total sales or gross revenue of the taxpayer in
19 this state during the tax period, and the denominator
20 of which is the total sales or gross revenue of the
21 taxpayer everywhere during the tax period. "Sales",
22 as used in this subsection does not include sales or
23 gross revenue which are separately allocated in
24 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
23 Oklahoma bears to total interstate mileage
24 traveled.

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

15 (5) In the case of a telephone or telegraph or other
16 communication enterprise, the numerator of the
17 fraction shall include that portion of the
18 interstate revenue as is allocated pursuant to
19 the accounting procedures prescribed by the
20 Federal Communications Commission; provided that
21 in respect to each corporation or business entity
22 required by the Federal Communications Commission
23 to keep its books and records in accordance with
24 a uniform system of accounts prescribed by such

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

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

1 factors which has the effect of increasing the portion of net income
2 attributable to Oklahoma must not be inherently arbitrary, and
3 application of the recomputed final apportionment to the net income
4 of the enterprise must attribute to Oklahoma only a reasonable
5 portion thereof.

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

1 the percentage for subsequent years. Any amount of the exemption
2 permitted to be excluded pursuant to the provisions of this
3 paragraph but not used in any year may be carried forward as an
4 exemption from income pursuant to the provisions of this paragraph
5 for a period not exceeding six (6) years following the year in which
6 the investment was originally made.

7 For purposes of this paragraph:

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

1 (2) transporting the agricultural commodities or
2 product before, during or after the processing,
3 or

4 (3) packaging or otherwise preparing the product for
5 sale or shipment.

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

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

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

18 8. In taxable years beginning after December 31, 1995, all
19 qualified wages equal to the federal income tax credit set forth in
20 26 U.S.C.A., Section 45A, shall be deducted from taxable income.
21 The deduction allowed pursuant to this paragraph shall only be
22 permitted for the tax years in which the federal tax credit pursuant
23 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
24

1 paragraph, "qualified wages" means those wages used to calculate the
2 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

9 B. The taxable income of any corporation shall be further
10 adjusted to arrive at Oklahoma taxable income, except those
11 corporations electing treatment as provided in subchapter S of the
12 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
13 2365 of this title, deductions pursuant to the provisions of the
14 Accelerated Cost Recovery System as defined and allowed in the
15 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
16 Section 168, for depreciation of assets placed into service after
17 December 31, 1981, shall not be allowed in calculating Oklahoma
18 taxable income. Such corporations shall be allowed a deduction for
19 depreciation of assets placed into service after December 31, 1981,
20 in accordance with provisions of the Internal Revenue Code, 26
21 U.S.C., Section 1 et seq., in effect immediately prior to the
22 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
23 basis for all such assets placed into service after December 31,
24 1981, calculated in this section shall be retained and utilized for

1 all Oklahoma income tax purposes through the final disposition of
2 such assets.

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

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

16 C. 1. For taxable years beginning after December 31, 1987, the
17 taxable income of any corporation shall be further adjusted to
18 arrive at Oklahoma taxable income for transfers of technology to
19 qualified small businesses located in Oklahoma. Such transferor
20 corporation shall be allowed an exemption from taxable income of an
21 amount equal to the amount of royalty payment received as a result
22 of such transfer; provided, however, such amount shall not exceed
23 ten percent (10%) of the amount of gross proceeds received by such
24 transferor corporation as a result of the technology transfer. Such

1 exemption shall be allowed for a period not to exceed ten (10) years
2 from the date of receipt of the first royalty payment accruing from
3 such transfer. No exemption may be claimed for transfers of
4 technology to qualified small businesses made prior to January 1,
5 1988.

6 2. For purposes of this subsection:

7 a. "Qualified small business" means an entity, whether
8 organized as a corporation, partnership, or
9 proprietorship, organized for profit with its
10 principal place of business located within this state
11 and which meets the following criteria:

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

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

17 (3) Not a subsidiary or affiliate of the transferor
18 corporation;

19 b. "Technology" means a proprietary process, formula,
20 pattern, device or compilation of scientific or
21 technical information which is not in the public
22 domain;

23

24

1 c. "Transferor corporation" means a corporation which is
2 the exclusive and undisputed owner of the technology
3 at the time the transfer is made; and

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

7 D. 1. For taxable years beginning after December 31, 2005, the
8 taxable income of any corporation, estate or trust, shall be further
9 adjusted for qualifying gains receiving capital treatment. Such
10 corporations, estates or trusts shall be allowed a deduction from
11 Oklahoma taxable income for the amount of qualifying gains receiving
12 capital treatment earned by the corporation, estate or trust during
13 the taxable year and included in the federal taxable income of such
14 corporation, estate or trust.

