

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 3038

6 By: Osborn, Newell, Derby,
7 Murphey, Brumbaugh,
8 Blackwell, Hall, McDaniel
(Randy), Holland, Cockroft,
9 Faught, Tibbs, Cooksey,
10 Grau, Vaughan, Ortega,
11 Kirby, Jackson, Armes,
12 Denney, Sanders, Wright and
13 Mulready

14 COMMITTEE SUBSTITUTE

15 [revenue and taxation - Oklahoma Income Tax Code -
16 providing for elimination of individual income tax
17 - adjusted gross income - eliminating deductions
18 and exemptions - prohibiting use of tax credits -
19 apportionment of sales tax - Ad Valorem
20 Reimbursement Fund - Teachers' Retirement System
21 Dedicated Revenue Revolving Fund - repealing
22 sections -
23 effective dates]

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

1 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2355, is
2 amended to read as follows:

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

8 1. METHOD 1.

9 a. Single individuals and married individuals filing
10 separately not deducting federal income tax:

11 (1) 1/2% tax on first \$1,000.00 or part thereof,

12 (2) 1% tax on next \$1,500.00 or part thereof,

13 (3) 2% tax on next \$1,250.00 or part thereof,

14 (4) 3% tax on next \$1,150.00 or part thereof,

15 (5) 4% tax on next \$1,300.00 or part thereof,

16 (6) 5% tax on next \$1,500.00 or part thereof,

17 (7) 6% tax on next \$2,300.00 or part thereof, and

18 (8) (a) for taxable years beginning after December
19 31, 1998, and before January 1, 2002, 6.75%
20 tax on the remainder,

21 (b) for taxable years beginning on or after
22 January 1, 2002, and before January 1, 2004,
23 7% tax on the remainder, and
24

1 (c) for taxable years beginning on or after
2 January 1, 2004, 6.65% tax on the remainder.

3 b. Married individuals filing jointly and surviving
4 spouse to the extent and in the manner that a
5 surviving spouse is permitted to file a joint return
6 under the provisions of the Internal Revenue Code and
7 heads of households as defined in the Internal Revenue
8 Code not deducting federal income tax:

9 (1) 1/2% tax on first \$2,000.00 or part thereof,

10 (2) 1% tax on next \$3,000.00 or part thereof,

11 (3) 2% tax on next \$2,500.00 or part thereof,

12 (4) 3% tax on next \$2,300.00 or part thereof,

13 (5) 4% tax on next \$2,400.00 or part thereof,

14 (6) 5% tax on next \$2,800.00 or part thereof,

15 (7) 6% tax on next \$6,000.00 or part thereof, and

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

17 31, 1998, and before January 1, 2002, 6.75%

18 tax on the remainder,

19 (b) for taxable years beginning on or after

20 January 1, 2002, and before January 1, 2004,

21 7% tax on the remainder, and

22 (c) for taxable years beginning on or after

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

24 2. METHOD 2.

1 a. Single individuals and married individuals filing
2 separately deducting federal income tax:

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

4 (2) 1% tax on next \$1,500.00 or part thereof,

5 (3) 2% tax on next \$1,250.00 or part thereof,

6 (4) 3% tax on next \$1,150.00 or part thereof,

7 (5) 4% tax on next \$1,200.00 or part thereof,

8 (6) 5% tax on next \$1,400.00 or part thereof,

9 (7) 6% tax on next \$1,500.00 or part thereof,

10 (8) 7% tax on next \$1,500.00 or part thereof,

11 (9) 8% tax on next \$2,000.00 or part thereof,

12 (10) 9% tax on next \$3,500.00 or part thereof, and

13 (11) 10% tax on the remainder.

14 b. Married individuals filing jointly and surviving

15 spouse to the extent and in the manner that a

16 surviving spouse is permitted to file a joint return

17 under the provisions of the Internal Revenue Code and

18 heads of households as defined in the Internal Revenue

19 Code deducting federal income tax:

20 (1) 1/2% tax on the first \$2,000.00 or part thereof,

21 (2) 1% tax on the next \$3,000.00 or part thereof,

22 (3) 2% tax on the next \$2,500.00 or part thereof,

23 (4) 3% tax on the next \$1,400.00 or part thereof,

24 (5) 4% tax on the next \$1,500.00 or part thereof,

- 1 (6) 5% tax on the next \$1,600.00 or part thereof,
- 2 (7) 6% tax on the next \$1,250.00 or part thereof,
- 3 (8) 7% tax on the next \$1,750.00 or part thereof,
- 4 (9) 8% tax on the next \$3,000.00 or part thereof,
- 5 (10) 9% tax on the next \$6,000.00 or part thereof, and
- 6 (11) 10% tax on the remainder.

