

SB 875

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THE STATE SENATE  
Monday, February 23, 2009

Senate Bill No. 875  
As Amended

SENATE BILL NO. 875 - By: Brogdon of the Senate and Johnson of the House.

[ revenue and taxation - modification of tax tables - effective date ]

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2355, as last amended by Section 7, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2008, Section 2355), is amended to read as follows:

Section 2355. A. Individuals. For all taxable years beginning after December 31, 1998 and before January 1, 2006, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed at the option of the taxpayer under one of the two following methods:

- 1. METHOD 1.
  - a. Single individuals and married individuals filing separately not deducting federal income tax:
    - (1) 1/2% tax on first \$1,000.00 or part thereof,
    - (2) 1% tax on next \$1,500.00 or part thereof,
    - (3) 2% tax on next \$1,250.00 or part thereof,
    - (4) 3% tax on next \$1,150.00 or part thereof,

- 1 (5) 4% tax on next \$1,300.00 or part thereof,  
2 (6) 5% tax on next \$1,500.00 or part thereof,  
3 (7) 6% tax on next \$2,300.00 or part thereof, and  
4 (8) (a) for taxable years beginning after December  
5 31, 1998, and before January 1, 2002, 6.75%  
6 tax on the remainder,  
7 (b) for taxable years beginning on or after  
8 January 1, 2002, and before January 1, 2004,  
9 7% tax on the remainder, and  
10 (c) for taxable years beginning on or after  
11 January 1, 2004, 6.65% tax on the remainder.
- 12 b. Married individuals filing jointly and surviving  
13 spouse to the extent and in the manner that a  
14 surviving spouse is permitted to file a joint return  
15 under the provisions of the Internal Revenue Code and  
16 heads of households as defined in the Internal Revenue  
17 Code not deducting federal income tax:  
18 (1) 1/2% tax on first \$2,000.00 or part thereof,  
19 (2) 1% tax on next \$3,000.00 or part thereof,  
20 (3) 2% tax on next \$2,500.00 or part thereof,  
21 (4) 3% tax on next \$2,300.00 or part thereof,  
22 (5) 4% tax on next \$2,400.00 or part thereof,  
23 (6) 5% tax on next \$2,800.00 or part thereof,

- 1 (7) 6% tax on next \$6,000.00 or part thereof, and
- 2 (8) (a) for taxable years beginning after December
- 3 31, 1998, and before January 1, 2002, 6.75%
- 4 tax on the remainder,
- 5 (b) for taxable years beginning on or after
- 6 January 1, 2002, and before January 1, 2004,
- 7 7% tax on the remainder, and
- 8 (c) for taxable years beginning on or after
- 9 January 1, 2004, 6.65% tax on the remainder.

10 2. METHOD 2.

11 a. Single individuals and married individuals filing  
12 separately deducting federal income tax:

- 13 (1) 1/2% tax on first \$1,000.00 or part thereof,
- 14 (2) 1% tax on next \$1,500.00 or part thereof,
- 15 (3) 2% tax on next \$1,250.00 or part thereof,
- 16 (4) 3% tax on next \$1,150.00 or part thereof,
- 17 (5) 4% tax on next \$1,200.00 or part thereof,
- 18 (6) 5% tax on next \$1,400.00 or part thereof,
- 19 (7) 6% tax on next \$1,500.00 or part thereof,
- 20 (8) 7% tax on next \$1,500.00 or part thereof,
- 21 (9) 8% tax on next \$2,000.00 or part thereof,
- 22 (10) 9% tax on next \$3,500.00 or part thereof, and
- 23 (11) 10% tax on the remainder.

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

- 7                (1)  1/2% tax on the first \$2,000.00 or part thereof,  
8                (2)  1% tax on the next \$3,000.00 or part thereof,  
9                (3)  2% tax on the next \$2,500.00 or part thereof,  
10               (4)  3% tax on the next \$1,400.00 or part thereof,  
11               (5)  4% tax on the next \$1,500.00 or part thereof,  
12               (6)  5% tax on the next \$1,600.00 or part thereof,  
13               (7)  6% tax on the next \$1,250.00 or part thereof,  
14               (8)  7% tax on the next \$1,750.00 or part thereof,  
15               (9)  8% tax on the next \$3,000.00 or part thereof,  
16               (10) 9% tax on the next \$6,000.00 or part thereof, and  
17               (11) 10% tax on the remainder.

