

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

SENATE BILL 430

By: Mazzei

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 1354, as last amended by Section 5, Chapter 155, O.S.L. 2007, 1356, as last amended by Section 2, Chapter 436, O.S.L. 2008 and 1357, as last amended by Section 1, Chapter 406, O.S.L. 2008 (68 O.S. Supp. 2008, Sections 1354, 1356 and 1357), which relate to sales tax; eliminating sales tax exemption for newspapers and periodicals; after specified time period, eliminating exemption on certain services provided by a tourism services broker, a portion of sales to or by certain cultural organizations, sales to certain accredited museums, sales of certain admission tickets to certain accredited museums, sales to certain motion picture and television production companies and certain sales by a licensed chiropractor; amending 68 O.S. 2001, Section 1, Chapter 301, O.S.L. 2005, as amended by Section 1, Chapter 260, O.S.L. 2006 and 2358, as last amended by Section 3, Chapter 395, O.S.L. 2008 (68 O.S. Supp. 2008, Sections 2357.101 and 2358), which relate to income tax; after certain time period, eliminating certain tax credit for specified investment; eliminating certain dividend exclusion; eliminating deduction for certain contribution; and providing an effective date.

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

2 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1354, as  
3 last amended by Section 5, Chapter 155, O.S.L. 2007 (68 O.S. Supp.  
4 2008, Section 1354), is amended to read as follows:

5 Section 1354. A. There is hereby levied upon all sales, not  
6 otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of  
7 four and one-half percent (4.5%) of the gross receipts or gross  
8 proceeds of each sale of the following:

9 1. Tangible personal property, ~~except newspapers and~~  
10 ~~periodicals;~~

11 2. Natural or artificial gas, electricity, ice, steam, or any  
12 other utility or public service, except water, sewage and refuse.  
13 Provided, the rate of four and one-half percent (4.5%) shall not  
14 apply to sales subject to the provisions of paragraph 6 of Section  
15 1357 of this title;

16 3. Transportation for hire to persons by common carriers,  
17 including railroads both steam and electric, motor transportation  
18 companies, pullman car companies, airlines, and other means of  
19 transportation for hire, excluding:

20 a. before January 1, 2012, transportation services  
21 provided by a tourism service broker which are  
22 incidental to the rendition of tourism brokerage  
23 services by such broker to a customer regardless of  
24 whether or not such transportation services are

1 actually owned and operated by the tourism service  
2 broker. For purposes of this subsection, "tourism  
3 service broker" means any person, firm, association or  
4 corporation or any employee of such person, firm,  
5 association or corporation which, for a fee,  
6 commission or other valuable consideration, arranges  
7 or offers to arrange trips, tours or other vacation or  
8 recreational travel plans for a customer, and

9 b. transportation services provided by a funeral  
10 establishment to family members and other persons for  
11 purposes of conducting a funeral in this state;

12 4. Intrastate, interstate and international telecommunications  
13 services sourced to this state in accordance with Section 1354.30 of  
14 this title and ancillary services. Provided:

15 a. the term "telecommunications services" shall mean the  
16 electronic transmission, conveyance, or routing of  
17 voice, data, audio, video, or any other information or  
18 signals to a point, or between or among points. The  
19 term "telecommunications services" includes such  
20 transmission, conveyance, or routing in which computer  
21 processing applications are used to act on the form,  
22 code or protocol of the content for purposes of  
23 transmission, conveyance or routing without regard to  
24 whether such service is referred to as voice-over

1 Internet protocol services or is classified by the  
2 Federal Communications Commission as enhanced or value  
3 added. "Telecommunications services" do not include:

- 4 (1) data processing and information services that  
5 allow data to be generated, acquired, stored,  
6 processed, or retrieved and delivered by an  
7 electronic transmission to a purchaser where such  
8 purchaser's primary purpose for the underlying  
9 transaction is the processed data or information,
- 10 (2) installation or maintenance of wiring or  
11 equipment on a customer's premises,
- 12 (3) tangible personal property,
- 13 (4) advertising, including but not limited to  
14 directory advertising,
- 15 (5) billing and collection services provided to third  
16 parties,
- 17 (6) Internet access services,
- 18 (7) radio and television audio and video programming  
19 services, regardless of the medium, including the  
20 furnishing of transmission, conveyance and  
21 routing of such services by the programming  
22 service provider. Radio and television audio and  
23 video programming services shall include, but not  
24 be limited to, cable service as defined in 47

1 U.S.C. 522(6) and audio and video programming  
2 services delivered by commercial mobile radio  
3 service providers, as defined in 47 C.F.R. 20.3+,

4 (8) ancillary services, or

5 (9) digital products delivered electronically,  
6 including but not limited to, software, music,  
7 video, reading materials or ring tones,

8 b. the term "interstate" means a "telecommunications  
9 service" that originates in one United States state,  
10 or a United States territory or possession, and  
11 terminates in a different United States state or a  
12 United States territory or possession,

13 c. the term "intrastate" means a telecommunications  
14 service that originates in one United States state or  
15 a United States territory or possession, and  
16 terminates in the same United States state or a United  
17 States territory or possession, and

18 d. the term "ancillary services" means services that are  
19 associated with or incidental to the provision of  
20 telecommunications services, including but not limited  
21 to "detailed telecommunications billing", "directory  
22 assistance", "vertical service", and "voice mail  
23 services".  
24

1 e. in the case of a bundled transaction that includes  
2 telecommunication service, ancillary service, internet  
3 access or audio or video programming service:

4 (1) if the price is attributable to products that are  
5 taxable and products that are nontaxable, the  
6 portion of the price attributable to the  
7 nontaxable products may be subject to tax unless  
8 the provider can identify by reasonable and  
9 verifiable standards such portion for its books  
10 and records kept in the regular course of  
11 business for other purposes, including, but not  
12 limited to, nontax purposes, and

13 (2) the provisions of this paragraph shall apply  
14 unless otherwise provided by federal law,

15 f. a sale of prepaid calling service or prepaid wireless  
16 calling service shall be taxable at the time of sale  
17 to the customer;

18 5. Telecommunications nonrecurring charges, which means an  
19 amount billed for the installation, connection, change or initiation  
20 of telecommunications services received by a customer;

21 6. Printing or printed matter of all types, kinds, or character  
22 and, except for services of printing, copying or photocopying  
23 performed by a privately owned scientific and educational library  
24 sustained by monthly or annual dues paid by members sharing the use

1 of such services with students interested in the study of geology,  
2 petroleum engineering or related subjects, any service of printing  
3 or overprinting, including the copying of information by mimeograph,  
4 multigraph, or by otherwise duplicating written or printed matter in  
5 any manner, or the production of microfiche containing information  
6 from magnetic tapes or other media furnished by customers;

7 7. Service of furnishing rooms by hotel, apartment hotel,  
8 public rooming house, motel, public lodging house, or tourist camp;

9 8. Service of furnishing storage or parking privileges by auto  
10 hotels or parking lots;

11 9. Computer hardware, software, coding sheets, cards, magnetic  
12 tapes or other media on which prewritten programs have been coded,  
13 punched, or otherwise recorded, including the gross receipts from  
14 the licensing of software programs;

15 10. Foods, confections, and all drinks sold or dispensed by  
16 hotels, restaurants, or other dispensers, and sold for immediate  
17 consumption upon the premises or delivered or carried away from the  
18 premises for consumption elsewhere;

19 11. Advertising of all kinds, types, and characters, including  
20 any and all devices used for advertising purposes except those  
21 specifically exempt pursuant to the provisions of Section 1357 of  
22 this title;

23 12. Dues or fees to clubs including free or complimentary dues  
24 or fees which have a value equivalent to the charge that would have

1 otherwise been made, including any fees paid for the use of  
2 facilities or services rendered at a health spa or club or any  
3 similar facility or business;

4 13. Tickets for admission to or voluntary contributions made to  
5 places of amusement, sports, entertainment, exhibition, display, or  
6 other recreational events or activities, including free or  
7 complimentary admissions which have a value equivalent to the charge  
8 that would have otherwise been made;

9 14. Charges made for the privilege of entering or engaging in  
10 any kind of activity, such as tennis, racquetball, or handball, when  
11 spectators are charged no admission fee;

12 15. Charges made for the privilege of using items for  
13 amusement, sports, entertainment, or recreational activity, such as  
14 trampolines or golf carts;

15 16. The rental of equipment for amusement, sports,  
16 entertainment, or other recreational activities, such as bowling  
17 shoes, skates, golf carts, or other sports or athletic equipment;

18 17. The gross receipts from sales from any vending machine  
19 without any deduction for rental to locate the vending machine on  
20 the premises of a person who is not the owner or any other  
21 deductions therefrom;

22 18. The gross receipts or gross proceeds from the rental or  
23 lease of tangible personal property, including rental or lease of  
24 personal property when the rental or lease agreement requires the

1 vendor to launder, clean, repair, or otherwise service the rented or  
2 leased property on a regular basis, without any deduction for the  
3 cost of the service rendered. If the rental or lease charge is  
4 based on the retail value of the property at the time of making the  
5 rental or lease agreement and the expected life of the property, and  
6 the rental or lease charge is separately stated from the service  
7 cost in the statement, bill, or invoice delivered to the consumer,  
8 the cost of services rendered shall be deducted from the gross  
9 receipts or gross proceeds;

10 19. Flowers, plants, shrubs, trees, and other floral items,  
11 whether or not produced by the vendor, sold by persons engaged in  
12 florist or nursery business in this state, including all orders  
13 taken by an Oklahoma business for delivery in another state. All  
14 orders taken outside this state for delivery within this state shall  
15 not be subject to the taxes levied in this section;

16 20. Tangible personal property sold to persons, peddlers,  
17 solicitors, or other salesmen, for resale when there is likelihood  
18 that this state will lose tax revenue due to the difficulty of  
19 enforcing the provisions of the Oklahoma Sales Tax Code because of:

- 20 a. the operation of the business,
- 21 b. the nature of the business,
- 22 c. the turnover of independent contractors,
- 23 d. the lack of place of business in which to display a  
24 permit or keep records,

- 1 e. lack of adequate records,
- 2 f. the fact that the persons are minors or transients,
- 3 g. the fact that the persons are engaged in service
- 4 businesses, or
- 5 h. any other reasonable reason;

6 21. Any taxable services and tangible personal property  
7 including materials, supplies, and equipment sold to contractors for  
8 the purpose of developing and improving real estate even though said  
9 real estate is intended for resale as real property, hereby declared  
10 to be sales to consumers or users, however, taxable materials,  
11 supplies and equipment sold to contractors as provided by this  
12 subsection which are purchased as a result of and subsequent to the  
13 date of a contract entered into either prior to the effective date  
14 of any law increasing the rate of sales tax imposed by this article,  
15 or entered into prior to the effective date of an ordinance or other  
16 measure increasing the sales tax levy of a political subdivision  
17 shall be subject to the rate of sales tax applicable, as of the date  
18 such contract was entered into, to sales of such materials, supplies  
19 and equipment if such purchases are required in order to complete  
20 the contract. Such rate shall be applicable to purchases made  
21 pursuant to the contract or any change order under the contract  
22 until the contract or any change order has been completed, accepted  
23 and the contractor has been discharged from any further obligation  
24 under the contract or change order or until two (2) years from the

1 date on which the contract was entered into whichever occurs first.  
2 The increased sales tax rate shall be applicable to all such  
3 purchases at the time of sale and the contractor shall file a claim  
4 for refund before the expiration of three (3) years after the date  
5 of contract completion or five (5) years after the contract was  
6 entered into, whichever occurs earlier. However, the Oklahoma Tax  
7 Commission shall prescribe rules and regulations and shall provide  
8 procedures for the refund to a contractor of sales taxes collected  
9 on purchases eligible for the lower sales tax rate authorized by  
10 this subsection; and

11 22. Any taxable services and tangible personal property sold to  
12 persons who are primarily engaged in selling their services, such as  
13 repairmen, hereby declared to be sales to consumers or users.

