

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR  
5 HOUSE BILL NO. 1869

By: Hickman

6  
7 SUBCOMMITTEE RECOMMENDATION

8 ( Revenue and taxation - Oklahoma taxable income and adjusted gross income -  
9 acquisition of certain residential structure - deduction for certain rural  
10 physicians – codification -  
11 effective date )

12  
13  
14  
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2358, as last amended by Section 3,  
17 Chapter 395, O.S.L. 2008 (68 O.S. Supp. 2008, Section 2358), is amended to read as follows:

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

21 A. The taxable income of any taxpayer shall be adjusted to arrive at Oklahoma taxable income  
22 for corporations and Oklahoma adjusted gross income for individuals, as follows:  
23  
24

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

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

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

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

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

1 exception that the terms "net operating loss" and "taxable income" shall be  
2 replaced with "Oklahoma net operating loss" and "Oklahoma taxable income".

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

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

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

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

21 (2) for taxable years beginning after December 31, 2003, capital or ordinary  
22 gains or losses from the sale of an ownership interest in a publicly traded  
23 partnership, as defined by Section 7704(b) of the Internal Revenue Code  
24

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

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

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

20 d. In the case of a manufacturing or processing enterprise the business of which in  
21 Oklahoma consists solely of marketing its products by:  
22  
23  
24

- 1 (1) sales having a situs without this state, shipped directly to a point from  
2 without the state to a purchaser within the state, commonly known as  
3 interstate sales,  
4 (2) sales of the product stored in public warehouses within the state pursuant  
5 to "in transit" tariffs, as prescribed and allowed by the Interstate  
6 Commerce Commission, to a purchaser within the state,  
7 (3) sales of the product stored in public warehouses within the state where the  
8 shipment to such warehouses is not covered by "in transit" tariffs, as  
9 prescribed and allowed by the Interstate Commerce Commission, to a  
10 purchaser within or without the state,

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

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

- 22 (1) except as otherwise provided by division (2) of this subparagraph, taxable  
23 income of an insurance company for a taxable year shall be apportioned to  
24

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

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

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

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

1 twenty-five percent (25%) of the apportionment factor and sales comprising fifty percent (50%) of the  
2 apportionment factor. The apportionment factors shall be computed as follows:

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

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

16 (2) Property owned by the taxpayer is valued at its original cost. Property  
17 rented by the taxpayer is valued at eight times the net annual rental rate.  
18 Net annual rental rate is the annual rental rate paid by the taxpayer, less  
19 any annual rental rate received by the taxpayer from subrentals,

20 (3) The average value of property shall be determined by averaging the values  
21 at the beginning and ending of the tax period but the Oklahoma Tax  
22 Commission may require the averaging of monthly values during the tax  
23  
24

1 period if reasonably required to reflect properly the average value of the  
2 taxpayer's property;

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

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

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

20 c. The sales factor is a fraction, the numerator of which is the total sales or gross  
21 revenue of the taxpayer in this state during the tax period, and the denominator of  
22 which is the total sales or gross revenue of the taxpayer everywhere during the tax  
23  
24

1 period. "Sales", as used in this subsection does not include sales or gross revenue  
2 which are separately allocated in paragraph 4 of this subsection.

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

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

13 (3) In the case of an airline, truck or bus enterprise or freight car, tank car,  
14 refrigerator car or other railroad equipment enterprise, the numerator of  
15 the fraction shall include a portion of revenue from interstate  
16 transportation in the proportion that interstate mileage traveled in  
17 Oklahoma bears to total interstate mileage traveled.

18 (4) In the case of an oil, gasoline or gas pipeline enterprise, the numerator of  
19 the fraction shall be either the total of traffic units of the enterprise within  
20 Oklahoma or the revenue allocated to Oklahoma based upon miles moved,  
21 at the option of the taxpayer, and the denominator of which shall be the  
22 total of traffic units of the enterprise or the revenue of the enterprise  
23 everywhere as appropriate to the numerator. A "traffic unit" is hereby  
24

1 defined as the transportation for a distance of one (1) mile of one (1) barrel  
2 of oil, one (1) gallon of gasoline or one thousand (1,000) cubic feet of  
3 natural or casinghead gas, as the case may be.