18           B.  Individuals.  For all taxable years beginning on or after  
19   January 1, 2008, and before January 1, 2010, a tax is hereby imposed  
20   upon the Oklahoma taxable income of every resident or nonresident  
21   individual, which tax shall be computed as follows:

22           1.  Single individuals and married individuals filing  
23   separately:

- 1 (a) 1/2% tax on first \$1,000.00 or part thereof,  
2 (b) 1% tax on next \$1,500.00 or part thereof,  
3 (c) 2% tax on next \$1,250.00 or part thereof,  
4 (d) 3% tax on next \$1,150.00 or part thereof,  
5 (e) 4% tax on next \$2,300.00 or part thereof,  
6 (f) 5% tax on next \$1,500.00 or part thereof,  
7 (g) 5.50% tax on the remainder for the 2008 tax year and  
8 any subsequent tax year unless the rate prescribed by  
9 subparagraph (h) of this paragraph is in effect, and  
10 (h) 5.25% tax on the remainder for the 2009 and subsequent  
11 tax years. The decrease in the top marginal  
12 individual income tax rate otherwise authorized by  
13 this subparagraph shall be contingent upon the  
14 determination required to be made by the State Board  
15 of Equalization pursuant to Section 2355.1A of this  
16 title.

17 2. Married individuals filing jointly and surviving spouse to  
18 the extent and in the manner that a surviving spouse is permitted to  
19 file a joint return under the provisions of the Internal Revenue  
20 Code and heads of households as defined in the Internal Revenue  
21 Code:

- 22 (a) 1/2% tax on first \$2,000.00 or part thereof,  
23 (b) 1% tax on next \$3,000.00 or part thereof,

- 1 (c) 2% tax on next \$2,500.00 or part thereof,  
2 (d) 3% tax on next \$2,300.00 or part thereof,  
3 (e) 4% tax on next \$2,400.00 or part thereof,  
4 (f) 5% tax on next \$2,800.00 or part thereof,  
5 (g) 5.50% tax on the remainder for the 2008 tax year and  
6 any subsequent tax year unless the rate prescribed by  
7 subparagraph (h) of this paragraph is in effect, and  
8 (h) 5.25% tax on the remainder for the 2009 and subsequent  
9 tax years. The decrease in the top marginal  
10 individual income tax rate otherwise authorized by  
11 this subparagraph shall be contingent upon the  
12 determination required to be made by the State Board  
13 of Equalization pursuant to Section 2355.1A of this  
14 title.

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

17 C. For all taxable years beginning after December 31, 2009,  
18 there is hereby imposed on the Oklahoma taxable income of every  
19 individual, a tax determined under the tables which shall be  
20 prescribed by the Oklahoma Tax Commission as provided in this  
21 subsection. In the table so prescribed, the dollar amounts for  
22 which a tax is imposed in subsection B of this section shall be  
23 adjusted to reflect price inflation for the preceding year as

1 measured by the Consumer Price Index for all urban consumers for all  
2 goods and services, as published by the Bureau of Labor Statistics,  
3 U.S. Department of Labor. Such adjustment for price inflation shall  
4 be applied in the year immediately following the year for which the  
5 inflation measure is calculated.

6 D. Nonresident aliens. In lieu of the rates set forth in  
7 ~~subsection A above~~ subsections B and C of this section, there shall  
8 be imposed on nonresident aliens, as defined in the Internal Revenue  
9 Code, a tax of eight percent (8%) instead of thirty percent (30%) as  
10 used in the Internal Revenue Code, with respect to the Oklahoma  
11 taxable income of such nonresident aliens as determined under the  
12 provision of the Oklahoma Income Tax Act.

13 Every payer of amounts covered by this subsection shall deduct  
14 and withhold from such amounts paid each payee an amount equal to  
15 eight percent (8%) thereof. Every payer required to deduct and  
16 withhold taxes under this subsection shall for each quarterly period  
17 on or before the last day of the month following the close of each  
18 such quarterly period, pay over the amount so withheld as taxes to  
19 the Tax Commission, and shall file a return with each such payment.  
20 Such return shall be in such form as the Tax Commission shall  
21 prescribe. Every payer required under this subsection to deduct and  
22 withhold a tax from a payee shall, as to the total amounts paid to  
23 each payee during the calendar year, furnish to such payee, on or

1 before January 31, of the succeeding year, a written statement  
2 showing the name of the payer, the name of the payee and the payee's  
3 social security account number, if any, the total amount paid  
4 subject to taxation, and the total amount deducted and withheld as  
5 tax and such other information as the Tax Commission may require.  
6 Any payer who fails to withhold or pay to the Tax Commission any  
7 sums herein required to be withheld or paid shall be personally and  
8 individually liable therefor to the State of Oklahoma.

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

14 There shall be no additional Oklahoma income tax imposed on  
15 accumulated taxable income or on undistributed personal holding  
16 company income as those terms are defined in the Internal Revenue  
17 Code.

