

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2914

By: Morgan

4  
5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2001, Section 2358, as last amended by Section  
9 10, Chapter 426, O.S.L. 2009 (68 O.S. Supp. 2009,  
10 Section 2358), which relates to income tax; modifying  
11 apportionment attributable to certain factors when  
12 calculating corporate income tax liability; requiring  
13 Tax Commission provide certain methodology; and  
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2358, as  
17 last amended by Section 10, Chapter 426, O.S.L. 2009 (68 O.S. Supp.  
18 2009, Section 2358), is amended to read as follows:

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

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

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

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

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

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

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

1 Oklahoma net operating loss carryovers and carrybacks  
2 to such year. Oklahoma net operating losses shall be  
3 separately determined by reference to Section 172 of  
4 the Internal Revenue Code, 26 U.S.C., Section 172, as  
5 modified by the Oklahoma Income Tax Act, Section 2351  
6 et seq. of this title, and shall be allowed without  
7 regard to the existence of a federal net operating  
8 loss. For tax years beginning after December 31,  
9 2000, and ending before January 1, 2008, the years to  
10 which such losses may be carried shall be determined  
11 solely by reference to Section 172 of the Internal  
12 Revenue Code, 26 U.S.C., Section 172, with the  
13 exception that the terms "net operating loss" and  
14 "taxable income" shall be replaced with "Oklahoma net  
15 operating loss" and "Oklahoma taxable income". For  
16 tax years beginning after December 31, 2007, and  
17 ending before January 1, 2009, years to which such  
18 losses may be carried back shall be limited to two (2)  
19 years. For tax years beginning after December 31,  
20 2008, the years to which such losses may be carried  
21 back shall be determined solely by reference to  
22 Section 172 of the Internal Revenue Code, 26 U.S.C.,  
23 Section 172, with the exception that the terms "net  
24 operating loss" and "taxable income" shall be replaced

1 with "Oklahoma net operating loss" and "Oklahoma  
2 taxable income".

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

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

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

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

1 in apportionable income; a resident trust or  
2 resident estate shall be treated as having a  
3 separate commercial or business situs insofar as  
4 undistributed income is concerned, but shall not  
5 be treated as having a separate commercial or  
6 business situs insofar as distributed income is  
7 concerned,

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

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

10 (3) income from such property which is required to be  
11 allocated pursuant to the provisions of paragraph  
12 5 of this subsection shall be allocated as herein  
13 provided;

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

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

22 (1) sales having a situs without this state, shipped  
23 directly to a point from without the state to a  
24

1 purchaser within the state, commonly known as  
2 interstate sales,

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

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

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

24

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

6 (1) except as otherwise provided by division (2) of  
7 this subparagraph, taxable income of an insurance  
8 company for a taxable year shall be apportioned  
9 to this state by multiplying such income by a  
10 fraction, the numerator of which is the direct  
11 premiums written for insurance on property or  
12 risks in this state, and the denominator of which  
13 is the direct premiums written for insurance on  
14 property or risks everywhere. For purposes of  
15 this subsection, the term "direct premiums  
16 written" means the total amount of direct  
17 premiums written, assessments and annuity  
18 considerations as reported for the taxable year  
19 on the annual statement filed by the company with  
20 the Insurance Commissioner in the form approved  
21 by the National Association of Insurance  
22 Commissioners, or such other form as may be  
23 prescribed in lieu thereof,  
24

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

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

- 7       5.    a.   The net income or loss remaining after the separate  
8           allocation in paragraph 4 of this subsection, being  
9           that which is derived from a unitary business  
10          enterprise, shall be apportioned to this state on the  
11          basis of the ~~arithmetical average~~ weighted computation  
12          provided in divisions (1), (2), and (3) of this  
13          subparagraph of three factors consisting of property,  
14          payroll and sales or gross revenue enumerated as  
15          ~~subparagraphs a, b and e~~ divisions (1), (2) and (3) of  
16          subparagraph b of this paragraph. Net income or loss  
17          as used in this paragraph includes that derived from  
18          patent or copyright royalties, purchase discounts, and  
19          interest on accounts receivable relating to or arising  
20          from a business activity, the income from which is  
21          apportioned pursuant to this subsection, including the  
22          sale or other disposition of such property and any  
23          other property used in the unitary enterprise.  
24          Deductions used in computing such net income or loss

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

18 (1) Property:

19 (a) twenty-five percent (25%) for tax years

20 beginning on or after January 1, 2011, and

21 ending not later than December 31, 2011,

22 (b) twenty percent (20%) for tax years beginning

23 on or after January 1, 2012, and ending not

24 later than December 31, 2012,

1                    (c) fifteen percent (15%) for tax years  
2                    beginning on or after January 1, 2013, and  
3                    ending not later than December 31, 2013,

4                    (d) ten percent (10%) for tax years beginning on  
5                    or after January 1, 2014, and ending not  
6                    later than December 31, 2014,

7                    (e) five percent (5%) for tax years beginning on  
8                    or after January 1, 2015, and ending not  
9                    later than December 31, 2015, and

10                   (f) zero percent (0%) for tax years beginning on  
11                   or after January 1, 2016, and all subsequent  
12                   tax years,

13                   (2) Payroll:

14                   (a) twenty-five percent (25%) for tax years  
15                   beginning on or after January 1, 2011, and  
16                   ending not later than December 31, 2011,

17                   (b) twenty percent (20%) for tax years beginning  
18                   on or after January 1, 2012, and ending not  
19                   later than December 31, 2012,

20                   (c) fifteen percent (15%) for tax years  
21                   beginning on or after January 1, 2013, and  
22                   ending not later than December 31, 2013,

1           (d) ten percent (10%) for tax years beginning on  
2           or after January 1, 2014, and ending not  
3           later than December 31, 2014,

4           (e) five percent (5%) for tax years beginning on  
5           or after January 1, 2015, and ending not  
6           later than December 31, 2015, and

7           (f) zero percent (0%) for tax years beginning on  
8           or after January 1, 2016 and all subsequent  
9           tax years,

10           (3) Sales:

11           (a) fifty percent (50%) for tax years beginning  
12           on or after January 1, 2011, and ending not  
13           later than December 31, 2011,

14           (b) sixty percent (60%) for tax years beginning  
15           on or after January 1, 2012, and ending not  
16           later than December 31, 2012,

17           (c) seventy percent (70%) for tax years  
18           beginning on or after January 1, 2013, and  
19           ending not later than December 31, 2013,

20           (d) eighty percent (80%) for tax years beginning  
21           on or after January 1, 2014, and ending not  
22           later than December 31, 2014,

- 1                   (e) ninety percent (90%) for tax years beginning  
2                   on or after January 1, 2015, and ending not  
3                   later than December 31, 2015, and  
4                   (f) one hundred percent (100%) for tax years  
5                   beginning on or after January 1, 2016, and  
6                   all subsequent tax years.

7                   The Tax Commission shall promulgate rules providing  
8                   methodology for the computation of the weighted  
9                   factors provided in this subparagraph.

10           b.   The apportionment factors shall be computed as  
11           follows:

12           ~~a.~~ (1)   The property factor is a fraction, the numerator  
13           of which is the average value of the taxpayer's  
14           real and tangible personal property owned or  
15           rented and used in this state during the tax  
16           period and the denominator of which is the  
17           average value of all the taxpayer's real and  
18           tangible personal property everywhere owned or  
19           rented and used during the tax period.

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

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

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

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



1 in this state only a part of the time, in  
2 the proportion that time spent in Oklahoma  
3 bears to total time spent in furtherance of  
4 the enterprise by such employees<sup>+</sup>.

5 ~~e.~~ (3) The sales factor is a fraction, the numerator of  
6 which is the total sales or gross revenue of the  
7 taxpayer in this state during the tax period, and  
8 the denominator of which is the total sales or  
9 gross revenue of the taxpayer everywhere during  
10 the tax period. "Sales", as used in this  
11 subsection does not include sales or gross  
12 revenue which are separately allocated in  
13 paragraph 4 of this subsection.

14 ~~(1)~~ (a) Sales of tangible personal property have a  
15 situs in this state if the property is  
16 delivered or shipped to a purchaser other  
17 than the United States government, within  
18 this state regardless of the FOB point or  
19 other conditions of the sale; or the  
20 property is shipped from an office, store,  
21 warehouse, factory or other place of  
22 storage in this state and (a) the purchaser  
23 is the United States government or (b) the  
24

1 taxpayer is not doing business in the state  
2 of the destination of the shipment.

3 ~~(2)~~ (b) In the case of a railroad or interurban  
4 railway enterprise, the numerator of the  
5 fraction shall not be less than the  
6 allocation of revenues to this state as  
7 shown in its annual report to the  
8 Corporation Commission.