14 B. All solicitations or advertisements in print or electronic  
15 media by Group Three vendors, for the sale of tangible property to  
16 be delivered within this state, shall contain a notice that the sale  
17 is subject to Oklahoma sales tax, unless the sale is exempt from  
18 such taxation.

19 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1356, as  
20 last amended by Section 2, Chapter 436, O.S.L. 2008 (68 O.S. Supp.  
21 2008, Section 1356), is amended to read as follows:

22 Section 1356. Exemptions - Governmental and nonprofit entities.

23 There are hereby specifically exempted from the tax levied by  
24 Section 1350 et seq. of this title:

1           1. Sale of tangible personal property or services to the United  
2 States government or to the State of Oklahoma, any political  
3 subdivision of this state or any agency of a political subdivision  
4 of this state; provided, all sales to contractors in connection with  
5 the performance of any contract with the United States government,  
6 State of Oklahoma or any of its political subdivisions shall not be  
7 exempted from the tax levied by Section 1350 et seq. of this title,  
8 except as hereinafter provided;

9           2. Sales of property to agents appointed by or under contract  
10 with agencies or instrumentalities of the United States government  
11 if ownership and possession of such property transfers immediately  
12 to the United States government;

13           3. Sales of property to agents appointed by or under contract  
14 with a political subdivision of this state if the sale of such  
15 property is associated with the development of a qualified federal  
16 facility, as provided in the Oklahoma Federal Facilities Development  
17 Act, and if ownership and possession of such property transfers  
18 immediately to the political subdivision or the state;

19           4. Sales made directly by county, district or state fair  
20 authorities of this state, upon the premises of the fair authority,  
21 for the sole benefit of the fair authority or sales of admission  
22 tickets to such fairs or fair events at any location in the state  
23 authorized by county, district or state fair authorities; provided,  
24 the exemption provided by this paragraph for admission tickets to

1 fair events shall apply only to any portion of the admission price  
2 that is retained by or distributed to the fair authority. As used  
3 in this paragraph, "fair event" shall be limited to an event held on  
4 the premises of the fair authority in conjunction with and during  
5 the time period of a county, district or state fair;

6 5. Sale of food in cafeterias or lunch rooms of elementary  
7 schools, high schools, colleges or universities which are operated  
8 primarily for teachers and pupils and are not operated primarily for  
9 the public or for profit;

10 6. Dues paid to fraternal, religious, civic, charitable or  
11 educational societies or organizations by regular members thereof,  
12 provided, such societies or organizations operate under what is  
13 commonly termed the lodge plan or system, and provided such  
14 societies or organizations do not operate for a profit which inures  
15 to the benefit of any individual member or members thereof to the  
16 exclusion of other members and dues paid monthly or annually to  
17 privately owned scientific and educational libraries by members  
18 sharing the use of services rendered by such libraries with students  
19 interested in the study of geology, petroleum engineering or related  
20 subjects;

21 7. Sale of tangible personal property or services to or by  
22 churches, except sales made in the course of business for profit or  
23 savings, competing with other persons engaged in the same or a  
24 similar business or sale of tangible personal property or services

1 by an organization exempt from federal income tax pursuant to  
2 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,  
3 made on behalf of or at the request of a church or churches if the  
4 sale of such property is conducted not more than once each calendar  
5 year for a period not to exceed three (3) days by the organization  
6 and proceeds from the sale of such property are used by the church  
7 or churches or by the organization for charitable purposes;

8       8. The amount of proceeds received from the sale of admission  
9 tickets which is separately stated on the ticket of admission for  
10 the repayment of money borrowed by any accredited state-supported  
11 college or university or any public trust of which a county in this  
12 state is the beneficiary, for the purpose of constructing or  
13 enlarging any facility to be used for the staging of an athletic  
14 event, a theatrical production, or any other form of entertainment,  
15 edification or cultural cultivation to which entry is gained with a  
16 paid admission ticket. Such facilities include, but are not limited  
17 to, athletic fields, athletic stadiums, field houses, amphitheaters  
18 and theaters. To be eligible for this sales tax exemption, the  
19 amount separately stated on the admission ticket shall be a  
20 surcharge which is imposed, collected and used for the sole purpose  
21 of servicing or aiding in the servicing of debt incurred by the  
22 college or university to effect the capital improvements  
23 hereinbefore described;

24

1           9. Sales of tangible personal property or services to the  
2 council organizations or similar state supervisory organizations of  
3 the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire  
4 Boys and Girls;

5           10. Sale of tangible personal property or services to any  
6 county, municipality, rural water district, public school district,  
7 the institutions of The Oklahoma State System of Higher Education,  
8 the Grand River Dam Authority, the Northeast Oklahoma Public  
9 Facilities Authority, the Oklahoma Municipal Power Authority, City  
10 of Tulsa-Rogers County Port Authority, Muskogee City-County Port  
11 Authority, the Oklahoma Department of Veterans Affairs, the Broken  
12 Bow Economic Development Authority, Ardmore Development Authority,  
13 Durant Industrial Authority, Oklahoma Ordnance Works Authority or to  
14 any person with whom any of the above-named subdivisions or agencies  
15 of this state has duly entered into a public contract pursuant to  
16 law, necessary for carrying out such public contract or to any  
17 subcontractor to such a public contract. Any person making  
18 purchases on behalf of such subdivision or agency of this state  
19 shall certify, in writing, on the copy of the invoice or sales  
20 ticket to be retained by the vendor that the purchases are made for  
21 and on behalf of such subdivision or agency of this state and set  
22 out the name of such public subdivision or agency. Any person who  
23 wrongfully or erroneously certifies that purchases are for any of  
24 the above-named subdivisions or agencies of this state or who

1 otherwise violates this section shall be guilty of a misdemeanor and  
2 upon conviction thereof shall be fined an amount equal to double the  
3 amount of sales tax involved or incarcerated for not more than sixty  
4 (60) days or both;

5 11. Sales of tangible personal property or services to private  
6 institutions of higher education and private elementary and  
7 secondary institutions of education accredited by the State  
8 Department of Education or registered by the State Board of  
9 Education for purposes of participating in federal programs or  
10 accredited as defined by the Oklahoma State Regents for Higher  
11 Education which are exempt from taxation pursuant to the provisions  
12 of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),  
13 including materials, supplies, and equipment used in the  
14 construction and improvement of buildings and other structures owned  
15 by the institutions and operated for educational purposes.

16 Any person, firm, agency or entity making purchases on behalf of  
17 any institution, agency or subdivision in this state, shall certify  
18 in writing, on the copy of the invoice or sales ticket the nature of  
19 the purchases, and violation of this paragraph shall be a  
20 misdemeanor as set forth in paragraph 10 of this section;

21 12. Tuition and educational fees paid to private institutions  
22 of higher education and private elementary and secondary  
23 institutions of education accredited by the State Department of  
24 Education or registered by the State Board of Education for purposes

1 of participating in federal programs or accredited as defined by the  
2 Oklahoma State Regents for Higher Education which are exempt from  
3 taxation pursuant to the provisions of the Internal Revenue Code, 26  
4 U.S.C., Section 501(c)(3);

5 13. a. Sales of tangible personal property made by:

6 (1) a public school,

7 (2) a private school offering instruction for grade  
8 levels kindergarten through twelfth grade,

9 (3) a public school district,

10 (4) a public or private school board,

11 (5) a public or private school student group or  
12 organization,

13 (6) a parent-teacher association or organization  
14 other than as specified in subparagraph b of this  
15 paragraph, or

16 (7) public or private school personnel for purposes  
17 of raising funds for the benefit of a public or  
18 private school, public school district, public or  
19 private school board or public or private school  
20 student group or organization, or

21 b. Sales of tangible personal property made by or to  
22 nonprofit parent-teacher associations or organizations  
23 exempt from taxation pursuant to the provisions of the  
24 Internal Revenue Code, 26 U.S.C., Section 501(c)(3)

1 and before July 1, 2014, nonprofit local public or  
2 private school foundations which solicit money or  
3 property in the name of any public or private school  
4 or public school district.

5 The exemption provided by this paragraph for sales made by a  
6 public or private school shall be limited to those public or private  
7 schools accredited by the State Department of Education or  
8 registered by the State Board of Education for purposes of  
9 participating in federal programs. Sale of tangible personal  
10 property in this paragraph shall include sale of admission tickets  
11 and concessions at athletic events;

12 14. Sales of tangible personal property by:

- 13 a. local 4-H clubs,
- 14 b. county, regional or state 4-H councils,
- 15 c. county, regional or state 4-H committees,
- 16 d. 4-H leader associations,
- 17 e. county, regional or state 4-H foundations, and
- 18 f. authorized 4-H camps and training centers.

19 The exemption provided by this paragraph shall be limited to  
20 sales for the purpose of raising funds for the benefit of such  
21 organizations. Sale of tangible personal property exempted by this  
22 paragraph shall include sale of admission tickets;

23 15. The first Seventy-five Thousand Dollars (\$75,000.00) each  
24 year from sale of tickets and concessions at athletic events by each

1 organization exempt from taxation pursuant to the provisions of the  
2 Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

3 16. Items or services which are subsequently given away by the  
4 Oklahoma Tourism and Recreation Department as promotional items  
5 pursuant to Section 1834 of Title 74 of the Oklahoma Statutes and  
6 the sale of advertising in travel brochures and other promotional  
7 materials produced at the direction of the Department;

8 17. Sales of tangible personal property or services to fire  
9 departments organized pursuant to Section 592 of Title 18 of the  
10 Oklahoma Statutes which items are to be used for the purposes of the  
11 fire department. Any person making purchases on behalf of any such  
12 fire department shall certify, in writing, on the copy of the  
13 invoice or sales ticket to be retained by the vendor that the  
14 purchases are made for and on behalf of such fire department and set  
15 out the name of such fire department. Any person who wrongfully or  
16 erroneously certifies that the purchases are for any such fire  
17 department or who otherwise violates the provisions of this section  
18 shall be deemed guilty of a misdemeanor and upon conviction thereof,  
19 shall be fined an amount equal to double the amount of sales tax  
20 involved or incarcerated for not more than sixty (60) days, or both;

21 18. Complimentary or free tickets for admission to places of  
22 amusement, sports, entertainment, exhibition, display or other  
23 recreational events or activities which are issued through a box  
24 office or other entity which is operated by a state institution of

1 higher education with institutional employees or by a municipality  
2 with municipal employees;

3 19. The first Fifteen Thousand Dollars (\$15,000.00) each year  
4 from sales of tangible personal property by fire departments  
5 organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes  
6 for the purposes of raising funds for the benefit of the fire  
7 department. Fire departments selling tangible personal property for  
8 the purposes of raising funds shall be limited to no more than six  
9 (6) days each year to raise such funds in order to receive the  
10 exemption granted by this paragraph;

11 20. Sales of tangible personal property or services to any Boys  
12 & Girls Clubs of America affiliate in this state which is not  
13 affiliated with the Salvation Army and which is exempt from taxation  
14 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,  
15 Section 501(c)(3);

16 21. Sales of tangible personal property or services to any  
17 organization, which takes court-adjudicated juveniles for purposes  
18 of rehabilitation, and which is exempt from taxation pursuant to the  
19 provisions of the Internal Revenue Code, 26 U.S.C., Section  
20 501(c)(3), provided that at least fifty percent (50%) of the  
21 juveniles served by such organization are court adjudicated and the  
22 organization receives state funds in an amount less than ten percent  
23 (10%) of the annual budget of the organization;

24 22. Sales of tangible personal property or services to:

- 1 a. any federally qualified community health center as  
2 defined in Section 254c of Title 42 of the United  
3 States Code,  
4 b. any migrant health center as defined in Section 254b  
5 of Title 42 of the United States Code,  
6 c. any clinic receiving disbursements of state monies  
7 from the Indigent Health Care Revolving Fund pursuant  
8 to the provisions of Section 66 of Title 56 of the  
9 Oklahoma Statutes,  
10 d. any community based health center which meets all of  
11 the following criteria:  
12 (1) provides primary care services at no cost to the  
13 recipient, and  
14 (2) is exempt from taxation pursuant to the  
15 provisions of Section 501(c)(3) of the Internal  
16 Revenue Code, 26 U.S.C., Section 501(c)(3), and  
17 e. any community mental health center as defined in  
18 Section 3-302 of Title 43A of the Oklahoma Statutes;

19 23. Dues or fees, including free or complimentary dues or fees  
20 which have a value equivalent to the charge that could have  
21 otherwise been made, to YMCAs, YWCAs or municipally-owned recreation  
22 centers for the use of facilities and programs;

23 24. ~~The~~ Before January 1, 2012, the first Fifteen Thousand  
24 Dollars (\$15,000.00) each year from sales of tangible personal

1 property or services to or by a cultural organization established to  
2 sponsor and promote educational, charitable and cultural events for  
3 disadvantaged children, and which organization is exempt from  
4 taxation pursuant to the provisions of the Internal Revenue Code, 26  
5 U.S.C., Section 501(c)(3);

6 25. ~~Sales~~ Before January 1, 2012, sales of tangible personal  
7 property or services to museums or other entities which have been  
8 accredited by the American Association of Museums. Any person  
9 making purchases on behalf of any such museum or other entity shall  
10 certify, in writing, on the copy of the invoice or sales ticket to  
11 be retained by the vendor that the purchases are made for and on  
12 behalf of such museum or other entity and set out the name of such  
13 museum or other entity. Any person who wrongfully or erroneously  
14 certifies that the purchases are for any such museum or other entity  
15 or who otherwise violates the provisions of this paragraph shall be  
16 deemed guilty of a misdemeanor and, upon conviction thereof, shall  
17 be fined an amount equal to double the amount of sales tax involved  
18 or incarcerated for not more than sixty (60) days, or by both such  
19 fine and incarceration;

20 26. ~~Sales~~ Before January 1, 2012, sales of tickets for  
21 admission by any museum accredited by the American Association of  
22 Museums. In order to be eligible for the exemption provided by this  
23 paragraph, an amount equivalent to the amount of the tax which would  
24 otherwise be required to be collected pursuant to the provisions of

1 Section 1350 et seq. of this title shall be separately stated on the  
2 admission ticket and shall be collected and used for the sole  
3 purpose of servicing or aiding in the servicing of debt incurred by  
4 the museum to effect the construction, enlarging or renovation of  
5 any facility to be used for entertainment, edification or cultural  
6 cultivation to which entry is gained with a paid admission ticket;

7 27. Sales of tangible personal property or services occurring  
8 on or after June 1, 1995, to children's homes which are supported or  
9 sponsored by one or more churches, members of which serve as  
10 trustees of the home;

11 28. Sales of tangible personal property or services to the  
12 organization known as the Disabled American Veterans, Department of  
13 Oklahoma, Inc., and subordinate chapters thereof;

14 29. Sales of tangible personal property or services to youth  
15 camps which are supported or sponsored by one or more churches,  
16 members of which serve as trustees of the organization;

17 30. Transfer of tangible personal property made pursuant to  
18 Section 3226 of Title 63 of the Oklahoma Statutes by the University  
19 Hospitals Trust;

20 31. Sales of tangible personal property or services to a  
21 municipality, county or school district pursuant to a lease or  
22 lease-purchase agreement executed between the vendor and a  
23 municipality, county or school district. A copy of the lease or  
24 lease-purchase agreement shall be retained by the vendor;

1        32. Sales of tangible personal property or services to any  
2 spaceport user, as defined in the Oklahoma Space Industry  
3 Development Act;

4        33. The sale, use, storage, consumption, or distribution in  
5 this state, whether by the importer, exporter, or another person, of  
6 any satellite or any associated launch vehicle, including components  
7 of, and parts and motors for, any such satellite or launch vehicle,  
8 imported or caused to be imported into this state for the purpose of  
9 export by means of launching into space. This exemption provided by  
10 this paragraph shall not be affected by:

- 11            a. the destruction in whole or in part of the satellite
- 12                            or launch vehicle,
- 13            b. the failure of a launch to occur or be successful, or
- 14            c. the absence of any transfer or title to, or possession
- 15                            of, the satellite or launch vehicle after launch;

16        34. The sale, lease, use, storage, consumption, or distribution  
17 in this state of any space facility, space propulsion system or  
18 space vehicle, satellite, or station of any kind possessing space  
19 flight capacity, including components thereof;

20        35. The sale, lease, use, storage, consumption, or distribution  
21 in this state of tangible personal property, placed on or used  
22 aboard any space facility, space propulsion system or space vehicle,  
23 satellite, or station possessing space flight capacity, which is  
24 launched into space, irrespective of whether such tangible property

1 is returned to this state for subsequent use, storage, or  
2 consumption in any manner;

3 36. The sale, lease, use, storage, consumption, or distribution  
4 in this state of tangible personal property meeting the definition  
5 of "section 38 property" as defined in Sections 48(a)(1)(A) and  
6 (B)(i) of the Internal Revenue Code of 1986, that is an integral  
7 part of and used primarily in support of space flight; however,  
8 section 38 property used in support of space flight shall not  
9 include general office equipment, any boat, mobile home, motor  
10 vehicle, or other vehicle of a class or type required to be  
11 registered, licensed, titled, or documented in this state or by the  
12 United States government, or any other property not specifically  
13 suited to supporting space activity. The term "in support of space  
14 flight", for purposes of this paragraph, means the altering,  
15 monitoring, controlling, regulating, adjusting, servicing, or  
16 repairing of any space facility, space propulsion systems or space  
17 vehicle, satellite, or station possessing space flight capacity,  
18 including the components thereof;

19 37. The purchase or lease of machinery and equipment for use at  
20 a fixed location in this state, which is used exclusively in the  
21 manufacturing, processing, compounding, or producing of any space  
22 facility, space propulsion system or space vehicle, satellite, or  
23 station of any kind possessing space flight capacity. Provided, the  
24 exemption provided for in this paragraph shall not be allowed unless

1 the purchaser or lessee signs an affidavit stating that the item or  
2 items to be exempted are for the exclusive use designated herein.  
3 Any person furnishing a false affidavit to the vendor for the  
4 purpose of evading payment of any tax imposed by Section 1354 of  
5 this title shall be subject to the penalties provided by law. As  
6 used in this paragraph, "machinery and equipment" means "section 38  
7 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the  
8 Internal Revenue Code of 1986, which is used as an integral part of  
9 the manufacturing, processing, compounding, or producing of items of  
10 tangible personal property. Such term includes parts and  
11 accessories only to the extent that the exemption thereof is  
12 consistent with the provisions of this paragraph;

13 38. The amount of a surcharge or any other amount which is  
14 separately stated on an admission ticket which is imposed, collected  
15 and used for the sole purpose of constructing, remodeling or  
16 enlarging facilities of a public trust having a municipality or  
17 county as its sole beneficiary;

18 39. Sales of tangible personal property or services which are  
19 directly used in or for the benefit of a state park in this state,  
20 which are made to an organization which is exempt from taxation  
21 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,  
22 Section 501(c)(3) and which is organized primarily for the purpose  
23 of supporting one or more state parks located in this state;

24

1 40. The sale, lease or use of parking privileges by an  
2 institution of The Oklahoma State System of Higher Education;

3 41. Sales of tangible personal property or services for use on  
4 campus or school construction projects for the benefit of  
5 institutions of The Oklahoma State System of Higher Education,  
6 private institutions of higher education accredited by the Oklahoma  
7 State Regents for Higher Education or any public school or school  
8 district when such projects are financed by or through the use of  
9 nonprofit entities which are exempt from taxation pursuant to the  
10 provisions of the Internal Revenue Code, 26 U.S.C., Section  
11 501(c) (3);

12 42. Sales of tangible personal property or services by an  
13 organization which is exempt from taxation pursuant to the  
14 provisions of the Internal Revenue Code, 26 U.S.C., Section  
15 501(c) (3), in the course of conducting a national championship  
16 sports event, but only if all or a portion of the payment in  
17 exchange therefor would qualify as the receipt of a qualified  
18 sponsorship payment described in Internal Revenue Code, 26 U.S.C.,  
19 Section 513(i). Sales exempted pursuant to this paragraph shall be  
20 exempt from all Oklahoma sales, use, excise and gross receipts  
21 taxes;

22 43. Sales of tangible personal property or services to or by an  
23 organization which:  
24

- 1           a.    is exempt from taxation pursuant to the provisions of  
2                    the Internal Revenue Code, 26 U.S.C., Section  
3                    501(c)(3),
- 4           b.    is affiliated with a comprehensive university within  
5                    The Oklahoma State System of Higher Education, and
- 6           c.    has been organized primarily for the purpose of  
7                    providing education and teacher training and  
8                    conducting events relating to robotics;

9           44.   The first Fifteen Thousand Dollars (\$15,000.00) each year  
10           from sales of tangible personal property to or by youth athletic  
11           teams which are part of an athletic organization exempt from  
12           taxation pursuant to the provisions of the Internal Revenue Code, 26  
13           U.S.C., Section 501(c)(4), for the purposes of raising funds for the  
14           benefit of the team;

15           45.   Sales of tickets for admission to a collegiate athletic  
16           event that is held in a facility owned or operated by a municipality  
17           or a public trust of which the municipality is the sole beneficiary  
18           and that actually determines or is part of a tournament or  
19           tournament process for determining a conference tournament  
20           championship, a conference championship, or a national championship;

21           46.   Sales of tangible personal property or services to or by an  
22           organization which is exempt from taxation pursuant to the  
23           provisions of the Internal Revenue Code, 26 U.S.C., Section  
24

1 501(c) (3) and is operating the Oklahoma City National Memorial and  
2 Museum, an affiliate of the National Park System;

3 47. Sales of tangible personal property or services to  
4 organizations which are exempt from federal taxation pursuant to the  
5 provisions of Section 501(c) (3) of the Internal Revenue Code, 26  
6 U.S.C., Section 501(c) (3), the memberships of which are limited to  
7 honorably discharged veterans, and which furnish financial support  
8 to area veterans' organizations to be used for the purpose of  
9 constructing a memorial or museum;

10 48. Sales of tangible personal property or services on or after  
11 January 1, 2003, to an organization which is exempt from taxation  
12 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,  
13 Section 501(c) (3) that is expending monies received from a private  
14 foundation grant in conjunction with expenditures of local sales tax  
15 revenue to construct a local public library;

16 49. Sales of tangible personal property or services to a state  
17 that borders this state or any political subdivision of that state,  
18 but only to the extent that the other state or political subdivision  
19 exempts or does not impose a tax on similar sales of items to this  
20 state or a political subdivision of this state;

21 50. Effective July 1, 2005, sales of tangible personal property  
22 or services to the Career Technology Student Organizations under the  
23 direction and supervision of the Oklahoma Department of Career and  
24 Technology Education;