18 ~~E.~~ F. Certain foreign corporations. In lieu of the tax imposed  
19 in the first paragraph of subsection C of this section, for all  
20 taxable years beginning after December 31, 1989, there shall be  
21 imposed on foreign corporations, as defined in the Internal Revenue  
22 Code, a tax of six percent (6%) instead of thirty percent (30%) as  
23 used in the Internal Revenue Code, where such income is received

1 from sources within Oklahoma, in accordance with the provisions of  
2 the Internal Revenue Code and the Oklahoma Income Tax Act.

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

22 F- G. Fiduciaries. A tax is hereby imposed upon the Oklahoma  
23 taxable income of every trust and estate at the same rates as are

1 provided in ~~subsection B~~ subsections B and C of this section for  
2 single individuals. Fiduciaries are not allowed a deduction for any  
3 federal income tax paid.

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

18 SECTION 2. AMENDATORY 68 O.S. 2001, Section 2358, as  
19 last amended by Section 3, Chapter 395, O.S.L. 2008 (68 O.S. Supp.  
20 2008, Section 2358), is amended to read as follows:

21 Section 2358. For all tax years beginning after December 31,  
22 1981, taxable income and adjusted gross income shall be adjusted to

1 arrive at Oklahoma taxable income and Oklahoma adjusted gross income  
2 as required by this section.

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

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

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

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

17 a. For carryovers and carrybacks to taxable years  
18 beginning before January 1, 1981, the amount of any  
19 net operating loss deduction allowed to a taxpayer for  
20 federal income tax purposes shall be reduced to an  
21 amount which is the same portion thereof as the loss  
22 from sources within this state, as determined pursuant  
23 to this section and Section 2362 of this title, for

1 the taxable year in which such loss is sustained is of  
2 the total loss for such year;

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

21 4. Items of the following nature shall be allocated as  
22 indicated. Allowable deductions attributable to items separately  
23 allocable in subparagraphs a, b and c of this paragraph, whether or

1 not such items of income were actually received, shall be allocated  
2 on the same basis as those items:

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

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

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

1 be treated as having a separate commercial or  
2 business situs insofar as distributed income is  
3 concerned,

4 (2) for taxable years beginning after December 31,  
5 2003, capital or ordinary gains or losses from  
6 the sale of an ownership interest in a publicly  
7 traded partnership, as defined by Section 7704(b)  
8 of the Internal Revenue Code of 1986, as amended,  
9 shall be allocated to this state in the ratio of  
10 the original cost of such partnership's tangible  
11 property in this state to the original cost of  
12 such partnership's tangible property everywhere,  
13 as determined at the time of the sale; if more  
14 than fifty percent (50%) of the value of the  
15 partnership's assets consists of intangible  
16 assets, capital or ordinary gains or losses from  
17 the sale of an ownership interest in the  
18 partnership shall be allocated to this state in  
19 accordance with the sales factor of the  
20 partnership for its first full tax period  
21 immediately preceding its tax period during which  
22 the ownership interest in the partnership was  
23 sold; the provisions of this division shall only

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

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

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

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

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

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

1 federal tax purposes, as adjusted for the adjustments  
2 provided pursuant to the provisions of paragraphs 1  
3 and 2 of this subsection, apportioned as follows:

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

22 (2) if the principal source of premiums written by an  
23 insurance company consists of premiums for

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

1 insurance on property or risks in this state by  
2 each ceding company from which reinsurance is  
3 accepted bears to the sum of the total direct  
4 premiums written by each such ceding company for  
5 the taxable year.

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

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

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

16 (1) Property, the income from which is separately  
17 allocated in paragraph 4 of this subsection,  
18 shall not be included in determining this  
19 fraction. The numerator of the fraction shall  
20 include a portion of the investment in  
21 transportation and other equipment having no  
22 fixed situs, such as rolling stock, buses, trucks  
23 and trailers, including machinery and equipment

1 carried thereon, airplanes, salespersons'  
2 automobiles and other similar equipment, in the  
3 proportion that miles traveled in Oklahoma by  
4 such equipment bears to total miles traveled,

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

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

19 b. The payroll factor is a fraction, the numerator of  
20 which is the total compensation for services rendered  
21 in the state during the tax period, and the  
22 denominator of which is the total compensation for  
23 services rendered everywhere during the tax period.

1 "Compensation", as used in this subsection means those  
2 paid-for services to the extent related to the unitary  
3 business but does not include officers' salaries,  
4 wages and other compensation.

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

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

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

1 of which is the total sales or gross revenue of the  
2 taxpayer everywhere during the tax period. "Sales",  
3 as used in this subsection does not include sales or  
4 gross revenue which are separately allocated in  
5 paragraph 4 of this subsection.

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

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

22 (3) In the case of an airline, truck or bus  
23 enterprise or freight car, tank car, refrigerator

1 car or other railroad equipment enterprise, the  
2 numerator of the fraction shall include a portion  
3 of revenue from interstate transportation in the  
4 proportion that interstate mileage traveled in  
5 Oklahoma bears to total interstate mileage  
6 traveled.