7 B. Individuals. For all taxable years beginning on or after
8 January 1, ~~2008~~ 2013, through the tax year ending December 31, 2022,
9 a tax is hereby imposed upon the Oklahoma taxable income of every
10 resident or nonresident individual, which tax shall be computed as
11 follows:

12 1. Single individuals and married individuals filing
13 separately:

- 14 (a) 1/2% tax on first \$1,000.00 or part thereof,
- 15 (b) \$5.00 and 1% tax on next \$1,500.00 or part thereof,
16 except as otherwise provided by this paragraph
- 17 (c) \$20.00 and 2% tax on next \$1,250.00 or part thereof,
18 except as otherwise provided by this paragraph,
- 19 (d) ~~3%~~ \$45.00 and 2.25% tax on next \$1,150.00 or part
20 thereof, except as otherwise provided by this
21 paragraph, and
- 22 (e) 4%
- 23 (1) 2.25% tax on next ~~\$2,300.00 or part thereof,~~
- 24 ~~(f) 5% tax on next \$1,500.00 or part thereof,~~

1 ~~(g) 5.50% tax on the remainder for the 2008 tax year and~~
2 ~~any subsequent tax year unless the rate prescribed by~~
3 ~~subparagraph (h) of this paragraph is in effect, and~~
4 ~~(h) 5.25% tax on the remainder for the 2009 and subsequent~~
5 ~~2013 tax years year, . The decrease in the top~~
6 ~~marginal individual income tax rate otherwise~~
7 ~~authorized by this subparagraph shall be contingent~~
8 ~~upon the determination required to be made by the~~
9 ~~State Board of Equalization pursuant to Section~~
10 ~~2355.1A of this title~~

11 (2) 2.00% tax on the remainder for the 2014 tax year,

12 (3) 1.75% tax on the remainder for the 2015 tax year,

13 (4) 1.50% tax on the remainder for the 2016 tax year,

14 (5) 1.25% tax on the remainder for the 2017 tax year,

15 (6) 1.00% tax on the remainder for the 2018 tax year,

16 (7) 0.75% tax on the remainder for the 2019 tax year,

17 (8) 0.50% tax on the remainder for the 2020 tax year,

18 (9) 0.25% tax on the remainder for the 2021 tax year,

19 and

20 (10) 0.00% tax on the remainder for the 2022 and all
21 subsequent tax years.

22 2. Married individuals filing jointly and surviving spouse to
23 the extent and in the manner that a surviving spouse is permitted to
24 file a joint return under the provisions of the Internal Revenue

1 Code and heads of households as defined in the Internal Revenue

2 Code:

3 (a) 1/2% tax on first \$2,000.00 or part thereof, except as
4 otherwise provided by this paragraph,

5 (b) \$10.00 plus 1% tax on next \$3,000.00 or part thereof,
6 except as otherwise provided by this paragraph,

7 (c) \$40.00 plus 2% tax on next \$2,500.00 or part thereof,
8 except as otherwise provided by this paragraph,

9 (d) ~~3%~~ \$90.00 plus 2.25% tax on next \$2,300.00 or part
10 thereof, except as otherwise provided by this
11 paragraph, and

12 (e) 4%

13 (1) 2.25% tax on next \$2,300.00 or part thereof,

14 ~~(f) 5% tax on next \$2,800.00 or part thereof,~~

15 ~~(g) 5.50% tax on the remainder for the 2008 2013 tax year~~
16 ~~and any subsequent tax year unless the rate prescribed~~
17 ~~by subparagraph (h) of this paragraph is in effect,~~
18 ~~and~~

19 ~~(h) 5.25% tax on the remainder for the 2009 and subsequent~~
20 ~~tax years. The decrease in the top marginal~~
21 ~~individual income tax rate otherwise authorized by~~
22 ~~this subparagraph shall be contingent upon the~~
23 ~~determination required to be made by the State Board~~

24

1 ~~of Equalization pursuant to Section 2355.1A of this~~
2 ~~title,~~

3 (2) 2.00% tax on the remainder for the 2014 tax year,

4 (3) 1.75% tax on the remainder for the 2015 tax year,

5 (4) 1.50% tax on the remainder for the 2016 tax year,

6 (5) 1.25% tax on the remainder for the 2017 tax year,

7 (6) 1.00% tax on the remainder for the 2018 tax year,

8 (7) 0.75% tax on the remainder for the 2019 tax year,

9 (8) 0.50% tax on the remainder for the 2020 tax year,

10 (9) 0.25% tax on the remainder for the 2021 tax year,

11 and

12 (10) 0.00% tax on the remainder for the 2022 and all

13 subsequent tax years.

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

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

23 Every payer of amounts covered by this subsection shall deduct
24 and withhold from such amounts paid each payee an amount equal to

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

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

23 There shall be no additional Oklahoma income tax imposed on
24 accumulated taxable income or on undistributed personal holding

1 company income as those terms are defined in the Internal Revenue
2 Code.