15 2. As used in this subsection:

16 a. "qualifying gains receiving capital treatment" means
17 the amount of net capital gains, as defined in Section
18 1222(11) of the Internal Revenue Code, included in the
19 federal income tax return of the corporation, estate
20 or trust that was:

21 (1) earned by the corporation, estate or trust on
22 real or tangible personal property located within
23 Oklahoma that has been directly or indirectly
24 owned by the corporation, estate or trust for a

1 holding period of at least five (5) years prior
2 to the date of the transaction from which such
3 net capital gains arise, or

4 (2) earned on the sale of stock or on the sale of an
5 ownership interest in an Oklahoma company,
6 limited liability company, or partnership where
7 such stock or ownership interest has been
8 directly or indirectly owned by the corporation,
9 estate or trust for a holding period of at least
10 three (3) years prior to the date of the
11 transaction from which the net capital gains
12 arise,

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

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

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

1 member, partner or shareholder of the pass-
2 through entity in the tier immediately below it
3 for an uninterrupted period of not less than
4 three (3) years.

5 E. The Oklahoma adjusted gross income of any individual
6 taxpayer, except those taxpayers electing the three-percent flat tax
7 rate option available pursuant to subsection C of Section 2355 of
8 this title, shall be further adjusted as follows to arrive at
9 Oklahoma 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 taxable years beginning on or after January 1,
18 2007, in the case of individuals who use the standard
19 deduction in determining taxable income, there shall
20 be added or deducted, as the case may be, the
21 difference necessary to allow a standard deduction in
22 lieu of the standard deduction allowed by the Internal
23 Revenue Code, in an amount equal to:

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

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

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

19 4. A resident individual with a physical disability
20 constituting a substantial handicap to employment may deduct from
21 Oklahoma adjusted gross income such expenditures to modify a motor
22 vehicle, home or workplace as are necessary to compensate for his or
23 her handicap. A veteran certified by the Veterans Administration of
24 the federal government as having a service-connected disability

1 shall be conclusively presumed to be an individual with a physical
2 disability constituting a substantial handicap to employment. The
3 Tax Commission shall promulgate rules containing a list of
4 combinations of common disabilities and modifications which may be
5 presumed to qualify for this deduction. The Tax Commission shall
6 prescribe necessary requirements for verification.

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

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

1 (1) Such individual shall return to the United States
2 if the extension is granted pursuant to
3 subparagraph a of this paragraph, return to the
4 State of Oklahoma if the extension is granted
5 pursuant to subparagraph b of this paragraph or
6 be discharged from such hospital if the extension
7 is granted pursuant to subparagraph c of this
8 paragraph; or

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

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

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

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

- 19 8. a. An individual taxpayer, whether resident or
20 nonresident, may deduct an amount equal to the federal
21 income taxes paid by the taxpayer during the taxable
22 year.
- 23 b. Federal taxes as described in subparagraph a of this
24 paragraph shall be deductible by any individual

1 taxpayer, whether resident or nonresident, only to the
2 extent they relate to income subject to taxation
3 pursuant to the provisions of the Oklahoma Income Tax
4 Act. The maximum amount allowable in the preceding
5 paragraph shall be prorated on the ratio of the
6 Oklahoma adjusted gross income to federal adjusted
7 gross income.

8 c. For the purpose of this paragraph, "federal income
9 taxes paid" shall mean federal income taxes, surtaxes
10 imposed on incomes or excess profits taxes, as though
11 the taxpayer was on the accrual basis. In determining
12 the amount of deduction for federal income taxes for
13 tax year 2001, the amount of the deduction shall not
14 be adjusted by the amount of any accelerated ten
15 percent (10%) tax rate bracket credit or advanced
16 refund of the credit received during the tax year
17 provided pursuant to the federal Economic Growth and
18 Tax Relief Reconciliation Act of 2001, P.L. No. 107-
19 16, and the advanced refund of such credit shall not
20 be subject to taxation.

21 d. The provisions of this paragraph shall apply to all
22 taxable years ending after December 31, 1978, and
23 beginning before January 1, 2006.
24

1 9. Retirement benefits not to exceed Five Thousand Five Hundred
2 Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five
3 Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand
4 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax
5 years, which are received by an individual from the civil service of
6 the United States, the Oklahoma Public Employees Retirement System,
7 the Teachers' Retirement System of Oklahoma, the Oklahoma Law
8 Enforcement Retirement System, the Oklahoma Firefighters Pension and
9 Retirement System, the Oklahoma Police Pension and Retirement
10 System, the employee retirement systems created by counties pursuant
11 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the
12 Uniform Retirement System for Justices and Judges, the Oklahoma
13 Wildlife Conservation Department Retirement Fund, the Oklahoma
14 Employment Security Commission Retirement Plan, or the employee
15 retirement systems created by municipalities pursuant to Section 48-
16 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
17 from taxable income.