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

21 (5) In the case of a telephone or telegraph or other  
22 communication enterprise, the numerator of the  
23 fraction shall include that portion of the

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

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

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

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

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

16 For purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 purpose of this adjustment is to equalize the basis and allowance  
2 for depreciation accounts between that reported to the Internal  
3 Revenue Service and that reported to Oklahoma.

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

18 2. For purposes of this subsection:

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

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

18           D. 1. For taxable years beginning after December 31, 2005, the  
19           taxable income of any corporation, estate or trust, shall be further  
20           adjusted for qualifying gains receiving capital treatment. Such  
21           corporations, estates or trusts shall be allowed a deduction from  
22           Oklahoma taxable income for the amount of qualifying gains receiving  
23           capital treatment earned by the corporation, estate or trust during

1 the taxable year and included in the federal taxable income of such  
2 corporation, estate or trust.

3 2. As used in this subsection:

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

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

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

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

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

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

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

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

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

15 1. a. In the case of individuals, there shall be added or  
16 deducted, as the case may be, the difference necessary  
17 to allow personal exemptions of One Thousand Dollars  
18 (\$1,000.00) in lieu of the personal exemptions allowed  
19 by the Internal Revenue Code.

20 b. There shall be allowed an additional exemption of One  
21 Thousand Dollars (\$1,000.00) for each taxpayer or  
22 spouse who is blind at the close of the tax year. For  
23 purposes of this subparagraph, an individual is blind

1           only if the central visual acuity of the individual  
2           does not exceed 20/200 in the better eye with  
3           correcting lenses, or if the visual acuity of the  
4           individual is greater than 20/200, but is accompanied  
5           by a limitation in the fields of vision such that the  
6           widest diameter of the visual field subtends an angle  
7           no greater than twenty (20) degrees.

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

- 16               (1)   Twenty-five Thousand Dollars (\$25,000.00) if  
17               married and filing jointly;  
18               (2)   Twelve Thousand Five Hundred Dollars (\$12,500.00)  
19               if married and filing separately;  
20               (3)   Fifteen Thousand Dollars (\$15,000.00) if single;  
21               and  
22               (4)   Nineteen Thousand Dollars (\$19,000.00) if a  
23               qualifying head of household.

1            Provided, for taxable years beginning after December  
2            31, 1999, amounts included in the calculation of  
3            federal adjusted gross income pursuant to the  
4            conversion of a traditional individual retirement  
5            account to a Roth individual retirement account shall  
6            be excluded from federal adjusted gross income for  
7            purposes of the income thresholds provided in this  
8            subparagraph.

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

18    Each of the exemptions provided for in subparagraphs a, b and c of  
19    this paragraph shall be adjusted as provided in subsection G of this  
20    section.

21           2.    a.    For taxable years beginning on or before December 31,  
22           2005, in the case of individuals who use the standard  
23           deduction in determining taxable income, there shall

1 be added or deducted, as the case may be, the  
2 difference necessary to allow a standard deduction in  
3 lieu of the standard deduction allowed by the Internal  
4 Revenue Code, in an amount equal to the larger of  
5 fifteen percent (15%) of the Oklahoma adjusted gross  
6 income or One Thousand Dollars (\$1,000.00), but not to  
7 exceed Two Thousand Dollars (\$2,000.00), except that  
8 in the case of a married individual filing a separate  
9 return such deduction shall be the larger of fifteen  
10 percent (15%) of such Oklahoma adjusted gross income  
11 or Five Hundred Dollars (\$500.00), but not to exceed  
12 the maximum amount of One Thousand Dollars  
13 (\$1,000.00),

14 b. For taxable years beginning on or after January 1,  
15 2006, and before January 1, 2007, in the case of  
16 individuals who use the standard deduction in  
17 determining taxable income, there shall be added or  
18 deducted, as the case may be, the difference necessary  
19 to allow a standard deduction in lieu of the standard  
20 deduction allowed by the Internal Revenue Code, in an  
21 amount equal to:

- 1 (1) Three Thousand Dollars (\$3,000.00), if the filing  
2 status is married filing joint, head of household  
3 or qualifying widow~~r~~r, or  
4 (2) Two Thousand Dollars (\$2,000.00), if the filing  
5 status is single or married filing separate.
- 6 c. For the taxable year beginning on January 1, 2007, and  
7 ending December 31, 2007, in the case of individuals  
8 who use the standard deduction in determining taxable  
9 income, there shall be added or deducted, as the case  
10 may be, the difference necessary to allow a standard  
11 deduction in lieu of the standard deduction allowed by  
12 the Internal Revenue Code, in an amount equal to:
- 13 (1) Five Thousand Five Hundred Dollars (\$5,500.00),  
14 if the filing status is married filing joint or  
15 qualifying widow~~r~~r, or  
16 (2) Four Thousand One Hundred Twenty-five Dollars  
17 (\$4,125.00) for a head of household~~r~~r, or  
18 (3) Two Thousand Seven Hundred Fifty Dollars  
19 (\$2,750.00), if the filing status is single or  
20 married filing separate.
- 21 d. For the taxable year beginning on January 1, 2008, and  
22 ending December 31, 2008, in the case of individuals  
23 who use the standard deduction in determining taxable