1        51. Sales of tangible personal property to a public trust  
2 having either a single city, town or county or multiple cities,  
3 towns or counties or combination thereof as beneficiary or  
4 beneficiaries or a nonprofit organization which is exempt from  
5 taxation pursuant to the provisions of the Internal Revenue Code, 26  
6 U.S.C., Section 501(c)(3) for the purpose of constructing  
7 improvements to or expanding a hospital or nursing home owned and  
8 operated by any such public trust or nonprofit entity prior to the  
9 effective date of this act in counties with a population of less  
10 than one hundred thousand (100,000) persons, according to the most  
11 recent Federal Decennial Census. As used in this paragraph,  
12 "constructing improvements to or expanding" shall not mean any  
13 expense for routine maintenance or general repairs and shall require  
14 a project cost of at least One Hundred Thousand Dollars  
15 (\$100,000.00). For purposes of this paragraph, sales made to a  
16 contractor or subcontractor that enters into a contractual  
17 relationship with a public trust or nonprofit entity as described by  
18 this paragraph shall be considered sales made to the public trust or  
19 nonprofit entity. The exemption authorized by this paragraph shall  
20 be administered in the form of a refund from the sales tax revenues  
21 apportioned pursuant to Section 1353 of this title and the vendor  
22 shall be required to collect the sales tax otherwise applicable to  
23 the transaction. The purchaser may apply for a refund of the sales  
24 tax paid in the manner prescribed by this paragraph. Within thirty

1 (30) days after the end of each fiscal year, any purchaser that is  
2 entitled to make application for a refund based upon the exempt  
3 treatment authorized by this paragraph may file an application for  
4 refund of the sales taxes paid during such preceding fiscal year.  
5 The Tax Commission shall prescribe a form for purposes of making the  
6 application for refund. The Tax Commission shall determine whether  
7 or not the total amount of sales tax exemptions claimed by all  
8 purchasers is equal to or less than Six Hundred Fifty Thousand  
9 Dollars (\$650,000.00). If such claims are less than or equal to  
10 that amount, the Tax Commission shall make refunds to the purchasers  
11 in the full amount of the documented and verified sales tax amounts.  
12 If such claims by all purchasers are in excess of Six Hundred Fifty  
13 Thousand Dollars (\$650,000.00), the Tax Commission shall determine  
14 the amount of each purchaser's claim, the total amount of all claims  
15 by all purchasers, and the percentage each purchaser's claim amount  
16 bears to the total. The resulting percentage determined for each  
17 purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars  
18 (\$650,000.00) to determine the amount of refundable sales tax to be  
19 paid to each purchaser. The pro rata refund amount shall be the  
20 only method to recover sales taxes paid during the preceding fiscal  
21 year and no balance of any sales taxes paid on a pro rata basis  
22 shall be the subject of any subsequent refund claim pursuant to this  
23 paragraph;

24

1        52. Effective July 1, 2006, sales of tangible personal property  
2 or services to any organization which assists, trains, educates, and  
3 provides housing for physically and mentally handicapped persons and  
4 which is exempt from taxation pursuant to the provisions of the  
5 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and that  
6 receives at least eighty-five percent (85%) of its annual budget  
7 from state or federal funds. In order to receive the benefit of the  
8 exemption authorized by this paragraph, the taxpayer shall be  
9 required to make payment of the applicable sales tax at the time of  
10 sale to the vendor in the manner otherwise required by law.  
11 Notwithstanding any other provision of the Oklahoma Uniform Tax  
12 Procedure Code to the contrary, the taxpayer shall be authorized to  
13 file a claim for refund of sales taxes paid that qualify for the  
14 exemption authorized by this paragraph for a period of one (1) year  
15 after the date of the sale transaction. The taxpayer shall be  
16 required to provide documentation as may be prescribed by the  
17 Oklahoma Tax Commission in support of the refund claim. The total  
18 amount of sales tax qualifying for exempt treatment pursuant to this  
19 paragraph shall not exceed One Hundred Seventy-five Thousand Dollars  
20 (\$175,000.00) each fiscal year. Claims for refund shall be  
21 processed in the order in which such claims are received by the  
22 Oklahoma Tax Commission. If a claim otherwise timely filed exceeds  
23 the total amount of refunds payable for a fiscal year, such claim  
24 shall be barred;

1        53. The first Two Thousand Dollars (\$2,000.00) each year of  
2 sales of tangible personal property or services to, by, or for the  
3 benefit of a qualified neighborhood watch organization that is  
4 endorsed or supported by or working directly with a law enforcement  
5 agency with jurisdiction in the area in which the neighborhood watch  
6 organization is located. As used in this paragraph, "qualified  
7 neighborhood watch organization" means an organization that is a  
8 not-for-profit corporation under the laws of the State of Oklahoma  
9 that was created to help prevent criminal activity in an area  
10 through community involvement and interaction with local law  
11 enforcement and which is one of the first two thousand organizations  
12 which makes application to the Oklahoma Tax Commission for the  
13 exemption after the effective date of this act;

14        54. Sales of tangible personal property to a nonprofit  
15 organization, exempt from taxation pursuant to the provisions of the  
16 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized  
17 primarily for the purpose of providing services to homeless persons  
18 during the day and located in a metropolitan area with a population  
19 in excess of five hundred thousand (500,000) persons according to  
20 the latest Federal Decennial Census. The exemption authorized by  
21 this paragraph shall be applicable to sales of tangible personal  
22 property to a qualified entity occurring on or after January 1,  
23 2005;

24

1        55. Sales of tangible personal property or services by an  
2 organization which is exempt from taxation pursuant to the  
3 provisions of the Internal Revenue Code, 26 U.S.C., Section  
4 501(c)(3) made during auction events the principal purpose of which  
5 is to provide funding for the preservation of wetlands and habitat  
6 for wild ducks;

7        56. Sales of tangible personal property or services by an  
8 organization which is exempt from taxation pursuant to the  
9 provisions of the Internal Revenue Code, 26 U.S.C., Section  
10 501(c)(3) made during auction events the principal purpose of which  
11 is to provide funding for the preservation and conservation of wild  
12 turkeys;

13        57. Sales of tangible personal property or services to an  
14 organization which:

15            a. is exempt from taxation pursuant to the provisions of  
16 the Internal Revenue Code, 26 U.S.C., Section  
17 501(c)(3), and

18            b. is part of a network of community-based, autonomous  
19 member organizations that meets the following  
20 criteria:

21                    (1) serves people with workplace disadvantages and  
22 disabilities by providing job training and  
23 employment services, as well as job placement  
24 opportunities and post-employment support,

- 1 (2) has locations in the United States and at least
- 2 twenty other countries,
- 3 (3) collects donated clothing and household goods to
- 4 sell in retail stores and provides contract labor
- 5 services to business and government, and
- 6 (4) provides documentation to the Oklahoma Tax
- 7 Commission that over seventy-five percent (75%)
- 8 of its revenues are channeled into employment,
- 9 job training and placement programs and other
- 10 critical community services;

11 58. Sales of tickets made on or after September 21, 2005, and  
12 complimentary or free tickets for admission issued on or after  
13 September 21, 2005, which have a value equivalent to the charge that  
14 would have otherwise been made, for admission to a professional  
15 athletic event in which a team in the National Basketball  
16 Association is a participant, which is held in a facility owned or  
17 operated by a municipality, a county or a public trust of which a  
18 municipality or a county is the sole beneficiary, and sales of  
19 tickets made on or after the effective date of this act, and  
20 complimentary or free tickets for admission issued on or after the  
21 effective date of this act, which have a value equivalent to the  
22 charge that would have otherwise been made, for admission to a  
23 professional athletic event in which a team in the National Hockey  
24 League is a participant, which is held in a facility owned or

1 operated by a municipality, a county or a public trust of which a  
2 municipality or a county is the sole beneficiary;

3 59. Sales of tickets for admission and complimentary or free  
4 tickets for admission which have a value equivalent to the charge  
5 that would have otherwise been made to a professional sporting event  
6 involving ice hockey, baseball, basketball, football or arena  
7 football, or soccer. As used in this paragraph, "professional  
8 sporting event" means an organized athletic competition between  
9 teams that are members of an organized league or association with  
10 centralized management, other than a national league or national  
11 association, that imposes requirements for participation in the  
12 league upon the teams, the individual athletes or both, and which  
13 uses a salary structure to compensate the athletes;

14 60. Sales of tickets for admission to an annual event sponsored  
15 by an educational and charitable organization of women which is  
16 exempt from taxation pursuant to the provisions of the Internal  
17 Revenue Code, 26 U.S.C., Section 501(c)(3) and has as its mission  
18 promoting volunteerism, developing the potential of women and  
19 improving the community through the effective action and leadership  
20 of trained volunteers;

21 61. Sales of tangible personal property or services to an  
22 organization, which is exempt from taxation pursuant to the  
23 provisions of the Internal Revenue Code, 26 U.S.C., Section  
24 501(c)(3), and which is itself a member of an organization which is

1 exempt from taxation pursuant to the provisions of the Internal  
2 Revenue Code, 26 U.S.C., Section 501(c)(3), if the membership  
3 organization is primarily engaged in advancing the purposes of its  
4 member organizations through fundraising, public awareness or other  
5 efforts for the benefit of its member organizations, and if the  
6 member organization is primarily engaged either in providing  
7 educational services and programs concerning health-related diseases  
8 and conditions to individuals suffering from such health-related  
9 diseases and conditions or their caregivers and family members or  
10 support to such individuals, or in health-related research as to  
11 such diseases and conditions, or both. In order to qualify for the  
12 exemption authorized by this paragraph, the member nonprofit  
13 organization shall be required to provide proof to the Oklahoma Tax  
14 Commission of its membership status in the membership organization;

15 62. Sales of tangible personal property or services to or by an  
16 organization which is part of a national volunteer women's service  
17 organization dedicated to promoting patriotism, preserving American  
18 history and securing better education for children and which has at  
19 least 168,000 members in 3,000 chapters across the United States;

20 63. Sales of tangible personal property or services to or by a  
21 YWCA or YMCA organization which is part of a national nonprofit  
22 community service organization working to meet the health and social  
23 service needs of its members across the United States;

24

1       64. Sales of tangible personal property or services to or by a  
2 veteran's organization which is exempt from taxation pursuant to the  
3 provisions of the Internal Revenue Code, 26 U.S.C., Section 501  
4 (c)(19) and which is known as the Veterans of Foreign Wars of the  
5 United States, Oklahoma Chapters;

6       65. Sales of boxes of food by a church or by an organization,  
7 which is exempt from taxation pursuant to the provisions of the  
8 Internal Revenue Code, 26 U.S.C., Section 501(c)(3). To qualify  
9 under the provisions of this paragraph, the organization must be  
10 organized for the primary purpose of feeding needy individuals or to  
11 encourage volunteer service by requiring such service in order to  
12 purchase food. These boxes shall only contain edible staple food  
13 items;

14       66. Sales of tangible personal property or services to any  
15 person with whom a church has duly entered into a construction  
16 contract, necessary for carrying out such contract or to any  
17 subcontractor to such a construction contract;

18       67. Sales of tangible personal property or services used  
19 exclusively for charitable or educational purposes, to or by an  
20 organization which:

- 21           a. is exempt from taxation pursuant to the provisions of  
22               the Internal Revenue Code, 26 U.S.C., Section  
23               501(c)(3),

1           b.    has filed a Not-for-Profit Certificate of  
2                    Incorporation in this state, and

3           c.    is organized for the purpose of:

4                   (1)   providing training and education to  
5                            developmentally disabled individuals,

6                   (2)   educating the community about the rights,  
7                            abilities and strengths of developmentally  
8                            disabled individuals, and

9                   (3)   promoting unity among developmentally disabled  
10                           individuals in their community and geographic  
11                           area;

12           68.   Sales of tangible personal property or services to any  
13 organization which is a shelter for abused, neglected, or abandoned  
14 children and which is exempt from taxation pursuant to the  
15 provisions of the Internal Revenue Code, 26 U.S.C., Section  
16 501(c)(3); provided, until July 1, 2008, such exemption shall apply  
17 only to eligible shelters for children from birth to age twelve (12)  
18 and after July 1, 2008, such exemption shall apply to eligible  
19 shelters for children from birth to age eighteen (18);

20           69.   Sales of tangible personal property or services to a child  
21 care center which is licensed pursuant to the Oklahoma Child Care  
22 Facilities Licensing Act and which:

1 a. possesses a 3-star rating from the Department of Human  
2 Services Reaching for the Stars Program or a national  
3 accreditation, and

4 b. allows on site universal pre-kindergarten education to  
5 be provided to four-year-old children through a  
6 contractual agreement with any public school or school  
7 district.