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

17 In any case where the apportionment of the three factors prescribed in this paragraph attributes to  
18 Oklahoma a portion of net income of the enterprise out of all appropriate proportion to the property  
19 owned and/or business transacted within this state, because of the fact that one or more of the factors  
20 so prescribed are not employed to any appreciable extent in furtherance of the enterprise; or because  
21 one or more factors not so prescribed are employed to a considerable extent in furtherance of the  
22 enterprise; or because of other reasons, the Tax Commission is empowered to permit, after a showing  
23 by taxpayer that an excessive portion of net income has been attributed to Oklahoma, or require, when  
24

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

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

1 For purposes of this paragraph:

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

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

- 20 a. Sixty Thousand Dollars (\$60,000.00), or  
21 b. the loss properly shown on Schedule F of the Internal Revenue Service Form  
22 1040 reduced by one-half (1/2) of the income from all other sources other than  
23 reflected on Schedule F.  
24

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

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

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

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

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

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

19 2. For purposes of this subsection:

- 20 a. "Qualified small business" means an entity, whether organized as a corporation,  
21 partnership, or proprietorship, organized for profit with its principal place of  
22 business located within this state and which meets the following criteria:  
23  
24

- 1 (1) Capitalization of not more than Two Hundred Fifty Thousand Dollars  
2 (\$250,000.00),  
3 (2) Having at least fifty percent (50%) of its employees and assets located in  
4 Oklahoma at the time of the transfer, and  
5 (3) Not a subsidiary or affiliate of the transferor corporation;
- 6 b. "Technology" means a proprietary process, formula, pattern, device or  
7 compilation of scientific or technical information which is not in the public  
8 domain;  
9 c. "Transferor corporation" means a corporation which is the exclusive and  
10 undisputed owner of the technology at the time the transfer is made; and  
11 d. "Gross proceeds" means the total amount of consideration for the transfer of  
12 technology, whether the consideration is in money or otherwise.

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

18 2. As used in this subsection:

- 19 a. "qualifying gains receiving capital treatment" means the amount of net capital  
20 gains, as defined in Section 1222(11) of the Internal Revenue Code, included in  
21 the federal income tax return of the corporation, estate or trust that result from:  
22 (1) the sale of real property or tangible personal property located within  
23 Oklahoma that has been directly or indirectly owned by the corporation,  
24

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

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

9 (3) the sale of real property, tangible personal property or intangible personal  
10 property located within Oklahoma as part of the sale of all or substantially  
11 all of the assets of an Oklahoma company, limited liability company, or  
12 partnership where such property has been directly or indirectly owned by  
13 such entity owned by the owners of such entity, and used in or derived  
14 from such entity for a period of at least three (3) years prior to the date of  
15 the transaction from which the net capital gains arise,

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

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

- 1 d. “direct” means the taxpayer directly owns the asset, and  
2 e. “indirect” means the taxpayer owns an interest in a pass-through entity (or chain  
3 of pass-through entities) that sells the asset that gives rise to the qualifying gains  
4 receiving capital treatment.

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

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

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

3 1. a. In the case of individuals, there shall be added or deducted, as the case may be,  
4 the difference necessary to allow personal exemptions of One Thousand Dollars  
5 (\$1,000.00) in lieu of the personal exemptions allowed by the Internal Revenue  
6 Code.

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

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

- 19 (1) Twenty-five Thousand Dollars (\$25,000.00) if married and filing jointly;  
20 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00) if married and filing  
21 separately;  
22 (3) Fifteen Thousand Dollars (\$15,000.00) if single; and  
23  
24

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

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

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

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

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

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

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

12 c. For the taxable year beginning on January 1, 2007, and ending December 31,  
13 2007, in the case of individuals who use the standard deduction in determining  
14 taxable income, there shall be added or deducted, as the case may be, the  
15 difference necessary to allow a standard deduction in lieu of the standard  
16 deduction allowed by the Internal Revenue Code, in an amount equal to:

- 17 (1) Five Thousand Five Hundred Dollars (\$5,500.00), if the filing status is  
18 married filing joint or qualifying widow; or  
19 (2) Four Thousand One Hundred Twenty-five Dollars (\$4,125.00) for a head  
20 of household; or  
21 (3) Two Thousand Seven Hundred Fifty Dollars (\$2,750.00), if the filing  
22 status is single or married filing separate.  
23  
24

- 1           d.     For the taxable year beginning on January 1, 2008, and ending December 31,  
2                     2008, in the case of individuals who use the standard deduction in determining  
3                     taxable income, there shall be added or deducted, as the case may be, the  
4                     difference necessary to allow a standard deduction in lieu of the standard  
5                     deduction allowed by the Internal Revenue Code, in an amount equal to:
- 6                     (1)     Six Thousand Five Hundred Dollars (\$6,500.00), if the filing status is  
7                                 married filing joint or qualifying widow, or
- 8                     (2)     Four Thousand Eight Hundred Seventy-five Dollars (\$4,875.00) for a head  
9                                 of household, or
- 10                    (3)     Three Thousand Two Hundred Fifty Dollars (\$3,250.00), if the filing  
11                                 status is single or married filing separate.
- 12           e.     For the taxable year beginning on January 1, 2009, and ending December 31,  
13                     2009, in the case of individuals who use the standard deduction in determining  
14                     taxable income, there shall be added or deducted, as the case may be, the  
15                     difference necessary to allow a standard deduction in lieu of the standard  
16                     deduction allowed by the Internal Revenue Code, in an amount equal to:
- 17                     (1)     Eight Thousand Five Hundred Dollars (\$8,500.00), if the filing status is  
18                                 married filing joint or qualifying widow, or
- 19                     (2)     Six Thousand Three Hundred Seventy-five Dollars (\$6,375.00) for a head  
20                                 of household, or
- 21                     (3)     Four Thousand Two Hundred Fifty Dollars (\$4,250.00), if the filing status  
22                                 is single or married filing separate.
- 23
- 24

1 f. For taxable years beginning on or after January 1, 2010, in the case of individuals  
2 who use the standard deduction in determining taxable income, there shall be  
3 added or deducted, as the case may be, the difference necessary to allow a  
4 standard deduction equal to the standard deduction allowed by the Internal  
5 Revenue Code of 1986, as amended, based upon the amount and filing status  
6 prescribed by such Code for purposes of filing federal individual income tax  
7 returns.

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

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

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

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

- 8 a. absence from the United States, which term includes only the states and the  
9 District of Columbia;
- 10 b. absence from the State of Oklahoma while on active duty; or
- 11 c. confinement in a hospital within the United States for treatment of wounds,  
12 injuries or disease,

13 the time for filing a return and paying an income tax shall be and is hereby extended  
14 without incurring liability for interest or penalties, to the fifteenth day of the third month  
15 following the month in which:

- 16 (1) Such individual shall return to the United States if the extension is granted  
17 pursuant to subparagraph a of this paragraph, return to the State of  
18 Oklahoma if the extension is granted pursuant to subparagraph b of this  
19 paragraph or be discharged from such hospital if the extension is granted  
20 pursuant to subparagraph c of this paragraph; or
  - 21 (2) An executor, administrator, or conservator of the estate of the taxpayer is  
22 appointed, whichever event occurs the earliest.
- 23  
24

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

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

11            7. Notwithstanding anything in the Internal Revenue Code or in the Oklahoma Income Tax Act  
12 to the contrary, it is expressly provided that, in the case of resident individuals, amounts received as  
13 dividends or distributions of earnings from savings and loan associations or credit unions located in  
14 Oklahoma, and interest received on savings accounts and time deposits from such sources or from state  
15 and national banks or trust companies located in Oklahoma, shall qualify as dividends for the purpose  
16 of the dividend exclusion, and taxable income shall be adjusted accordingly to arrive at Oklahoma  
17 taxable income; provided, however, that the dividend, distribution of earnings and/or interest exclusion  
18 provided for hereinabove shall not be cumulative to the maximum dividend exclusion allowed by the  
19 Internal Revenue Code. Any dividend exclusion already allowed by the Internal Revenue Code and  
20 reflected in the taxpayer's Oklahoma taxable income together with exclusion allowed herein shall not  
21 exceed the total of One Hundred Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00)  
22 per couple filing a joint return.  
23  
24