1 income, there shall be added or deducted, as the case  
2 may be, the difference necessary to allow a standard  
3 deduction in lieu of the standard deduction allowed by  
4 the Internal Revenue Code, in an amount equal to:

- 5 (1) Six Thousand Five Hundred Dollars (\$6,500.00), if  
6 the filing status is married filing joint or  
7 qualifying widow, or  
8 (2) Four Thousand Eight Hundred Seventy-five Dollars  
9 (\$4,875.00) for a head of household, or  
10 (3) Three Thousand Two Hundred Fifty Dollars  
11 (\$3,250.00), if the filing status is single or  
12 married filing separate.

13 e. For the taxable year beginning on January 1, 2009, and  
14 ending December 31, 2009, in the case of individuals  
15 who use the standard deduction in determining taxable  
16 income, there shall be added or deducted, as the case  
17 may be, the difference necessary to allow a standard  
18 deduction in lieu of the standard deduction allowed by  
19 the Internal Revenue Code, in an amount equal to:

- 20 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),  
21 if the filing status is married filing joint or  
22 qualifying widow, or

1                   (2) Six Thousand Three Hundred Seventy-five Dollars  
2                               (\$6,375.00) for a head of household, or  
3                   (3) Four Thousand Two Hundred Fifty Dollars  
4                               (\$4,250.00), if the filing status is single or  
5                               married filing separate.

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

16           3. In the case of resident and part-year resident individuals  
17           having adjusted gross income from sources both within and without  
18           the state, the itemized or standard deductions and personal  
19           exemptions shall be reduced to an amount which is the same portion  
20           of the total thereof as Oklahoma adjusted gross income is of  
21           adjusted gross income. To the extent itemized deductions include  
22           allowable moving expense, proration of moving expense shall not be  
23           required or permitted but allowable moving expense shall be fully

1 deductible for those taxpayers moving within or into Oklahoma and no  
2 part of moving expense shall be deductible for those taxpayers  
3 moving without or out of Oklahoma. All other itemized or standard  
4 deductions and personal exemptions shall be subject to proration as  
5 provided by law.

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

18 5. In any taxable year the first One Thousand Five Hundred  
19 Dollars (\$1,500.00), or such dollar amount as shall be determined by  
20 the Tax Commission pursuant to subsection G of this section,  
21 received by any person from the United States as salary or  
22 compensation in any form, other than retirement benefits, as a  
23 member of any component of the Armed Forces of the United States

1 shall be deducted from taxable income. Whenever the filing of a  
2 timely income tax return by a member of the Armed Forces of the  
3 United States is made impracticable or impossible of accomplishment  
4 by reason of:

5 a. absence from the United States, which term includes  
6 only the states and the District of Columbia;

7 b. absence from the State of Oklahoma while on active  
8 duty; or

9 c. confinement in a hospital within the United States for  
10 treatment of wounds, injuries or disease,  
11 the time for filing a return and paying an income tax shall  
12 be and is hereby extended without incurring liability for  
13 interest or penalties, to the fifteenth day of the third  
14 month following the month in which:

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

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

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

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

17           7. Notwithstanding anything in the Internal Revenue Code or in  
18 the Oklahoma Income Tax Act to the contrary, it is expressly  
19 provided that, in the case of resident individuals, amounts received  
20 as dividends or distributions of earnings from savings and loan  
21 associations or credit unions located in Oklahoma, and interest  
22 received on savings accounts and time deposits from such sources or  
23 from state and national banks or trust companies located in

1 Oklahoma, shall qualify as dividends for the purpose of the dividend  
2 exclusion, and taxable income shall be adjusted accordingly to  
3 arrive at Oklahoma taxable income; provided, however, that the  
4 dividend, distribution of earnings and/or interest exclusion  
5 provided for hereinabove shall not be cumulative to the maximum  
6 dividend exclusion allowed by the Internal Revenue Code. Any  
7 dividend exclusion already allowed by the Internal Revenue Code and  
8 reflected in the taxpayer's Oklahoma taxable income together with  
9 exclusion allowed herein shall not exceed the total of One Hundred  
10 Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00)  
11 per couple filing a joint return, or such dollar amount as shall be  
12 determined by the Tax Commission pursuant to subsection G of this  
13 section.