8 For the purposes of this paragraph, sales made to any person,  
9 firm, agency or entity that has entered previously into a  
10 contractual relationship with a child care center for construction  
11 and improvement of buildings and other structures owned by the child  
12 care center and operated for educational purposes shall be  
13 considered sales made to a child care center. Any such person,  
14 firm, agency or entity making purchases on behalf of a child care  
15 center shall certify in writing, on the copy of the invoice or sales  
16 ticket the nature of the purchase. Any such person, or person  
17 acting on behalf of a firm, agency or entity making purchases on  
18 behalf of a child care center in violation of this paragraph shall  
19 be guilty of a misdemeanor and upon conviction thereof shall be  
20 fined an amount equal to double the amount of sales tax involved or  
21 incarcerated for not more than sixty (60) days or both; and

22 70. a. Sales of tangible personal property to a service  
23 organization of mothers who have children who are  
24 serving or who have served in the military, which

1 service organization is exempt from taxation pursuant  
2 to the provisions of the Internal Revenue Code, 26  
3 U.S.C., Section 501(c)(19) and which is known as the  
4 Blue Star Mothers of America, Inc. The exemption  
5 provided by this paragraph shall only apply to the  
6 purchase of tangible personal property actually sent  
7 to United States military personnel overseas who are  
8 serving in a combat zone and not to any other tangible  
9 personal property purchased by the organization.  
10 Provided, this exemption shall not apply to any sales  
11 tax levied by a city, town, county, or any other  
12 jurisdiction in this state.

13 b. The exemption authorized by this paragraph shall be  
14 administered in the form of a refund from the sales  
15 tax revenues apportioned pursuant to Section 1353 of  
16 this title, and the vendor shall be required to  
17 collect the sales tax otherwise applicable to the  
18 transaction. The purchaser may apply for a refund of  
19 the state sales tax paid in the manner prescribed by  
20 this paragraph. Within sixty (60) days after the end  
21 of each calendar quarter, any purchaser that is  
22 entitled to make application for a refund based upon  
23 the exempt treatment authorized by this paragraph may  
24 file an application for refund of the state sales

1 taxes paid during such preceding calendar quarter.

2 The Tax Commission shall prescribe a form for purposes  
3 of making the application for refund.

4 c. A purchaser who applies for a refund pursuant to this  
5 paragraph shall certify that the items were actually  
6 sent to military personnel overseas in a combat zone.  
7 Any purchaser that applies for a refund for the  
8 purchase of items that are not authorized for  
9 exemption under this paragraph shall be subject to a  
10 penalty in the amount of Five Hundred Dollars  
11 (\$500.00).

12 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1357, as  
13 last amended by Section 1, Chapter 406, O.S.L. 2008 (68 O.S. Supp.  
14 2008, Section 1357), is amended to read as follows:

15 Section 1357. There are hereby specifically exempted from the  
16 tax levied by the Oklahoma Sales Tax Code:

17 1. Transportation of school pupils to and from elementary  
18 schools or high schools in motor or other vehicles;

19 2. Transportation of persons where the fare of each person does  
20 not exceed One Dollar (\$1.00), or local transportation of persons  
21 within the corporate limits of a municipality except by taxicabs;

22 3. Sales for resale to persons engaged in the business of  
23 reselling the articles purchased, whether within or without the  
24 state, provided that such sales to residents of this state are made

1 to persons to whom sales tax permits have been issued as provided in  
2 the Oklahoma Sales Tax Code. This exemption shall not apply to the  
3 sales of articles made to persons holding permits when such persons  
4 purchase items for their use and which they are not regularly  
5 engaged in the business of reselling; neither shall this exemption  
6 apply to sales of tangible personal property to peddlers, solicitors  
7 and other salespersons who do not have an established place of  
8 business and a sales tax permit. The exemption provided by this  
9 paragraph shall apply to sales of motor fuel or diesel fuel to a  
10 Group Five vendor, but the use of such motor fuel or diesel fuel by  
11 the Group Five vendor shall not be exempt from the tax levied by the  
12 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel  
13 is exempt from sales tax when the motor fuel is for shipment outside  
14 this state and consumed by a common carrier by rail in the conduct  
15 of its business. The sales tax shall apply to the purchase of motor  
16 fuel or diesel fuel in Oklahoma by a common carrier by rail when  
17 such motor fuel is purchased for fueling, within this state, of any  
18 locomotive or other motorized flanged wheel equipment;

19 4. Sales of advertising space in newspapers and periodicals;

20 5. Sales of programs relating to sporting and entertainment  
21 events, and sales of advertising on billboards (including signage,  
22 posters, panels, marquees, or on other similar surfaces, whether  
23 indoors or outdoors) or in programs relating to sporting and  
24 entertainment events, and sales of any advertising, to be displayed

1 at or in connection with a sporting event, via the Internet,  
2 electronic display devices, or through public address or broadcast  
3 systems. The exemption authorized by this paragraph shall be  
4 effective for all sales made on or after January 1, 2001;

5 6. Sales of any advertising, other than the advertising  
6 described by paragraph 5 of this section, via the Internet,  
7 electronic display devices, or through the electronic media,  
8 including radio, public address or broadcast systems, television  
9 (whether through closed circuit broadcasting systems or otherwise),  
10 and cable and satellite television, and the servicing of any  
11 advertising devices;

12 7. Eggs, feed, supplies, machinery and equipment purchased by  
13 persons regularly engaged in the business of raising worms, fish,  
14 any insect or any other form of terrestrial or aquatic animal life  
15 and used for the purpose of raising same for marketing. This  
16 exemption shall only be granted and extended to the purchaser when  
17 the items are to be used and in fact are used in the raising of  
18 animal life as set out above. Each purchaser shall certify, in  
19 writing, on the invoice or sales ticket retained by the vendor that  
20 the purchaser is regularly engaged in the business of raising such  
21 animal life and that the items purchased will be used only in such  
22 business. The vendor shall certify to the Oklahoma Tax Commission  
23 that the price of the items has been reduced to grant the full

24

1 benefit of the exemption. Violation hereof by the purchaser or  
2 vendor shall be a misdemeanor;

3 8. Sale of natural or artificial gas and electricity, and  
4 associated delivery or transmission services, when sold exclusively  
5 for residential use. Provided, this exemption shall not apply to  
6 any sales tax levied by a city or town, or a county, or any other  
7 jurisdiction in this state;

8 9. In addition to the exemptions authorized by Section 1357.6  
9 of this title, sales of drugs sold pursuant to a prescription  
10 written for the treatment of human beings by a person licensed to  
11 prescribe the drugs, and sales of insulin and medical oxygen.  
12 Provided, this exemption shall not apply to over-the-counter drugs;

13 10. Transfers of title or possession of empty, partially  
14 filled, or filled returnable oil and chemical drums to any person  
15 who is not regularly engaged in the business of selling, reselling  
16 or otherwise transferring empty, partially filled, or filled  
17 returnable oil drums;

18 11. Sales of one-way utensils, paper napkins, paper cups,  
19 disposable hot containers and other one-way carry out materials to a  
20 vendor of meals or beverages;

21 12. Sales of food or food products for home consumption which  
22 are purchased in whole or in part with coupons issued pursuant to  
23 the federal food stamp program as authorized by Sections 2011  
24 through 2029 of Title 7 of the United States Code, as to that

1 portion purchased with such coupons. The exemption provided for  
2 such sales shall be inapplicable to such sales upon the effective  
3 date of any federal law that removes the requirement of the  
4 exemption as a condition for participation by the state in the  
5 federal food stamp program;

6 13. Sales of food or food products, or any equipment or  
7 supplies used in the preparation of the food or food products to or  
8 by an organization which:

9 a. is exempt from taxation pursuant to the provisions of  
10 Section 501(c)(3) of the Internal Revenue Code, 26  
11 U.S.C., Section 501(c)(3), and which provides and  
12 delivers prepared meals for home consumption to  
13 elderly or homebound persons as part of a program  
14 commonly known as "Meals on Wheels" or "Mobile Meals",  
15 or

16 b. is exempt from taxation pursuant to the provisions of  
17 Section 501(c)(3) of the Internal Revenue Code, 26  
18 U.S.C., Section 501(c)(3), and which receives federal  
19 funding pursuant to the Older Americans Act of 1965,  
20 as amended, for the purpose of providing nutrition  
21 programs for the care and benefit of elderly persons;

22 14. a. Sales of tangible personal property or services to or  
23 by organizations which are exempt from taxation  
24 pursuant to the provisions of Section 501(c)(3) of the

1 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),  
2 and:

3 (1) are primarily involved in the collection and  
4 distribution of food and other household products  
5 to other organizations that facilitate the  
6 distribution of such products to the needy and  
7 such distributee organizations are exempt from  
8 taxation pursuant to the provisions of Section  
9 501(c)(3) of the Internal Revenue Code, 26  
10 U.S.C., Section 501(c)(3), or

11 (2) facilitate the distribution of such products to  
12 the needy.

13 b. Sales made in the course of business for profit or  
14 savings, competing with other persons engaged in the  
15 same or similar business shall not be exempt under  
16 this paragraph;

17 15. Sales of tangible personal property or services to  
18 children's homes which are located on church-owned property and are  
19 operated by organizations exempt from taxation pursuant to the  
20 provisions of the Internal Revenue Code, 26 U.S.C., Section  
21 501(c)(3);

22 16. Sales of computers, data processing equipment, related  
23 peripherals and telephone, telegraph or telecommunications service  
24 and equipment for use in a qualified aircraft maintenance or

1 manufacturing facility. For purposes of this paragraph, "qualified  
2 aircraft maintenance or manufacturing facility" means a new or  
3 expanding facility primarily engaged in aircraft repair, building or  
4 rebuilding whether or not on a factory basis, whose total cost of  
5 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)  
6 and which employs at least two hundred fifty (250) new full-time-  
7 equivalent employees, as certified by the Oklahoma Employment  
8 Security Commission, upon completion of the facility. In order to  
9 qualify for the exemption provided for by this paragraph, the cost  
10 of the items purchased by the qualified aircraft maintenance or  
11 manufacturing facility shall equal or exceed the sum of Two Million  
12 Dollars (\$2,000,000.00);

13 17. Sales of tangible personal property consumed or  
14 incorporated in the construction or expansion of a qualified  
15 aircraft maintenance or manufacturing facility as defined in  
16 paragraph 16 of this section. For purposes of this paragraph, sales  
17 made to a contractor or subcontractor that has previously entered  
18 into a contractual relationship with a qualified aircraft  
19 maintenance or manufacturing facility for construction or expansion  
20 of such a facility shall be considered sales made to a qualified  
21 aircraft maintenance or manufacturing facility;

22 18. Sales of the following telecommunications services:

23 a. Interstate and International "800 service". "800  
24 service" means a "telecommunications service" that

1 allows a caller to dial a toll-free number without  
2 incurring a charge for the call. The service is  
3 typically marketed under the name "800", "855", "866",  
4 "877", and "888" toll-free calling, and any subsequent  
5 numbers designated by the Federal Communications  
6 Commission, or

7 b. Interstate and International "900 service". "900  
8 service" means an inbound toll "telecommunications  
9 service" purchased by a subscriber that allows the  
10 subscriber's customers to call in to the subscriber's  
11 prerecorded announcement or live service. "900  
12 service" does not include the charge for: collection  
13 services provided by the seller of the  
14 "telecommunications services" to the subscriber, or  
15 service or product sold by the subscriber to the  
16 subscriber's customer. The service is typically  
17 marketed under the name "900" service, and any  
18 subsequent numbers designated by the Federal  
19 Communications Commission,