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

18 ~~(4)~~ (d) In the case of an oil, gasoline or gas  
19 pipeline enterprise, the numerator of the  
20 fraction shall be either the total of  
21 traffic units of the enterprise within  
22 Oklahoma or the revenue allocated to  
23 Oklahoma based upon miles moved, at the  
24 option of the taxpayer, and the denominator

1 of which shall be the total of traffic  
2 units of the enterprise or the revenue of  
3 the enterprise everywhere as appropriate to  
4 the numerator. A "traffic unit" is hereby  
5 defined as the transportation for a  
6 distance of one (1) mile of one (1) barrel  
7 of oil, one (1) gallon of gasoline or one  
8 thousand (1,000) cubic feet of natural or  
9 casinghead gas, as the case may be.

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

1 and only the interstate income shall be  
2 subject to allocation pursuant to the  
3 provisions of this subsection. Provided  
4 further, that the gross revenue factors  
5 shall be those as are determined pursuant  
6 to the accounting procedures prescribed by  
7 the Federal Communications Commission.

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

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

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

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

10 For purposes of this paragraph:

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

24

- 1 (1) the processing of agricultural commodities,  
2 including receiving or storing agricultural  
3 commodities, or the production of milk at a dairy  
4 operation,
- 5 (2) transporting the agricultural commodities or  
6 product before, during or after the processing,  
7 or
- 8 (3) packaging or otherwise preparing the product for  
9 sale or shipment.

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

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

22 8. In taxable years beginning after December 31, 1995, all  
23 qualified wages equal to the federal income tax credit set forth in  
24 26 U.S.C.A., Section 45A, shall be deducted from taxable income.

1 The deduction allowed pursuant to this paragraph shall only be  
2 permitted for the tax years in which the federal tax credit pursuant  
3 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this  
4 paragraph, "qualified wages" means those wages used to calculate the  
5 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

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

1 enactment of the Accelerated Cost Recovery System. The Oklahoma tax  
2 basis for all such assets placed into service after December 31,  
3 1981, calculated in this section shall be retained and utilized for  
4 all Oklahoma income tax purposes through the final disposition of  
5 such assets.

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

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

19 2. For tax years beginning on or after January 1, 2009, and  
20 ending on or before December 31, 2009, there shall be added to  
21 Oklahoma taxable income any amount in excess of One Hundred Seventy-  
22 five Thousand Dollars (\$175,000.00) which has been deducted as a  
23 small business expense under Internal Revenue Code, Section 179 as  
24 provided in the American Recovery and Reinvestment Act of 2009.

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

15 2. For purposes of this subsection:

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

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

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

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

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

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

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

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

24 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 the  
4 federal income tax return of the corporation, estate  
5 or trust that 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 corporation,  
9 estate or trust for a holding period of at least  
10 five (5) years prior to the date of the  
11 transaction from which such net capital gains  
12 arise,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 8 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),  
9 if the filing status is married filing joint or  
10 qualifying widow, or  
11 (2) Six Thousand Three Hundred Seventy-five Dollars  
12 (\$6,375.00) for a head of household, or  
13 (3) Four Thousand Two Hundred Fifty Dollars  
14 (\$4,250.00), if the filing status is single or  
15 married filing separate.

16 Oklahoma adjusted gross income shall be increased by any  
17 amounts paid for motor vehicle excise taxes which were  
18 deducted as allowed by the Internal Revenue Code.

19 f. For taxable years beginning on or after January 1,  
20 2010, in the case of individuals who use the standard  
21 deduction in determining taxable income, there shall  
22 be added or deducted, as the case may be, the  
23 difference necessary to allow a standard deduction  
24 equal to the standard deduction allowed by the

1 Internal Revenue Code of 1986, as amended, based upon  
2 the amount and filing status prescribed by such Code  
3 for purposes of filing federal individual income tax  
4 returns.