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

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

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

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

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

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

1 years, or such dollar amount as shall be determined by the Tax  
2 Commission pursuant to subsection G of this section, which are  
3 received by an individual from the civil service of the United  
4 States, the Oklahoma Public Employees Retirement System, the  
5 Teachers' Retirement System of Oklahoma, the Oklahoma Law  
6 Enforcement Retirement System, the Oklahoma Firefighters Pension and  
7 Retirement System, the Oklahoma Police Pension and Retirement  
8 System, the employee retirement systems created by counties pursuant  
9 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the  
10 Uniform Retirement System for Justices and Judges, the Oklahoma  
11 Wildlife Conservation Department Retirement Fund, the Oklahoma  
12 Employment Security Commission Retirement Plan, or the employee  
13 retirement systems created by municipalities pursuant to Section 48-  
14 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt  
15 from taxable income.

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

21 11. For taxable years beginning after December 31, 1994, lump-  
22 sum distributions from employer plans of deferred compensation,  
23 which are not qualified plans within the meaning of Section 401(a)

1 of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which  
2 are deposited in and accounted for within a separate bank account or  
3 brokerage account in a financial institution within this state,  
4 shall be excluded from taxable income in the same manner as a  
5 qualifying rollover contribution to an individual retirement account  
6 within the meaning of Section 408 of the Internal Revenue Code, 26  
7 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage  
8 account, including any earnings thereon, shall be included in  
9 taxable income when withdrawn in the same manner as withdrawals from  
10 individual retirement accounts within the meaning of Section 408 of  
11 the Internal Revenue Code.

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

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

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

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

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

1 status is single, head of household, or married filing  
2 separate, or Fifty Thousand Dollars (\$50,000.00) or  
3 less if the filing status is married filing joint or  
4 qualifying widow, shall be exempt from taxable income.  
5 In taxable years beginning after December 31, 2004,  
6 retirement benefits not to exceed the amounts  
7 specified in this paragraph, which are received by an  
8 individual whose Oklahoma adjusted gross income is  
9 less than the qualifying amount specified in this  
10 paragraph, shall be exempt from taxable income.

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

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

21 (2) in the taxable year beginning January 1, 2007,  
22 the qualifying amount shall be Fifty Thousand  
23 Dollars (\$50,000.00) or less if the filing status

1 is single, head of household, or married filing  
2 separate, or One Hundred Thousand Dollars  
3 (\$100,000.00) or less if the filing status is  
4 married filing jointly or qualifying widow,  
5 (3) in the taxable year beginning January 1, 2008,  
6 the qualifying amount shall be Sixty-two Thousand  
7 Five Hundred Dollars (\$62,500.00) or less if the  
8 filing status is single, head of household, or  
9 married filing separate, or One Hundred Twenty-  
10 five Thousand Dollars (\$125,000.00) or less if  
11 the filing status is married filing jointly or  
12 qualifying widow,  
13 (4) in the taxable year beginning January 1, 2009,  
14 the qualifying amount shall be One Hundred  
15 Thousand Dollars (\$100,000.00) or less if the  
16 filing status is single, head of household, or  
17 married filing separate, or Two Hundred Thousand  
18 Dollars (\$200,000.00) or less if the filing  
19 status is married filing jointly or qualifying  
20 widow, and  
21 (5) in the taxable year beginning January 1, 2010,  
22 and subsequent taxable years, there shall be no  
23 limitation upon the qualifying amount.

1           c.    For purposes of this paragraph, "retirement benefits"  
2                    means the total distributions or withdrawals from the  
3                    following:  
4                    (1)  an employee pension benefit plan which satisfies  
5                            the requirements of Section 401 of the Internal  
6                            Revenue Code, 26 U.S.C., Section 401,  
7                    (2)  an eligible deferred compensation plan that  
8                            satisfies the requirements of Section 457 of the  
9                            Internal Revenue Code, 26 U.S.C., Section 457,  
10                   (3)  an individual retirement account, annuity or  
11                           trust or simplified employee pension that  
12                           satisfies the requirements of Section 408 of the  
13                           Internal Revenue Code, 26 U.S.C., Section 408,  
14                   (4)  an employee annuity subject to the provisions of  
15                           Section 403(a) or (b) of the Internal Revenue  
16                           Code, 26 U.S.C., Section 403(a) or (b),  
17                   (5)  United States Retirement Bonds which satisfy the  
18                           requirements of Section 86 of the Internal  
19                           Revenue Code, 26 U.S.C., Section 86, or  
20                   (6)  lump-sum distributions from a retirement plan  
21                           which satisfies the requirements of Section  
22                           402(e) of the Internal Revenue Code, 26 U.S.C.,  
23                           Section 402(e).