1 Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Law Enforcement  
2 Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police  
3 Pension and Retirement System, the employee retirement systems created by counties pursuant to  
4 Section 951 et seq. of Title 19 of the Oklahoma Statutes, the Uniform Retirement System for Justices  
5 and Judges, the Oklahoma Wildlife Conservation Department Retirement Fund, the Oklahoma  
6 Employment Security Commission Retirement Plan, or the employee retirement systems created by  
7 municipalities pursuant to Section 48-101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt  
8 from taxable income.

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

13       11. For taxable years beginning after December 31, 1994, lump-sum distributions from  
14 employer plans of deferred compensation, which are not qualified plans within the meaning of Section  
15 401(a) of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which are deposited in and  
16 accounted for within a separate bank account or brokerage account in a financial institution within this  
17 state, shall be excluded from taxable income in the same manner as a qualifying rollover contribution  
18 to an individual retirement account within the meaning of Section 408 of the Internal Revenue Code,  
19 26 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage account, including any  
20 earnings thereon, shall be included in taxable income when withdrawn in the same manner as  
21 withdrawals from individual retirement accounts within the meaning of Section 408 of the Internal  
22 Revenue Code.

1           12. In taxable years beginning after December 31, 1995, contributions made to and interest  
2 received from a medical savings account established pursuant to Sections 2621 through 2623 of Title  
3 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

- 12           14.    a.       In taxable years beginning after December 31, 2002, nonrecurring adoption  
13                        expenses paid by a resident individual taxpayer in connection with:
- 14                        (1)     the adoption of a minor, or  
15                        (2)     a proposed adoption of a minor which did not result in a decreed adoption,  
16                        may be deducted from the Oklahoma adjusted gross income.
- 17            b.       The deductions for adoptions and proposed adoptions authorized by this  
18                        paragraph shall not exceed Twenty Thousand Dollars (\$20,000.00) per calendar  
19                        year.
- 20            c.       The Tax Commission shall promulgate rules to implement the provisions of this  
21                        paragraph which shall contain a specific list of nonrecurring adoption expenses  
22                        which may be presumed to qualify for the deduction. The Tax Commission shall  
23                        prescribe necessary requirements for verification.  
24

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

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

23 b. For purposes of this paragraph, the qualifying amount shall be as follows:  
24

- (1) in taxable years beginning after December 31, 2004, and prior to January 1, 2007, the qualifying amount shall be Thirty-seven Thousand Five Hundred Dollars (\$37,500.00) or less if the filing status is single, head of household, or married filing separate, or Seventy-Five Thousand Dollars (\$75,000.00) or less if the filing status is married filing jointly or qualifying widow,
- (2) in the taxable year beginning January 1, 2007, the qualifying amount shall be Fifty Thousand Dollars (\$50,000.00) or less if the filing status is single, head of household, or married filing separate, or One Hundred Thousand Dollars (\$100,000.00) or less if the filing status is married filing jointly or qualifying widow,
- (3) in the taxable year beginning January 1, 2008, the qualifying amount shall be Sixty-two Thousand Five Hundred Dollars (\$62,500.00) or less if the filing status is single, head of household, or married filing separate, or One Hundred Twenty-five Thousand Dollars (\$125,000.00) or less if the filing status is married filing jointly or qualifying widow,
- (4) in the taxable year beginning January 1, 2009, the qualifying amount shall be One Hundred Thousand Dollars (\$100,000.00) or less if the filing status is single, head of household, or married filing separate, or Two Hundred Thousand Dollars (\$200,000.00) or less if the filing status is married filing jointly or qualifying widow, and
- (5) in the taxable year beginning January 1, 2010, and subsequent taxable years, there shall be no limitation upon the qualifying amount.