20 c. Interstate and International "private communications  
21 service". "Private communications service" means a  
22 "telecommunications service" that entitles the  
23 customer to exclusive or priority use of a  
24 communications channel or group of channels between or

1 among termination points, regardless of the manner in  
2 which such channel or channels are connected, and  
3 includes switching capacity, extension lines,  
4 stations, and any other associated services that are  
5 provided in connection with the use of such channel or  
6 channels,

7 d. "Value-added nonvoice data service". "Value-added  
8 nonvoice data service" means a service that otherwise  
9 meets the definition of "telecommunications services"  
10 in which computer processing applications are used to  
11 act on the form, content, code, or protocol of the  
12 information or data primarily for a purpose other than  
13 transmission, conveyance or routing,

14 e. Interstate and International telecommunications  
15 service which is:

16 (1) rendered by a company for private use within its  
17 organization, or

18 (2) used, allocated, or distributed by a company to  
19 its affiliated group,

20 f. Regulatory assessments and charges, including charges  
21 to fund the Oklahoma Universal Service Fund, the  
22 Oklahoma Lifeline Fund and the Oklahoma High Cost  
23 Fund, and  
24

1 g. Telecommunications nonrecurring charges, including but  
2 not limited to the installation, connection, change or  
3 initiation of telecommunications services which are  
4 not associated with a retail consumer sale;

5 19. Sales of railroad track spikes manufactured and sold for  
6 use in this state in the construction or repair of railroad tracks,  
7 switches, sidings and turnouts;

8 20. Sales of aircraft and aircraft parts provided such sales  
9 occur at a qualified aircraft maintenance facility. As used in this  
10 paragraph, "qualified aircraft maintenance facility" means a  
11 facility operated by an air common carrier at which there were  
12 employed at least two thousand (2,000) full-time-equivalent  
13 employees in the preceding year as certified by the Oklahoma  
14 Employment Security Commission and which is primarily related to the  
15 fabrication, repair, alteration, modification, refurbishing,  
16 maintenance, building or rebuilding of commercial aircraft or  
17 aircraft parts used in air common carriage. For purposes of this  
18 paragraph, "air common carrier" shall also include members of an  
19 affiliated group as defined by Section 1504 of the Internal Revenue  
20 Code, 26 U.S.C., Section 1504;

21 21. Sales of machinery and equipment purchased and used by  
22 persons and establishments primarily engaged in computer services  
23 and data processing:  
24

1 a. as defined under Industrial Group Numbers 7372 and  
2 7373 of the Standard Industrial Classification (SIC)  
3 Manual, latest version, which derive at least fifty  
4 percent (50%) of their annual gross revenues from the  
5 sale of a product or service to an out-of-state buyer  
6 or consumer, and

7 b. as defined under Industrial Group Number 7374 of the  
8 SIC Manual, latest version, which derive at least  
9 eighty percent (80%) of their annual gross revenues  
10 from the sale of a product or service to an out-of-  
11 state buyer or consumer.

12 Eligibility for the exemption set out in this paragraph shall be  
13 established, subject to review by the Tax Commission, by annually  
14 filing an affidavit with the Tax Commission stating that the  
15 facility so qualifies and such information as required by the Tax  
16 Commission. For purposes of determining whether annual gross  
17 revenues are derived from sales to out-of-state buyers or consumers,  
18 all sales to the federal government shall be considered to be to an  
19 out-of-state buyer or consumer;

20 22. Sales of prosthetic devices to an individual for use by  
21 such individual. For purposes of this paragraph, "prosthetic  
22 device" shall have the same meaning as provided in Section 1357.6 of  
23 this title, but shall not include corrective eye glasses, contact  
24 lenses or hearing aids;

1           23. Sales of tangible personal property or services to a motion  
2 picture or television production company to be used or consumed in  
3 connection with an eligible production. For purposes of this  
4 paragraph, "eligible production" means a documentary, special, music  
5 video, or a television commercial or television program that will  
6 serve as a pilot for or be a segment of an ongoing dramatic or  
7 situation comedy series filmed or taped for network or national or  
8 regional syndication or a feature-length motion picture intended for  
9 theatrical release or for network or national or regional  
10 syndication or broadcast. The provisions of this paragraph shall  
11 apply to sales occurring on or after July 1, 1996, and before  
12 January 1, 2012. In order to qualify for the exemption, the motion  
13 picture or television production company shall file any  
14 documentation and information required to be submitted pursuant to  
15 rules promulgated by the Tax Commission;

16           24. Sales of diesel fuel sold for consumption by commercial  
17 vessels, barges and other commercial watercraft;

18           25. Sales of tangible personal property or services to tax-  
19 exempt independent nonprofit biomedical research foundations that  
20 provide educational programs for Oklahoma science students and  
21 teachers and to tax-exempt independent nonprofit community blood  
22 banks headquartered in this state;

23           26. Effective May 6, 1992, sales of wireless telecommunications  
24 equipment to a vendor who subsequently transfers the equipment at no

1 charge or for a discounted charge to a consumer as part of a  
2 promotional package or as an inducement to commence or continue a  
3 contract for wireless telecommunications services;

4 27. Effective January 1, 1991, leases of rail transportation  
5 cars to haul coal to coal-fired plants located in this state which  
6 generate electric power;

7 28. Beginning July 1, 2005, sales of aircraft engine repairs,  
8 modification, and replacement parts, sales of aircraft frame repairs  
9 and modification, aircraft interior modification, and paint, and  
10 sales of services employed in the repair, modification and  
11 replacement of parts of aircraft engines, aircraft frame and  
12 interior repair and modification, and paint;

13 29. Sales of materials and supplies to the owner or operator of  
14 a ship, motor vessel or barge that is used in interstate or  
15 international commerce if the materials and supplies:

16 a. are loaded on the ship, motor vessel or barge and used  
17 in the maintenance and operation of the ship, motor  
18 vessel or barge, or

19 b. enter into and become component parts of the ship,  
20 motor vessel or barge;

21 30. Sales of tangible personal property made at estate sales at  
22 which such property is offered for sale on the premises of the  
23 former residence of the decedent by a person who is not required to  
24 be licensed pursuant to the Transient Merchant Licensing Act, or who

1 is not otherwise required to obtain a sales tax permit for the sale  
2 of such property pursuant to the provisions of Section 1364 of this  
3 title; provided:

- 4 a. such sale or event may not be held for a period  
5 exceeding three (3) consecutive days,
- 6 b. the sale must be conducted within six (6) months of  
7 the date of death of the decedent, and
- 8 c. the exemption allowed by this paragraph shall not be  
9 allowed for property that was not part of the  
10 decedent's estate;

11 31. Beginning January 1, 2004, sales of electricity and  
12 associated delivery and transmission services, when sold exclusively  
13 for use by an oil and gas operator for reservoir dewatering projects  
14 and associated operations commencing on or after July 1, 2003, in  
15 which the initial water-to-oil ratio is greater than or equal to  
16 five-to-one water-to-oil, and such oil and gas development projects  
17 have been classified by the Corporation Commission as a reservoir  
18 dewatering unit;

19 32. Sales of prewritten computer software that is delivered  
20 electronically. For purposes of this paragraph, "delivered  
21 electronically" means delivered to the purchaser by means other than  
22 tangible storage media;

23 33. Sales of modular dwelling units when built at a production  
24 facility and moved in whole or in parts, to be assembled on-site,

1 and permanently affixed to the real property and used for  
2 residential or commercial purposes. The exemption provided by this  
3 paragraph shall equal forty-five percent (45%) of the total sales  
4 price of the modular dwelling unit. For purposes of this paragraph,  
5 "modular dwelling unit" means a structure that is not subject to the  
6 motor vehicle excise tax imposed pursuant to Section 2103 of this  
7 title;

8 34. Sales of tangible personal property or services to persons  
9 who are residents of Oklahoma and have been honorably discharged  
10 from active service in any branch of the Armed Forces of the United  
11 States or Oklahoma National Guard and who have been certified by the  
12 United States Department of Veterans Affairs or its successor to be  
13 in receipt of disability compensation at the one-hundred-percent  
14 rate and the disability shall be permanent and have been sustained  
15 through military action or accident or resulting from disease  
16 contracted while in such active service; provided, sales for the  
17 benefit of the person to a spouse of the eligible person or to a  
18 member of the household in which the eligible person resides and who  
19 is authorized to make purchases on the person's behalf, when such  
20 eligible person is not present at the sale, shall also be exempt for  
21 purposes of this paragraph. Sales qualifying for the exemption  
22 authorized by this paragraph shall not exceed Twenty-five Thousand  
23 Dollars (\$25,000.00) per year per individual. Upon request of the  
24 Tax Commission, a person asserting or claiming the exemption

1 authorized by this paragraph shall provide a statement, executed  
2 under oath, that the total sales amounts for which the exemption is  
3 applicable have not exceeded Twenty-five Thousand Dollars  
4 (\$25,000.00) per year. If the amount of such exempt sales exceeds  
5 such amount, the sales tax in excess of the authorized amount shall  
6 be treated as a direct sales tax liability and may be recovered by  
7 the Tax Commission in the same manner provided by law for other  
8 taxes, including penalty and interest;

9 35. Sales of electricity to the operator, specifically  
10 designated by the Oklahoma Corporation Commission, of a spacing unit  
11 or lease from which oil is produced or attempted to be produced  
12 using enhanced recovery methods, including, but not limited to,  
13 increased pressure in a producing formation through the use of water  
14 or saltwater if the electrical usage is associated with and  
15 necessary for the operation of equipment required to inject or  
16 circulate fluids in a producing formation for the purpose of forcing  
17 oil or petroleum into a wellbore for eventual recovery and  
18 production from the wellhead. In order to be eligible for the sales  
19 tax exemption authorized by this paragraph, the total content of oil  
20 recovered after the use of enhanced recovery methods shall not  
21 exceed one percent (1%) by volume. The exemption authorized by this  
22 paragraph shall be applicable only to the state sales tax rate and  
23 shall not be applicable to any county or municipal sales tax rate;

24

1           36. Sales of intrastate charter and tour bus transportation.  
2 As used in this paragraph, "intrastate charter and tour bus  
3 transportation" means the transportation of persons from one  
4 location in this state to another location in this state in a motor  
5 vehicle which has been constructed in such a manner that it may  
6 lawfully carry more than eighteen persons, and which is ordinarily  
7 used or rented to carry persons for compensation. Provided, this  
8 exemption shall not apply to regularly scheduled bus transportation  
9 for the general public;

10           37. ~~Sales~~ Before January 1, 2012, sales of vitamins, minerals  
11 and dietary supplements by a licensed chiropractor to a person who  
12 is the patient of such chiropractor at the physical location where  
13 the chiropractor provides chiropractic care or services to such  
14 patient. The provisions of this paragraph shall not be applicable  
15 to any drug, medicine or substance for which a prescription by a  
16 licensed physician is required;

17           38. Sales of goods, wares, merchandise, tangible personal  
18 property, machinery and equipment to a web search portal located in  
19 this state which derives at least eighty percent (80%) of its annual  
20 gross revenue from the sale of a product or service to an out-of-  
21 state buyer or consumer. For purposes of this paragraph, "web  
22 search portal" means an establishment classified under NAICS code  
23 519130 which operates web sites that use a search engine to generate  
24

1 and maintain extensive databases of Internet addresses and content  
2 in an easily searchable format;

3 39. Sales of tangible personal property consumed or  
4 incorporated in the construction or expansion of a facility for a  
5 corporation organized under Section 437 et seq. of Title 18 of the  
6 Oklahoma Statutes as a rural electric cooperative. For purposes of  
7 this paragraph, sales made to a contractor or subcontractor that has  
8 previously entered into a contractual relationship with a rural  
9 electric cooperative for construction or expansion of a facility  
10 shall be considered sales made to a rural electric cooperative; and

11 40. Sales of tangible personal property or services to a  
12 business primarily engaged in the repair of consumer electronic  
13 goods, including, but not limited to, cell phones, compact disc  
14 players, personal computers, MP3 players, digital devices for the  
15 storage and retrieval of information through hard-wired or wireless  
16 computer or Internet connections, if the devices are sold to the  
17 business by the original manufacturer of such devices and the  
18 devices are repaired, refitted or refurbished for sale by the entity  
19 qualifying for the exemption authorized by this paragraph directly  
20 to retail consumers or if the devices are sold to another business  
21 entity for sale to retail consumers.