1           d.    The amount of the exemption provided by this paragraph  
2                   shall be limited to Five Thousand Five Hundred Dollars  
3                   (\$5,500.00) for the 2004 tax year, Seven Thousand Five  
4                   Hundred Dollars (\$7,500.00) for the 2005 tax year and  
5                   Ten Thousand Dollars (\$10,000.00) for the tax year  
6                   2006 and for all subsequent tax years, except as  
7                   adjusted pursuant to subsection G of this section.

8           Any individual who claims the exemption provided for  
9           in paragraph 9 of this subsection shall not be  
10           permitted to claim a combined total exemption pursuant  
11           to this paragraph and paragraph 9 of this subsection  
12           in an amount exceeding Five Thousand Five Hundred  
13           Dollars (\$5,500.00) for the 2004 tax year, Seven  
14           Thousand Five Hundred Dollars (\$7,500.00) for the 2005  
15           tax year and Ten Thousand Dollars (\$10,000.00) for the  
16           2006 tax year and all subsequent tax years, except as  
17           adjusted pursuant to subsection G of this section.

18           16.   In taxable years beginning after December 31, 1999, for an  
19           individual engaged in production agriculture who has filed a  
20           Schedule F form with the taxpayer's federal income tax return for  
21           such taxable year, there shall be excluded from taxable income any  
22           amount which was included as federal taxable income or federal  
23           adjusted gross income and which consists of the discharge of an

1 obligation by a creditor of the taxpayer incurred to finance the  
2 production of agricultural products.

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

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

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

1 December 31, 2004, which were not deducted, but in no  
2 event shall the deduction for each tax year exceed Ten  
3 Thousand Dollars (\$10,000.00) for each individual  
4 taxpayer or Twenty Thousand Dollars (\$20,000.00) for  
5 taxpayers filing a joint return, or such amount as may  
6 be determined by the Tax Commission pursuant to  
7 subsection G of this section. Any amount of a  
8 contribution that is not deducted by the taxpayer in  
9 the year for which the contribution is made may be  
10 carried forward as a deduction from income for the  
11 succeeding five (5) years. For taxable years  
12 beginning after December 31, 2005, deductions may be  
13 taken for contributions and rollovers made during a  
14 taxable year and up to April 15 of the succeeding  
15 year, or the due date of a taxpayer's state income tax  
16 return, excluding extensions, whichever is later.  
17 Provided, a deduction for the same contribution may  
18 not be taken for two (2) different taxable years.

19 c. In taxable years beginning after December 31, 2006,  
20 deductions for contributions made pursuant to  
21 subparagraph b of this paragraph shall be limited as  
22 follows:

1 (1) for a taxpayer who qualified for the five-year  
2 carryforward election and who takes a rollover or  
3 non-qualified withdrawal during that period, the  
4 tax deduction otherwise available pursuant to  
5 subparagraph b of this paragraph shall be reduced  
6 by the amount which is equal to the rollover or  
7 non-qualified withdrawal, and

8 (2) for a taxpayer who elects to take a rollover or  
9 non-qualified withdrawal within the same tax year  
10 in which a contribution was made to the  
11 taxpayer's account, the tax deduction otherwise  
12 available pursuant to subparagraph b of this  
13 paragraph shall be reduced by the amount of the  
14 contribution which is equal to the rollover or  
15 non-qualified withdrawal.

16 d. If a taxpayer elects to take a rollover on a  
17 contribution for which a deduction has been taken  
18 pursuant to subparagraph b of this paragraph within  
19 one year of the date of contribution, the amount of  
20 such rollover shall be included in the adjusted gross  
21 income of the taxpayer in the taxable year of the  
22 rollover.

1 e. If a taxpayer makes a non-qualified withdrawal of  
2 contributions for which a deduction was taken pursuant  
3 to subparagraph b of this paragraph, such non-  
4 qualified withdrawal and any earnings thereon shall be  
5 included in the adjusted gross income of the taxpayer  
6 in the taxable year of the non-qualified withdrawal.

7 f. As used in this paragraph:

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

11 (a) a qualified withdrawal,  
12 (b) a withdrawal made as a result of the death  
13 or disability of the designated beneficiary  
14 of an account,  
15 (c) a withdrawal that is made on the account of  
16 a scholarship or the allowance or payment  
17 described in Section 135(d)(1)(B) or (C) or  
18 by the Internal Revenue Code, received by  
19 the designated beneficiary to the extent the  
20 amount of the refund does not exceed the  
21 amount of the scholarship, allowance, or  
22 payment, or

1 (d) a rollover or change of designated  
2 beneficiary as permitted by subsection F of  
3 Section 3970.7 of Title 70 of Oklahoma  
4 Statutes, and

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

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

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

- 1 a. in the taxable year beginning January 1, 2007, twenty  
2 percent (20%) of such benefits shall be exempt,  
3 b. in the taxable year beginning January 1, 2008, forty  
4 percent (40%) of such benefits shall be exempt,  
5 c. in the taxable year beginning January 1, 2009, sixty  
6 percent (60%) of such benefits shall be exempt,  
7 d. in the taxable year beginning January 1, 2010, eighty  
8 percent (80%) of such benefits shall be exempt, and  
9 e. in the taxable year beginning January 1, 2011, and  
10 subsequent taxable years, one hundred percent (100%)  
11 of such benefits shall be exempt.