18 10. In taxable years beginning after December 31, 1984, Social
19 Security benefits received by an individual shall be exempt from
20 taxable income, to the extent such benefits are included in the
21 federal adjusted gross income pursuant to the provisions of Section
22 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

23 11. For taxable years beginning after December 31, 1994, lump-
24 sum distributions from employer plans of deferred compensation,

1 which are not qualified plans within the meaning of Section 401(a)
2 of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which
3 are deposited in and accounted for within a separate bank account or
4 brokerage account in a financial institution within this state,
5 shall be excluded from taxable income in the same manner as a
6 qualifying rollover contribution to an individual retirement account
7 within the meaning of Section 408 of the Internal Revenue Code, 26
8 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage
9 account, including any earnings thereon, shall be included in
10 taxable income when withdrawn in the same manner as withdrawals from
11 individual retirement accounts within the meaning of Section 408 of
12 the Internal Revenue Code.

13 12. In taxable years beginning after December 31, 1995,
14 contributions made to and interest received from a medical savings
15 account established pursuant to Sections 2621 through 2623 of Title
16 63 of the Oklahoma Statutes shall be exempt from taxable income.

17 13. For taxable years beginning after December 31, 1996, the
18 Oklahoma adjusted gross income of any individual taxpayer who is a
19 swine or poultry producer may be further adjusted for the deduction
20 for depreciation allowed for new construction or expansion costs
21 which may be computed using the same depreciation method elected for
22 federal income tax purposes except that the useful life shall be
23 seven (7) years for purposes of this paragraph. If depreciation is
24 allowed as a deduction in determining the adjusted gross income of

1 an individual, any depreciation calculated and claimed pursuant to
2 this section shall in no event be a duplication of any depreciation
3 allowed or permitted on the federal income tax return of the
4 individual.

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

- 8 (1) the adoption of a minor, or
9 (2) a proposed adoption of a minor which did not
10 result in a decreed adoption,
11 may be deducted from the Oklahoma adjusted gross
12 income.

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

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

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

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

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

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:
23
24

- 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
24 Hundred Dollars (\$7,500.00) for the 2005 tax year and

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

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

20 17. In taxable years beginning December 31, 2000, an amount
21 equal to one hundred percent (100%) of the amount of any scholarship
22 or stipend received from participation in the Oklahoma Police Corps
23 Program, as established in Section 2-140.3 of Title 47 of the
24 Oklahoma Statutes shall be 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 each taxpayer shall be allowed a deduction for
12 contributions to accounts established pursuant to the
13 Oklahoma College Savings Plan Act. The maximum annual
14 deduction shall equal the amount of contributions to
15 all such accounts plus any contributions to such
16 accounts by the taxpayer for prior taxable years after
17 December 31, 2004, which were not deducted, but in no
18 event shall the deduction for each tax year exceed Ten
19 Thousand Dollars (\$10,000.00) for each individual
20 taxpayer or Twenty Thousand Dollars (\$20,000.00) for
21 taxpayers filing a joint return. Any amount of a
22 contribution that is not deducted by the taxpayer in
23 the year for which the contribution is made may be
24

1 carried forward as a deduction from income for the
2 succeeding five (5) years.

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

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

- 17 a. in the taxable year beginning January 1, 2007, twenty
18 percent (20%) of such benefits shall be exempt,
- 19 b. in the taxable year beginning January 1, 2008, forty
20 percent (40%) of such benefits shall be exempt,
- 21 c. in the taxable year beginning January 1, 2009, sixty
22 percent (60%) of such benefits shall be exempt,
- 23 d. in the taxable year beginning January 1, 2010, eighty
24 percent (80%) of such benefits shall be exempt, and

1 e. in the taxable year beginning January 1, 2011, and
2 subsequent taxable years, one hundred percent (100%)
3 of such benefits shall be exempt.

4 F. 1. For taxable years beginning after December 31, 2004, a
5 deduction from the Oklahoma adjusted gross income of any individual
6 taxpayer, except those taxpayers electing the three-percent flat tax
7 rate option available pursuant to subsection C of Section 2355 of
8 this title, shall be allowed for qualifying gains receiving capital
9 treatment that are included in the federal adjusted gross income of
10 such individual taxpayer during the taxable year.

11 2. As used in this subsection:

12 a. "qualifying gains receiving capital treatment" means
13 the amount of net capital gains, as defined in Section
14 1222(11) of the Internal Revenue Code, included in an
15 individual taxpayer's federal income tax return that
16 result from:

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

1 company, limited liability company, or
2 partnership where such stock or ownership
3 interest has been directly or indirectly owned by
4 the individual taxpayer for a holding period of
5 at least three (3) years prior to the date of the
6 transaction from which the net capital gains
7 arise,

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

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

16 d. "direct" means the individual taxpayer directly owns
17 the asset, and

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

22 (1) With respect to sales of real or personal
23 property located within Oklahoma, the deduction
24 described in this subsection shall not apply

1 unless the pass-through entity that makes the
2 sale has held the property for not less than five
3 (5) uninterrupted years prior to the date of the
4 transaction that created the capital gain, and
5 each pass-through entity included in the chain of
6 ownership has been a member, partner, or
7 shareholder of the pass-through entity in the
8 tier immediately below it for an uninterrupted
9 period of not less than five (5) years.

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

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SECTION 3. This act shall become effective January 1, 2009.

51-1-6873 CJB 01/17/07