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

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

17 d. The amount of the exemption provided by this paragraph shall be limited to Five  
18 Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven  
19 Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten  
20 Thousand Dollars (\$10,000.00) for the tax year 2006 and for all subsequent tax  
21 years. Any individual who claims the exemption provided for in paragraph 9 of  
22 this subsection shall not be permitted to claim a combined total exemption  
23 pursuant to this paragraph and paragraph 9 of this subsection in an amount  
24

1 exceeding Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year,  
2 Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten  
3 Thousand Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax years.

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

9 17. In taxable years beginning December 31, 2000, an amount equal to one hundred percent  
10 (100%) of the amount of any scholarship or stipend received from participation in the Oklahoma  
11 Police Corps Program, as established in Section 2-140.3 of Title 47 of the Oklahoma Statutes shall be  
12 exempt from taxable income.

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

19 b. In taxable years beginning after December 31, 2004, each taxpayer shall be  
20 allowed a deduction for contributions to accounts established pursuant to the  
21 Oklahoma College Savings Plan Act. The maximum annual deduction shall equal  
22 the amount of contributions to all such accounts plus any contributions to such  
23 accounts by the taxpayer for prior taxable years after December 31, 2004, which  
24

1 were not deducted, but in no event shall the deduction for each tax year exceed  
2 Ten Thousand Dollars (\$10,000.00) for each individual taxpayer or Twenty  
3 Thousand Dollars (\$20,000.00) for taxpayers filing a joint return. Any amount of  
4 a contribution that is not deducted by the taxpayer in the year for which the  
5 contribution is made may be carried forward as a deduction from income for the  
6 succeeding five (5) years. For taxable years beginning after December 31, 2005,  
7 deductions may be taken for contributions and rollovers made during a taxable  
8 year and up to April 15 of the succeeding year, or the due date of a taxpayer's  
9 state income tax return, excluding extensions, whichever is later. Provided, a  
10 deduction for the same contribution may not be taken for two (2) different taxable  
11 years.

- 12 c. In taxable years beginning after December 31, 2006, deductions for contributions  
13 made pursuant to subparagraph b of this paragraph shall be limited as follows:
- 14 (1) for a taxpayer who qualified for the five-year carryforward election and  
15 who takes a rollover or nonqualified withdrawal during that period, the tax  
16 deduction otherwise available pursuant to subparagraph b of this  
17 paragraph shall be reduced by the amount which is equal to the rollover or  
18 nonqualified withdrawal, and
  - 19 (2) for a taxpayer who elects to take a rollover or nonqualified withdrawal  
20 within the same tax year in which a contribution was made to the  
21 taxpayer's account, the tax deduction otherwise available pursuant to  
22 subparagraph b of this paragraph shall be reduced by the amount of the  
23 contribution which is equal to the rollover or nonqualified withdrawal.  
24

1 d. If a taxpayer elects to take a rollover on a contribution for which a deduction has  
2 been taken pursuant to subparagraph b of this paragraph within one year of the  
3 date of contribution, the amount of such rollover shall be included in the adjusted  
4 gross income of the taxpayer in the taxable year of the rollover.

5 e. If a taxpayer makes a nonqualified withdrawal of contributions for which a  
6 deduction was taken pursuant to subparagraph b of this paragraph, such  
7 nonqualified withdrawal and any earnings thereon shall be included in the  
8 adjusted gross income of the taxpayer in the taxable year of the nonqualified  
9 withdrawal.

10 f. As used in this paragraph:

11 (1) “nonqualified withdrawal” means a withdrawal from an Oklahoma  
12 College Savings Plan account other than one of the following:

13 (a) a qualified withdrawal,

14 (b) a withdrawal made as a result of the death or disability of the  
15 designated beneficiary of an account,

16 (c) a withdrawal that is made on the account of a scholarship or the  
17 allowance or payment described in Section 135(d)(1)(B) or (C) or  
18 by the Internal Revenue Code, received by the designated  
19 beneficiary to the extent the amount of the refund does not exceed  
20 the amount of the scholarship, allowance, or payment, or