12 21. a. For taxable years beginning after December 31, 2007, a  
13 resident individual may deduct up to Ten Thousand  
14 Dollars (\$10,000.00), or such dollar amount as may be  
15 determined by the Tax Commission pursuant to  
16 subsection G of this section, from Oklahoma adjusted  
17 gross income if the individual, or the dependent of  
18 the individual, while living, donates one or more  
19 human organs of the individual to another human being  
20 for human organ transplantation. As used in this  
21 paragraph, "human organ" means all or part of a liver,  
22 pancreas, kidney, intestine, lung, or bone marrow. A  
23 deduction that is claimed under this paragraph may be

1                   claimed in the taxable year in which the human organ  
2                   transplantation occurs.

3           b.    An individual may claim this deduction only once, and  
4           the deduction may be claimed only for unreimbursed  
5           expenses that are incurred by the individual and  
6           related to the organ donation of the individual.

7           c.    The Oklahoma Tax Commission shall promulgate rules to  
8           implement the provisions of this paragraph which shall  
9           contain a specific list of expenses which may be  
10          presumed to qualify for the deduction.  The Tax  
11          Commission shall prescribe necessary requirements for  
12          verification.

13          22.  For taxable years beginning after December 31, 2008, there  
14          shall be exempt from taxable income any amount received by the  
15          beneficiary of the death benefit for an emergency medical technician  
16          provided by Section 1 of this act.

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

22          2.  As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

3           G. For all taxable years beginning after December 31, 2009,  
4 dollar amount deductions and limitations applied to the adjusted  
5 gross income of any individual taxpayer as provided in paragraphs 1,  
6 5, 7, 9, 14, 15, 18, 19 and 21 of subsection E of this section shall  
7 be adjusted by the Tax Commission, as provided in subsection C of  
8 Section 2355 of this title, to reflect price inflation for the  
9 preceding year as measured by an index, to be established by the Tax  
10 Commission, which reflects the price for all goods and services for  
11 Oklahoma consumers.

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

- 16           a. the term "real estate investment trust" or "REIT"  
17               means the meaning ascribed to such term in Section 856  
18               of the Internal Revenue Code of 1986, as amended,  
19           b. the term "captive real estate investment trust" means  
20               a real estate investment trust, the shares or  
21               beneficial interests of which are not regularly traded  
22               on an established securities market and more than  
23               fifty percent (50%) of the voting power or value of

1 the beneficial interests or shares of which are owned  
2 or controlled, directly or indirectly, or  
3 constructively, by a single entity that is:

- 4 (1) treated as an association taxable as a  
5 corporation under the Internal Revenue Code of  
6 1986, as amended, and
- 7 (2) not exempt from federal income tax pursuant to  
8 the provisions of Section 501(a) of the Internal  
9 Revenue Code of 1986, as amended.

10 The term shall not include a real estate investment  
11 trust that is intended to be regularly traded on an  
12 established securities market, and that satisfies the  
13 requirements of Section 856(a)(5) and (6) of the U.S.  
14 Internal Revenue Code by reason of Section 856(h)(2)  
15 of the Internal Revenue Code,

16 c. the term "association taxable as a corporation" shall  
17 not include the following entities:

- 18 (1) any real estate investment trust as defined in  
19 paragraph a of this subsection other than a  
20 "captive real estate investment trust", or
- 21 (2) any qualified real estate investment trust  
22 subsidiary under Section 856(i) of the Internal  
23 Revenue Code of 1986, as amended, other than a

1 qualified REIT subsidiary of a "captive real  
2 estate investment trust", or

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

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

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

1 1986, as amended, thereby including shares  
2 or certificates of beneficial interest in  
3 any real estate investment trust, cash and  
4 cash equivalents, and U.S. Government  
5 securities,

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

10 (c) the entity is required to distribute at  
11 least eighty-five percent (85%) of its  
12 taxable income, as computed in the  
13 jurisdiction in which it is organized, to  
14 the holders of its shares or certificates of  
15 beneficial interest on an annual basis,

16 (d) not more than ten percent (10%) of the  
17 voting power or value in such entity is held  
18 directly or indirectly or constructively by  
19 a single entity or individual, or the shares  
20 or beneficial interests of such entity are  
21 regularly traded on an established  
22 securities market, and

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

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

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

9 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-17-09 - DO PASS,  
10 As Amended and Coauthored.