22 SECTION 4. AMENDATORY Section 1, Chapter 301, O.S.L.  
23 2005, as amended by Section 1, Chapter 260, O.S.L. 2006 (68 O.S.  
24 Supp. 2008, Section 2357.101), is amended to read as follows:

1 Section 2357.101 A. For taxable years beginning after  
2 December 31, 2004, and ending before January 1, 2012, there shall be  
3 allowed against the tax imposed by Section 2355 of Title 68 of the  
4 Oklahoma Statutes, a credit equal to twenty-five percent (25%) of  
5 the amount of profit made by a taxpayer from investment in an  
6 existing Oklahoma film or music project with a production company to  
7 pay for production costs that is reinvested by the taxpayer with the  
8 production company to pay for the production cost of the production  
9 company for a new Oklahoma film or music project.

10 B. In no event shall the amount of the credit provided for in  
11 subsection A of this section for an eligible taxpayer exceed the tax  
12 liability of the taxpayer in a calendar year.

13 C. The Oklahoma Tax Commission shall have the authority to  
14 prescribe forms for purposes of claiming the credit authorized in  
15 subsection A of this section. The forms shall include, but not be  
16 limited to, requests for information that prove who the investment  
17 was with, the amount of the original investment and the amount of  
18 the profit realized from the investment.

19 D. As used in this section:

20 1. "Film" means a professional single media, multimedia program  
21 or feature, which is not child pornography as defined in subsection  
22 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene  
23 material as defined in paragraph 1 of subsection B of Section 1024.1  
24 of Title 21 of the Oklahoma Statutes including, but not limited to,

1 national advertising messages that are broadcast on a national  
2 affiliate or cable network, fixed on film or digital video, which  
3 can be viewed or reproduced and which is exhibited in theaters,  
4 licensed for exhibition by individual television stations, groups of  
5 stations, networks, cable television stations or other means or  
6 licensed for home viewing markets;

7 2. "Music project" means a professional recording released on a  
8 national or international level, whether via traditional  
9 manufacturing or distributing or electronic distribution, using  
10 technology currently in use or future technology including, but not  
11 limited to, music CDs, radio commercials, jingles, cues, or  
12 electronic device recordings;

13 3. "Production company" means a person who produces a film or  
14 music project for exhibition in theaters, on television or  
15 elsewhere;

16 4. "Total production cost" includes, but is not limited to:

- 17 a. wages or salaries of persons who have earned income  
18 from working on a film or music project in this state,  
19 including payments to personal services corporations  
20 with respect to the services of qualified performing  
21 artists, as determined under Section 62(a)(A) of the  
22 Internal Revenue Code,  
23 b. the cost of construction and operations, wardrobe,  
24 accessories and related services,

- c. the cost of photography, sound synchronization, lighting and related services,
- d. the cost of editing and related services,
- e. rental of facilities and equipment, and
- f. other direct costs of producing a film or music project;

5. "Existing Oklahoma film or music project" means a film or music project produced after July 1, 2005;

6. "Profit" means the amount made by the taxpayer to be determined as follows:

- a. the gross revenues less gross expenses, including direct production, distribution and marketing costs and an allocation of indirect overhead costs, of the film or music project shall be multiplied by,
- b. a ratio, the numerator of which is Oklahoma production costs, as defined in paragraph 7 of this subsection, and the denominator of which is total production costs, as defined in paragraph 4 of this subsection, which shall be multiplied by,
- c. the percent of the taxpayer's taxable income allocated to Oklahoma in a taxable year, and
- d. subtract from the result of the formula calculated pursuant to subparagraphs a through c of this paragraph the profit made by a taxpayer from

1 investment in an existing Oklahoma film or music  
2 project in previous taxable years. Profit shall  
3 include either a net profit or net loss;

4 7. "Oklahoma production cost" means that portion of total  
5 production costs which are incurred with any qualified vendor;

6 8. a. "Qualified vendor" means an Oklahoma entity which  
7 provides goods or services to a production company and  
8 for which:

9 (1) fifty percent (50%) or more of its employees are  
10 Oklahoma residents, and

11 (2) fifty percent (50%) or more of gross wages, as  
12 reported on Internal Revenue Service Form W-2 or  
13 Form 1099, are paid to Oklahoma residents.

14 b. For purposes of this paragraph, an employee shall  
15 include a self-employed individual reporting income  
16 from a qualified vendor on Internal Revenue Service  
17 Form 1040.

18 c. The ~~Oklahoma~~ Tax Commission shall prescribe forms by  
19 which an entity may be certified to a production  
20 company as a qualified vendor for purposes of this  
21 section; and

22 9. "Investment" means costs associated with the original  
23 production company. Film or music projects acquired from an  
24

1 original production company do not qualify as investment under  
2 subsection A of this section.

3 SECTION 5. AMENDATORY 68 O.S. 2001, Section 2358, as  
4 last amended by Section 3, Chapter 395, O.S.L. 2008 (68 O.S. Supp.  
5 2008, Section 2358), is amended to read as follows:

6 Section 2358. For all tax years beginning after December 31,  
7 1981, taxable income and adjusted gross income shall be adjusted to  
8 arrive at Oklahoma taxable income and Oklahoma adjusted gross income  
9 as required by this section.

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 automobiles and other similar equipment, in the  
2 proportion that miles traveled in Oklahoma by  
3 such equipment bears to total miles traveled,

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

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

18 b. The payroll factor is a fraction, the numerator of  
19 which is the total compensation for services rendered  
20 in the state during the tax period, and the  
21 denominator of which is the total compensation for  
22 services rendered everywhere during the tax period.  
23 "Compensation", as used in this subsection means those  
24 paid-for services to the extent related to the unitary

1 business but does not include officers' salaries,  
2 wages and other compensation.

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

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

19 c. The sales factor is a fraction, the numerator of which  
20 is the total sales or gross revenue of the taxpayer in  
21 this state during the tax period, and the denominator  
22 of which is the total sales or gross revenue of the  
23 taxpayer everywhere during the tax period. "Sales",  
24 as used in this subsection does not include sales or

1 gross revenue which are separately allocated in  
2 paragraph 4 of this subsection.

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

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

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

1 Oklahoma bears to total interstate mileage  
2 traveled.

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

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

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

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

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

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

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

9 For purposes of this paragraph:

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

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

23 (1) the processing of agricultural commodities,  
24 including receiving or storing agricultural

1 commodities, or the production of milk at a dairy  
2 operation,

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

6 (3) packaging or otherwise preparing the product for  
7 sale or shipment.

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

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

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

1 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this  
2 paragraph, "qualified wages" means those wages used to calculate the  
3 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

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

1 1981, calculated in this section shall be retained and utilized for  
2 all Oklahoma income tax purposes through the final disposition of  
3 such assets.

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

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

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

1 transferor corporation as a result of the technology transfer. Such  
2 exemption shall be allowed for a period not to exceed ten (10) years  
3 from the date of receipt of the first royalty payment accruing from  
4 such transfer. No exemption may be claimed for transfers of  
5 technology to qualified small businesses made prior to January 1,  
6 1988.

7 2. For purposes of this subsection:

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

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

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

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

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

24

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

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

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

15 2. As used in this subsection:

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

21 (1) the sale of real property or tangible personal  
22 property located within Oklahoma that has been  
23 directly or indirectly owned by the corporation,  
24 estate or trust for a holding period of at least

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

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

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

13 e. "indirect" means the taxpayer owns an interest in a  
14 pass-through entity (or chain of pass-through  
15 entities) that sells the asset that gives rise to the  
16 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, or partnership, the deduction  
10          described in this subsection shall not apply  
11          unless the pass-through entity that makes the  
12          sale has held the stock or ownership interest or  
13          the assets for not less than three (3)  
14          uninterrupted years prior to the date of the  
15          transaction that created the capital gain, and  
16          each pass-through entity included in the chain of  
17          ownership has been a member, partner or  
18          shareholder of the pass-through entity in the  
19          tier immediately below it for an uninterrupted  
20          period of not less than three (3) years.

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



- 1 (1) Twenty-five Thousand Dollars (\$25,000.00) if  
2 married and filing jointly;
- 3 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)  
4 if married and filing separately;
- 5 (3) Fifteen Thousand Dollars (\$15,000.00) if single;  
6 and
- 7 (4) Nineteen Thousand Dollars (\$19,000.00) if a  
8 qualifying head of household.

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

- 17 d. For taxable years beginning after December 31, 1990,  
18 and beginning before January 1, 1992, there shall be  
19 allowed a one-time additional exemption of Four  
20 Hundred Dollars (\$400.00) for each taxpayer or spouse  
21 who is a member of the National Guard or any reserve  
22 unit of the Armed Forces of the United States and who  
23 was at any time during such taxable year deployed in  
24

1 active service during a time of war or conflict with  
2 an enemy of the United States.

3 2. a. For taxable years beginning on or before December 31,  
4 2005, in the case of individuals who use the standard  
5 deduction in determining taxable income, there shall  
6 be added or deducted, as the case may be, the  
7 difference necessary to allow a standard deduction in  
8 lieu of the standard deduction allowed by the Internal  
9 Revenue Code, in an amount equal to the larger of  
10 fifteen percent (15%) of the Oklahoma adjusted gross  
11 income or One Thousand Dollars (\$1,000.00), but not to  
12 exceed Two Thousand Dollars (\$2,000.00), except that  
13 in the case of a married individual filing a separate  
14 return such deduction shall be the larger of fifteen  
15 percent (15%) of such Oklahoma adjusted gross income  
16 or Five Hundred Dollars (\$500.00), but not to exceed  
17 the maximum amount of One Thousand Dollars  
18 (\$1,000.00),

19 b. For taxable years beginning on or after January 1,  
20 2006, and before January 1, 2007, in the case of  
21 individuals who use the standard deduction in  
22 determining taxable income, there shall be added or  
23 deducted, as the case may be, the difference necessary  
24 to allow a standard deduction in lieu of the standard

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

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

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

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

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

18 (2) Four Thousand One Hundred Twenty-five Dollars  
19 (\$4,125.00) for a head of household; or

20 (3) Two Thousand Seven Hundred Fifty Dollars  
21 (\$2,750.00), if the filing status is single or  
22 married filing separate.

23 d. For the taxable year beginning on January 1, 2008, and  
24 ending December 31, 2008, in the case of individuals

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

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

9 (2) Four Thousand Eight Hundred Seventy-five Dollars  
10 (\$4,875.00) for a head of household, or

11 (3) Three Thousand Two Hundred Fifty Dollars  
12 (\$3,250.00), if the filing status is single or  
13 married filing separate.

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

21 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),  
22 if the filing status is married filing joint or  
23 qualifying widow, or  
24

- 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  
24 deductible for those taxpayers moving within or into Oklahoma and no

1 part of moving expense shall be deductible for those taxpayers  
2 moving without or out of Oklahoma. All other itemized or standard  
3 deductions and personal exemptions shall be subject to proration as  
4 provided by law.