21 (d) a rollover or change of designated beneficiary as permitted by  
22 subsection F of Section 3970.7 of Title 70 of Oklahoma Statutes,  
23 and  
24

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

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

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

- 14 a. in the taxable year beginning January 1, 2007, twenty percent (20%) of such  
15 benefits shall be exempt,  
16 b. in the taxable year beginning January 1, 2008, forty percent (40%) of such  
17 benefits shall be exempt,  
18 c. in the taxable year beginning January 1, 2009, sixty percent (60%) of such  
19 benefits shall be exempt,  
20 d. in the taxable year beginning January 1, 2010, eighty percent (80%) of such  
21 benefits shall be exempt, and  
22 e. in the taxable year beginning January 1, 2011, and subsequent taxable years, one  
23 hundred percent (100%) of such benefits shall be exempt.  
24

- 1           21. a.           For taxable years beginning after December 31, 2007, a resident individual may  
2                           deduct up to Ten Thousand Dollars (\$10,000.00) from Oklahoma adjusted gross  
3                           income if the individual, or the dependent of the individual, while living, donates  
4                           one or more human organs of the individual to another human being for human  
5                           organ transplantation. As used in this paragraph, "human organ" means all or part  
6                           of a liver, pancreas, kidney, intestine, lung, or bone marrow. A deduction that is  
7                           claimed under this paragraph may be claimed in the taxable year in which the  
8                           human organ transplantation occurs.
- 9           b.           An individual may claim this deduction only once, and the deduction may be  
10                           claimed only for unreimbursed expenses that are incurred by the individual and  
11                           related to the organ donation of the individual.
- 12           c.           The Oklahoma Tax Commission shall promulgate rules to implement the  
13                           provisions of this paragraph which shall contain a specific list of expenses which  
14                           may be presumed to qualify for the deduction. The Tax Commission shall  
15                           prescribe necessary requirements for verification.

16           22. For taxable years beginning after December 31, 2008, there shall be exempt from taxable  
17 income any amount received by the beneficiary of the death benefit for an emergency medical  
18 technician provided by Section ~~4~~ 1-2505.1 of ~~this act~~ Title 63 of the Oklahoma Statutes.

- 19           23. a.           For taxable years beginning after December 31, 2009, all income, regardless of  
20                           source, received by a person who establishes their primary residence within a  
21                           qualifying area of the state by purchasing an existing single-family residential  
22                           structure or becoming the owner of a single-family residential structure  
23                           constructed for the first time by or on behalf of such person and who fulfills the  
24

1 other requirements of this paragraph, shall be fully exempt from taxable income,  
2 for any taxable year during which the person is a resident of the state, for a period  
3 of sixty (60) months beginning with the first taxable year in which title is acquired  
4 to a single-family residential structure located in a qualifying area as defined by  
5 subparagraph b of this paragraph. For the first taxable year during which  
6 residency is established, if less than twelve (12) months, the exemption shall only  
7 be applicable to income of the resident for those months that residency is  
8 established. In order to be eligible for the exemption provided by this paragraph  
9 the individual must:

- 10 (1) purchase a primary residence within the state on or after the effective date  
11 of this act which for purposes of this paragraph shall mean the property  
12 occupied as their principal residence for at least six (6) months each  
13 calendar year,
- 14 (2) have been the resident of another state or states for a period of at least four  
15 (4) continuous years prior to establishing a residence within the State of  
16 Oklahoma, and
- 17 (3) acquire an existing single-family residential structure or construct a new  
18 single-family residential structure within twelve (12) months of  
19 establishing residency within the State of Oklahoma.