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

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

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

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

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

24

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

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

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

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

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

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

23                    b.    Federal taxes as described in subparagraph a of this  
24                    paragraph shall be deductible by any individual

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

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

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

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

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

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

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

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

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

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

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

8 (1) the adoption of a minor, or

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

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

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

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

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

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

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

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

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

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

17 (2) in the taxable year beginning January 1, 2007,  
18 the qualifying amount shall be Fifty Thousand  
19 Dollars (\$50,000.00) or less if the filing status  
20 is single, head of household, or married filing  
21 separate, or One Hundred Thousand Dollars  
22 (\$100,000.00) or less if the filing status is  
23 married filing jointly or qualifying widow,  
24

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

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

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

20 c. For purposes of this paragraph, "retirement benefits"  
21 means the total distributions or withdrawals from the  
22 following:  
23  
24

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

21 d. The amount of the exemption provided by this paragraph  
22 shall be limited to Five Thousand Five Hundred Dollars  
23 (\$5,500.00) for the 2004 tax year, Seven Thousand Five  
24 Hundred Dollars (\$7,500.00) for the 2005 tax year and

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

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

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

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

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

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

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

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

20 (2) for a taxpayer who elects to take a rollover or  
21 nonqualified withdrawal within the same tax year  
22 in which a contribution was made to the  
23 taxpayer's account, the tax deduction otherwise  
24 available pursuant to subparagraph b of this

1 paragraph shall be reduced by the amount of the  
2 contribution which is equal to the rollover or  
3 nonqualified withdrawal.

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

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

17 f. As used in this paragraph:

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

21 (a) a qualified withdrawal,

22 (b) a withdrawal made as a result of the death  
23 or disability of the designated beneficiary  
24 of an account,

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

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

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

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

23 20. For taxable years beginning after December 31, 2006,  
24 retirement benefits received by federal civil service retirees,

1 including survivor annuities, paid in lieu of Social Security  
2 benefits shall be exempt from taxable income to the extent such  
3 benefits are included in the federal adjusted gross income pursuant  
4 to the provisions of Section 86 of the Internal Revenue Code, 26  
5 U.S.C., Section 86, according to the following schedule:

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

17 21. a. For taxable years beginning after December 31, 2007, a  
18 resident individual may deduct up to Ten Thousand  
19 Dollars (\$10,000.00) from Oklahoma adjusted gross  
20 income if the individual, or the dependent of the  
21 individual, while living, donates one or more human  
22 organs of the individual to another human being for  
23 human organ transplantation. As used in this  
24 paragraph, "human organ" means all or part of a liver,

1 pancreas, kidney, intestine, lung, or bone marrow. A  
2 deduction that is claimed under this paragraph may be  
3 claimed in the taxable year in which the human organ  
4 transplantation occurs.

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

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

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

19 23. For taxable years beginning after December 31, 2008,  
20 taxable income shall be increased by any unemployment compensation  
21 exempted under Section 85 (c) of the Internal Revenue Code, 26  
22 U.S.C., Section 85(c) (2009).

23 24. For taxable years beginning after December 31, 2008, there  
24 shall be exempt from taxable income any payment in an amount less

1 than Six Hundred Dollars (\$600.00) received by a person as an award  
2 for participation in a competitive livestock show event. For  
3 purposes of this paragraph, the payment shall be treated as a  
4 scholarship amount paid by the entity sponsoring the event and the  
5 sponsoring entity shall cause the payment to be categorized as a  
6 scholarship in its books and records.

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

12 2. As used in this subsection:

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

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

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

10 (3) the sale of real property, tangible personal  
11 property or intangible personal property located  
12 within Oklahoma as part of the sale of all or  
13 substantially all of the assets of an Oklahoma  
14 company, limited liability company, or  
15 partnership or an Oklahoma proprietorship  
16 business enterprise where such property has been  
17 directly or indirectly owned by such entity or  
18 business enterprise or owned by the owners of  
19 such entity or business enterprise for a period  
20 of at least two (2) years prior to the date of  
21 the transaction from which the net capital gains  
22 arise,

23 b. "holding period" means an uninterrupted period of  
24 time. The holding period shall include any additional

1 period when the property was held by another  
2 individual or entity, if such additional period is  
3 included in the taxpayer's holding period for the  
4 asset pursuant to the Internal Revenue Code,

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

11 d. "direct" means the individual taxpayer directly owns  
12 the asset,

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

17 (1) With respect to sales of real property or  
18 tangible personal property located within  
19 Oklahoma, the deduction described in this  
20 subsection shall not apply unless the pass-  
21 through entity that makes the sale has held the  
22 property for not less than five (5) uninterrupted  
23 years prior to the date of the transaction that  
24 created the capital gain, and each pass-through

1           entity included in the chain of ownership has  
2           been a member, partner, or shareholder of the  
3           pass-through entity in the tier immediately below  
4           it for an uninterrupted period of not less than  
5           five (5) years.