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

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

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

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

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

22 Provided, that the Tax Commission may, in its discretion, grant  
23 any member of the Armed Forces of the United States an extension of  
24 time for filing of income tax returns and payment of income tax

1 without incurring liabilities for interest or penalties. Such  
2 extension may be granted only when in the judgment of the Tax  
3 Commission a good cause exists therefor and may be for a period in  
4 excess of six (6) months. A record of every such extension granted,  
5 and the reason therefor, shall be kept.

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

11 7. ~~Notwithstanding~~ Before January 1, 2010, notwithstanding  
12 anything in the Internal Revenue Code or in the Oklahoma Income Tax  
13 Act to the contrary, it is expressly provided that, in the case of  
14 resident individuals, amounts received as dividends or distributions  
15 of earnings from savings and loan associations or credit unions  
16 located in Oklahoma, and interest received on savings accounts and  
17 time deposits from such sources or from state and national banks or  
18 trust companies located in Oklahoma, shall qualify as dividends for  
19 the purpose of the dividend exclusion, and taxable income shall be  
20 adjusted accordingly to arrive at Oklahoma taxable income; provided,  
21 however, that the dividend, distribution of earnings and/or interest  
22 exclusion provided for hereinabove shall not be cumulative to the  
23 maximum dividend exclusion allowed by the Internal Revenue Code.  
24 Any dividend exclusion already allowed by the Internal Revenue Code

1 and reflected in the taxpayer's Oklahoma taxable income together  
2 with exclusion allowed herein shall not exceed the total of One  
3 Hundred Dollars (\$100.00) per individual or Two Hundred Dollars  
4 (\$200.00) per couple filing a joint return.

5 8. a. An individual taxpayer, whether resident or  
6 nonresident, may deduct an amount equal to the federal  
7 income taxes paid by the taxpayer during the taxable  
8 year.

9 b. Federal taxes as described in subparagraph a of this  
10 paragraph shall be deductible by any individual  
11 taxpayer, whether resident or nonresident, only to the  
12 extent they relate to income subject to taxation  
13 pursuant to the provisions of the Oklahoma Income Tax  
14 Act. The maximum amount allowable in the preceding  
15 paragraph shall be prorated on the ratio of the  
16 Oklahoma adjusted gross income to federal adjusted  
17 gross income.

18 c. For the purpose of this paragraph, "federal income  
19 taxes paid" shall mean federal income taxes, surtaxes  
20 imposed on incomes or excess profits taxes, as though  
21 the taxpayer was on the accrual basis. In determining  
22 the amount of deduction for federal income taxes for  
23 tax year 2001, the amount of the deduction shall not  
24 be adjusted by the amount of any accelerated ten

1 percent (10%) tax rate bracket credit or advanced  
2 refund of the credit received during the tax year  
3 provided pursuant to the federal Economic Growth and  
4 Tax Relief Reconciliation Act of 2001, P.L. No. 107-  
5 16, and the advanced refund of such credit shall not  
6 be subject to taxation.

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

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

1 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt  
2 from taxable income.

3 10. In taxable years beginning after December 31, 1984, Social  
4 Security benefits received by an individual shall be exempt from  
5 taxable income, to the extent such benefits are included in the  
6 federal adjusted gross income pursuant to the provisions of Section  
7 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

22 12. In taxable years beginning after December 31, 1995,  
23 contributions made to and interest received from a medical savings  
24

1 account established pursuant to Sections 2621 through 2623 of Title  
2 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

15 14. a. In taxable years beginning after December 31, 2002,  
16 nonrecurring adoption expenses paid by a resident  
17 individual taxpayer in connection with:  
18 (1) the adoption of a minor, or  
19 (2) a proposed adoption of a minor which did not  
20 result in a decreed adoption,  
21 may be deducted from the Oklahoma adjusted gross  
22 income.

23  
24

- 1           b.    The deductions for adoptions and proposed adoptions  
2                   authorized by this paragraph shall not exceed Twenty  
3                   Thousand Dollars (\$20,000.00) per calendar year.
- 4           c.    The Tax Commission shall promulgate rules to implement  
5                   the provisions of this paragraph which shall contain a  
6                   specific list of nonrecurring adoption expenses which  
7                   may be presumed to qualify for the deduction.  The Tax  
8                   Commission shall prescribe necessary requirements for  
9                   verification.
- 10          d.    "Nonrecurring adoption expenses" means adoption fees,  
11                   court costs, medical expenses, attorney fees and  
12                   expenses which are directly related to the legal  
13                   process of adoption of a child including, but not  
14                   limited to, costs relating to the adoption study,  
15                   health and psychological examinations, transportation  
16                   and reasonable costs of lodging and food for the child  
17                   or adoptive parents which are incurred to complete the  
18                   adoption process and are not reimbursed by other  
19                   sources.  The term "nonrecurring adoption expenses"  
20                   shall not include attorney fees incurred for the  
21                   purpose of litigating a contested adoption, from and  
22                   after the point of the initiation of the contest,  
23                   costs associated with physical remodeling, renovation  
24                   and alteration of the adoptive parents' home or

1 property, except for a special needs child as  
2 authorized by the court.

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

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

21 (1) in taxable years beginning after December 31,  
22 2004, and prior to January 1, 2007, the  
23 qualifying amount shall be Thirty-seven Thousand  
24 Five Hundred Dollars (\$37,500.00) or less if the

1 filing status is single, head of household, or  
2 married filing separate, or Seventy-Five Thousand  
3 Dollars (\$75,000.00) or less if the filing status  
4 is married filing jointly or qualifying widow,

5 (2) in the taxable year beginning January 1, 2007,  
6 the qualifying amount shall be Fifty Thousand  
7 Dollars (\$50,000.00) or less if the filing status  
8 is single, head of household, or married filing  
9 separate, or One Hundred Thousand Dollars  
10 (\$100,000.00) or less if the filing status is  
11 married filing jointly or qualifying widow,

12 (3) in the taxable year beginning January 1, 2008,  
13 the qualifying amount shall be Sixty-two Thousand  
14 Five Hundred Dollars (\$62,500.00) or less if the  
15 filing status is single, head of household, or  
16 married filing separate, or One Hundred Twenty-  
17 five Thousand Dollars (\$125,000.00) or less if  
18 the filing status is married filing jointly or  
19 qualifying widow,

20 (4) in the taxable year beginning January 1, 2009,  
21 the qualifying amount shall be One Hundred  
22 Thousand Dollars (\$100,000.00) or less if the  
23 filing status is single, head of household, or  
24 married filing separate, or Two Hundred Thousand

1           Dollars (\$200,000.00) or less if the filing  
2           status is married filing jointly or qualifying  
3           widow, and

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

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

10          (1) an employee pension benefit plan which satisfies  
11           the requirements of Section 401 of the Internal  
12           Revenue Code, 26 U.S.C., Section 401,

13          (2) an eligible deferred compensation plan that  
14           satisfies the requirements of Section 457 of the  
15           Internal Revenue Code, 26 U.S.C., Section 457,

16          (3) an individual retirement account, annuity or  
17           trust or simplified employee pension that  
18           satisfies the requirements of Section 408 of the  
19           Internal Revenue Code, 26 U.S.C., Section 408,

20          (4) an employee annuity subject to the provisions of  
21           Section 403(a) or (b) of the Internal Revenue  
22           Code, 26 U.S.C., Section 403(a) or (b),

1 (5) United States Retirement Bonds which satisfy the  
2 requirements of Section 86 of the Internal  
3 Revenue Code, 26 U.S.C., Section 86, or

4 (6) lump-sum distributions from a retirement plan  
5 which satisfies the requirements of Section  
6 402(e) of the Internal Revenue Code, 26 U.S.C.,  
7 Section 402(e).

8 d. The amount of the exemption provided by this paragraph  
9 shall be limited to Five Thousand Five Hundred Dollars  
10 (\$5,500.00) for the 2004 tax year, Seven Thousand Five  
11 Hundred Dollars (\$7,500.00) for the 2005 tax year and  
12 Ten Thousand Dollars (\$10,000.00) for the tax year  
13 2006 and for all subsequent tax years. Any individual  
14 who claims the exemption provided for in paragraph 9  
15 of this subsection shall not be permitted to claim a  
16 combined total exemption pursuant to this paragraph  
17 and paragraph 9 of this subsection in an amount  
18 exceeding Five Thousand Five Hundred Dollars  
19 (\$5,500.00) for the 2004 tax year, Seven Thousand Five  
20 Hundred Dollars (\$7,500.00) for the 2005 tax year and  
21 Ten Thousand Dollars (\$10,000.00) for the 2006 tax  
22 year and all subsequent tax years.

23 16. In taxable years beginning after December 31, 1999, for an  
24 individual engaged in production agriculture who has filed a

1 Schedule F form with the taxpayer's federal income tax return for  
2 such taxable year, there shall be excluded from taxable income any  
3 amount which was included as federal taxable income or federal  
4 adjusted gross income and which consists of the discharge of an  
5 obligation by a creditor of the taxpayer incurred to finance the  
6 production of agricultural products.

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

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

21 b. In taxable years beginning after December 31, 2004,  
22 each taxpayer shall be allowed a deduction for  
23 contributions to accounts established pursuant to the  
24 Oklahoma College Savings Plan Act. The maximum annual

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

20 c. In taxable years beginning after December 31, 2006,  
21 deductions for contributions made pursuant to  
22 subparagraph b of this paragraph shall be limited as  
23 follows:  
24

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.

23 e. If a taxpayer makes a non-qualified withdrawal of  
24 contributions for which a deduction was taken pursuant

1 to subparagraph b of this paragraph, such non-  
2 qualified withdrawal and any earnings thereon shall be  
3 included in the adjusted gross income of the taxpayer  
4 in the taxable year of the non-qualified withdrawal.

5 f. As used in this paragraph:

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

9 (a) a qualified withdrawal,

10 (b) a withdrawal made as a result of the death  
11 or disability of the designated beneficiary  
12 of an account,

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

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

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

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

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

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

- d. in the taxable year beginning January 1, 2010, eighty percent (80%) of such benefits shall be exempt, and
- e. in the taxable year beginning January 1, 2011, and subsequent taxable years, one hundred percent (100%) of such benefits shall be exempt.

21. a. For taxable years beginning after December 31, 2007, a resident individual may deduct up to Ten Thousand Dollars (\$10,000.00) from Oklahoma adjusted gross income if the individual, or the dependent of the individual, while living, donates one or more human organs of the individual to another human being for human organ transplantation. As used in this paragraph, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow. A deduction that is claimed under this paragraph may be claimed in the taxable year in which the human organ transplantation occurs.

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

c. The Oklahoma Tax Commission shall promulgate rules to implement the provisions of this paragraph which shall contain a specific list of expenses which may be

1           presumed to qualify for the deduction. The Tax  
2           Commission shall prescribe necessary requirements for  
3           verification.

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

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

13           2. As used in this subsection:

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

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

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, 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  
24 the beneficial interests or shares of which are owned

1 or controlled, directly or indirectly, or  
2 constructively, by a single entity that is:

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

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

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

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

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

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

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

1 cash equivalents, and U.S. Government  
2 securities,

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

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

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

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

22 2. For purposes of this subsection, the constructive ownership  
23 rules of Section 318(a) of the Internal Revenue Code of 1986, as  
24 amended, as modified by Section 856(d)(5) of the Internal Revenue

1 Code of 1986, as amended, shall apply in determining the ownership  
2 of stock, assets, or net profits of any person.

3 SECTION 6. AMENDATORY 68 O.S. 2001, Section 2358.3, is  
4 amended to read as follows:

5 Section 2358.3 ~~A~~ Before January 1, 2010, a person who  
6 contributes money to a political party or to a candidate or  
7 candidate committee shall be entitled to deduct the amount  
8 contributed, not to exceed One Hundred Dollars (\$100.00) in any one  
9 tax year, from the person's adjusted gross income in the computation  
10 of Oklahoma income tax.

11 SECTION 7. This act shall become effective January 1, 2010.

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