20 b. As used in this paragraph, “qualifying area” means:

- 21 (1) a county, other than a county having a population in excess of two  
22 hundred thousand (200,000) persons according to the latest Federal  
23 Decennial Census or most recent population estimate:  
24

1           (a)     which had a decline in population from the 1940 Federal Decennial  
2                     Census compared to the most recent Federal Decennial Census, or

3           (b)     which has a population decline as determined by a comparison of  
4                     the data from the most recent Federal Decennial Census and the  
5                     Federal Decennial Census immediately preceding that most recent  
6                     Census, or

7           (2)     an incorporated city or town having a population of at least five hundred  
8                     (500) persons, but less than fifty thousand (50,000) persons, according to  
9                     the latest Federal Decennial Census, located in a county having a  
10                    population not in excess of two hundred thousand (200,000) persons  
11                    according to the latest Federal Decennial Census or most recent population  
12                    estimate, and which:

13           (a)     had a decline in population from the 1940 Federal Decennial  
14                     Census compared to the most recent Federal Decennial Census, or

15           (b)     which has a population decline as determined by a comparison of  
16                     the data from the most recent Federal Decennial Census and the  
17                     Federal Decennial Census immediately preceding that most recent  
18                     Census.

19           For purposes of this subparagraph, in order for an incorporated city or  
20                     town to be considered a “qualifying area”, the principal residence must be  
21                     located in an area which was within the incorporated area of the  
22                     municipality at the time of the last Federal Decennial Census.

1           c.     If the exemption authorized by this paragraph is claimed by persons who are  
2                   married and filing a joint return, each taxpayer executing such return shall be  
3                   required to meet all of the requirements of subparagraph a of this paragraph. If  
4                   the exemption authorized by this paragraph is claimed by a single person or by  
5                   persons who are married, but filing separate returns, the exemption authorized by  
6                   this paragraph shall only be applicable to the extent that the taxpayer claiming the  
7                   exemption meets all of the requirements of subparagraph a of this paragraph.

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

12           2. As used in this subsection:

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

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

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

- 11 b. "holding period" means an uninterrupted period of time. The holding period shall  
12 include any additional period when the property was held by another individual or  
13 entity, if such additional period is included in the taxpayer's holding period for  
14 the asset pursuant to the Internal Revenue Code,
- 15 c. "Oklahoma company," "limited liability company," or "partnership" means an  
16 entity whose primary headquarters have been located in Oklahoma for at least  
17 three (3) uninterrupted years prior to the date of the transaction from which the  
18 net capital gains arise,
- 19 d. "direct" means the individual taxpayer directly owns the asset,
- 20 e. "indirect" means the individual taxpayer owns an interest in a pass-through entity  
21 (or chain of pass-through entities) that sells the asset that gives rise to the  
22 qualifying gains receiving capital treatment.  
23  
24

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

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

22 f. "Oklahoma proprietorship business enterprise" means a business enterprise whose  
23 income and expenses have been reported on Schedule C or F of an individual  
24

1 taxpayer's federal income tax return, or any similar successor schedule published  
2 by the Internal Revenue Service and whose primary headquarters have been  
3 located in Oklahoma for at least three (3) uninterrupted years prior to the date of  
4 the transaction from which the net capital gains arise.

5 G. 1. For purposes of computing its Oklahoma taxable income under this section, a taxpayer  
6 shall add back otherwise deductible rents and interest expenses paid to a captive real estate investment  
7 trust. As used in this subsection:

- 8 a. the term "real estate investment trust" or "REIT" means the meaning ascribed to  
9 such term in Section 856 of the Internal Revenue Code of 1986, as amended,
- 10 b. the term "captive real estate investment trust" means a real estate investment trust,  
11 the shares or beneficial interests of which are not regularly traded on an  
12 established securities market and more than fifty percent (50%) of the voting  
13 power or value of the beneficial interests or shares of which are owned or  
14 controlled, directly or indirectly, or constructively, by a single entity that is:
- 15 (1) treated as an association taxable as a corporation under the Internal  
16 Revenue Code of 1986, as amended, and
- 17 (2) not exempt from federal income tax pursuant to the provisions of Section  
18 501(a) of the Internal Revenue Code of 1986, as amended.