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

1 determination of the required holding period  
2 prescribed by this division, and

3 f. "Oklahoma proprietorship business enterprise" means a  
4 business enterprise whose income and expenses have  
5 been reported on Schedule C or F of an individual  
6 taxpayer's federal income tax return, or any similar  
7 successor schedule published by the Internal Revenue  
8 Service and whose primary headquarters have been  
9 located in Oklahoma for at least three (3)  
10 uninterrupted years prior to the date of the  
11 transaction from which the net capital gains arise.

12 G. 1. For purposes of computing its Oklahoma taxable income  
13 under this section, the dividends-paid deduction otherwise allowed  
14 by federal law in computing net income of a real estate investment  
15 trust that is subject to federal income tax shall be added back in  
16 computing the tax imposed by this state under this title if the real  
17 estate investment trust is a captive real estate investment trust.

18 2. For purposes of computing its Oklahoma taxable income under  
19 this section, a taxpayer shall add back otherwise deductible rents  
20 and interest expenses paid to a captive real estate investment trust  
21 that is not subject to the provisions of paragraph 1 of this  
22 subsection. As used in this subsection:  
23  
24

1 a. the term "real estate investment trust" or "REIT"  
2 means the meaning ascribed to such term in Section 856  
3 of the Internal Revenue Code of 1986, as amended,

4 b. the term "captive real estate investment trust" means  
5 a real estate investment trust, the shares or  
6 beneficial interests of which are not regularly traded  
7 on an established securities market and more than  
8 fifty percent (50%) of the voting power or value of  
9 the beneficial interests or shares of which are owned  
10 or controlled, directly or indirectly, or  
11 constructively, by a single entity that is:

12 (1) treated as an association taxable as a  
13 corporation under the Internal Revenue Code of  
14 1986, as amended, and

15 (2) not exempt from federal income tax pursuant to  
16 the provisions of Section 501(a) of the Internal  
17 Revenue Code of 1986, as amended.

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

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

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

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

11 (3) any Listed Australian Property Trust (meaning an  
12 Australian unit trust registered as a "Managed  
13 Investment Scheme" under the Australian  
14 Corporations Act in which the principal class of  
15 units is listed on a recognized stock exchange in  
16 Australia and is regularly traded on an  
17 established securities market), or an entity  
18 organized as a trust, provided that a Listed  
19 Australian Property Trust owns or controls,  
20 directly or indirectly, seventy-five percent  
21 (75%) or more of the voting power or value of the  
22 beneficial interests or shares of such trust, or  
23 (4) any Qualified Foreign Entity, meaning a  
24 corporation, trust, association or partnership

1 organized outside the laws of the United States  
2 and which satisfies the following criteria:

3 (a) at least seventy-five percent (75%) of the  
4 entity's total asset value at the close of  
5 its taxable year is represented by real  
6 estate assets, as defined in Section  
7 856(c)(5)(B) of the Internal Revenue Code of  
8 1986, as amended, thereby including shares  
9 or certificates of beneficial interest in  
10 any real estate investment trust, cash and  
11 cash equivalents, and U.S. Government  
12 securities,

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

17 (c) the entity is required to distribute at  
18 least eighty-five percent (85%) of its  
19 taxable income, as computed in the  
20 jurisdiction in which it is organized, to  
21 the holders of its shares or certificates of  
22 beneficial interest on an annual basis,

23 (d) not more than ten percent (10%) of the  
24 voting power or value in such entity is held

1 directly or indirectly or constructively by  
2 a single entity or individual, or the shares  
3 or beneficial interests of such entity are  
4 regularly traded on an established  
5 securities market, and

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

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

13 4. A real estate investment trust that does not become  
14 regularly traded on an established securities market within one (1)  
15 year of the date on which it first becomes a real estate investment  
16 trust shall be deemed not to have been regularly traded on an  
17 established securities market, retroactive to the date it first  
18 became a real estate investment trust, and shall file an amended  
19 return reflecting such retroactive designation for any tax year or  
20 part year occurring during its initial year of status as a real  
21 estate investment trust. For purposes of this subsection, a real  
22 estate investment trust becomes a real estate investment trust on  
23 the first day it has both met the requirements of Section 856 of the  
24 Internal Revenue Code and has elected to be treated as a real estate

1 investment trust pursuant to Section 856(c)(1) of the Internal  
2 Revenue Code.

3 SECTION 2. This act shall become effective January 1, 2011.

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