19 The term shall not include a real estate investment trust that is intended to be  
20 regularly traded on an established securities market, and that satisfies the  
21 requirements of Section 856(a)(5) and (6) of the U.S. Internal Revenue Code by  
22 reason of Section 856(h)(2) of the Internal Revenue Code,  
23  
24

1 c. the term “association taxable as a corporation” shall not include the following  
2 entities:

3 (1) any real estate investment trust as defined in paragraph a of this subsection  
4 other than a “captive real estate investment trust”, or

5 (2) any qualified real estate investment trust subsidiary under Section 856(i)  
6 of the Internal Revenue Code of 1986, as amended, other than a qualified  
7 REIT subsidiary of a “captive real estate investment trust”, or

8 (3) any Listed Australian Property Trust (meaning an Australian unit trust  
9 registered as a “Managed Investment Scheme” under the Australian  
10 Corporations Act in which the principal class of units is listed on a  
11 recognized stock exchange in Australia and is regularly traded on an  
12 established securities market), or an entity organized as a trust, provided  
13 that a Listed Australian Property Trust owns or controls, directly or  
14 indirectly, seventy-five percent (75%) or more of the voting power or  
15 value of the beneficial interests or shares of such trust, or

16 (4) any Qualified Foreign Entity, meaning a corporation, trust, association or  
17 partnership organized outside the laws of the United States and which  
18 satisfies the following criteria:

19 (a) at least seventy-five percent (75%) of the entity's total asset value  
20 at the close of its taxable year is represented by real estate assets,  
21 as defined in Section 856(c)(5)(B) of the Internal Revenue Code of  
22 1986, as amended, thereby including shares or certificates of  
23  
24

1 beneficial interest in any real estate investment trust, cash and cash  
2 equivalents, and U.S. Government securities,

3 (b) the entity receives a dividend-paid deduction comparable to  
4 Section 561 of the Internal Revenue Code of 1986, as amended, or  
5 is exempt from entity level tax,

6 (c) the entity is required to distribute at least eighty-five percent (85%)  
7 of its taxable income, as computed in the jurisdiction in which it is  
8 organized, to the holders of its shares or certificates of beneficial  
9 interest on an annual basis,

10 (d) not more than ten percent (10%) of the voting power or value in  
11 such entity is held directly or indirectly or constructively by a  
12 single entity or individual, or the shares or beneficial interests of  
13 such entity are regularly traded on an established securities market,  
14 and

15 (e) the entity is organized in a country which has a tax treaty with the  
16 United States.

17 2. For purposes of this subsection, the constructive ownership rules of Section 318(a) of the  
18 Internal Revenue Code of 1986, as amended, as modified by Section 856(d)(5) of the Internal Revenue  
19 Code of 1986, as amended, shall apply in determining the ownership of stock, assets, or net profits of  
20 any person.

21 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as  
22 Section 2358.2A of Title 68, unless there is created a duplication in numbering, reads as follows:

23 A. As used in this section:  
24

1 1. “Qualifying rural area” means a location within:

- 2 a. any city or town with a population of less than fifty thousand (50,000) that is  
3 located within a county with a population of less than two hundred thousand  
4 (200,000), or  
5 b. a county with a population of less than two hundred thousand (200,000) but  
6 outside of the boundaries of any city or town.

7 All populations shall be determined according to the latest Federal Decennial Census;

8 2. “Qualified employees” means a physician:

- 9 a. whose primary residence is in a qualifying rural area and who is employed as a  
10 physician in a qualifying rural area and whose compensation is equal to or in  
11 excess of the qualified compensation amount, and  
12 b. whose primary residence for the year preceding the effective date of this section  
13 was not in a qualifying rural area and who was not employed as a physician in a  
14 qualifying rural area during the year preceding the effective date of this section;  
15 and

16 3. “Qualified compensation amount” means Sixty Thousand Dollars (\$60,000.00) annually  
17 including employer-provided health care benefits.

18 B. In addition to other adjustments authorized by Section 2358 of Title 68 of the Oklahoma  
19 Statutes, for taxable years beginning after December 31, 2009, there shall be allowed deductions for  
20 qualified employees in an amount not to exceed One Hundred Thousand Dollars (\$100,000.00) per  
21 taxable year for income derived from compensation earned working as a physician for a period of three  
22 (3) taxable years beginning with the first taxable year during which the qualified individual is first  
23 employed as a qualified employee.  
24

SECTION 3. This act shall become effective January 1, 2010.

52-1-6753                    CJB            02/10/09

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24