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

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

1 subject to taxation, the total amount deducted and withheld as tax
2 and such other information as the Tax Commission may require. Any
3 payer who fails to withhold or pay to the Tax Commission any sums
4 herein required to be withheld or paid shall be personally and
5 individually liable therefor to the State of Oklahoma.

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

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

24

1 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357, is
2 amended to read as follows:

3 Section 2357. A. The withheld taxes and estimated taxes paid
4 shall be allowed as credits as provided by law.

5 B. ~~1. There shall be allowed as a credit against the tax~~
6 ~~imposed by Section 2355 of this title the amount of tax paid another~~
7 ~~state by a resident individual, as defined in paragraph 4 of Section~~
8 ~~2353 of this title, upon income received as compensation for~~
9 ~~personal services in such other state; provided, such credit shall~~
10 ~~not be allowed with respect to any income specified in Section 114~~
11 ~~of Title 4 of the United States Code, 4 U.S.C., Section 114, upon~~
12 ~~which a state is prohibited from imposing an income tax. The credit~~
13 ~~shall not exceed such proportion of the tax payable under Section~~
14 ~~2355 of this title as the compensation for personal services subject~~
15 ~~to tax in the other state and also taxable under Section 2355 of~~
16 ~~this title bears to the Oklahoma adjusted gross income as defined in~~
17 ~~paragraph 13 of Section 2353 of this title.~~

18 ~~2. For tax years beginning after December 31, 2007, there shall~~
19 ~~be allowed to a resident individual or part-year resident individual~~
20 ~~or nonresident individual member of the Armed Forces as a credit~~
21 ~~against the tax imposed by Section 2355 of this title twenty percent~~
22 ~~(20%) of the credit for child care expenses allowed under the~~
23 ~~Internal Revenue Code of the United States or five percent (5%) of~~
24 ~~the child tax credit allowed under the Internal Revenue Code,~~

1 ~~whichever amount is greater. Neither credit authorized by this~~
2 ~~paragraph shall exceed the tax imposed by Section 2355 of this~~
3 ~~title. The maximum child care credit allowable on the Oklahoma~~
4 ~~income tax return shall be prorated on the ratio that Oklahoma~~
5 ~~adjusted gross income bears to the federal adjusted gross income.~~
6 ~~The credit authorized by this paragraph shall not be claimed by any~~
7 ~~taxpayer if the federal adjusted gross income reflected on the~~
8 ~~Oklahoma return for the taxpayer is in excess of One Hundred~~
9 ~~Thousand Dollars (\$100,000.00).~~

10 ~~€.~~ 1. Except as otherwise provided by paragraph 3 of this
11 subsection, every taxpayer who operates a manufacturing
12 establishment in the state shall be allowed a direct credit against
13 income taxes owed by such taxpayer to the state, the amount of which
14 credit shall be proportioned to the amount of gas used or consumed
15 in Oklahoma by such taxpayer in the operation of a manufacturing
16 establishment, at a rate of three (3) mills per thousand (1,000)
17 cubic feet of gas used or consumed after May 1, 1971, and during
18 each taxable year of such taxpayer provided that the credit allowed
19 herein shall not apply to the first twenty-five thousand (25,000)
20 MCF of gas used or gas used to generate electricity or consumed
21 after May 1, 1971, and during each taxable year of such taxpayer.

22 2. As used in this subsection:

23 a. "manufacturing establishment" means a plant or
24 establishment which engages in the business of working

1 raw materials into wares suitable for use or which
2 gives new shapes, new qualities or new combinations to
3 matter which has already gone through some artificial
4 process,

5 b. "gas used or consumed" shall include all natural or
6 casinghead gas used in the operation of the
7 manufacturing establishment for whatever purposes, but
8 shall not include the following:

9 (1) gas which, after being severed from the earth, is
10 subsequently injected into a formation in the
11 state for the purpose of storing, recycling,
12 repressuring or pressure maintenance,

13 (2) gas vented or flared directly into the
14 atmosphere,

15 (3) gas used for fuel in connection with the
16 operation and development for or production of
17 oil or gas in the field where produced, and

18 (4) gas, any part of which is resold by the
19 manufacturing establishment, except as to that
20 part and quantity of the gas which is actually
21 used by the establishment and not resold, and

22 c. "one thousand (1,000) cubic feet of gas" (MCF) means
23 that quantity of gas which, measured at a pressure of
24 fifteen and twenty-five thousandths (15.025) pounds

1 per square inch absolute and at a temperature of
2 sixty-nine (69) degrees Fahrenheit, would have the
3 volume of one thousand (1,000) cubic feet.

4 3. No credit otherwise authorized by the provisions of this
5 subsection may be claimed for any event, transaction, investment,
6 expenditure or other act occurring on or after July 1, 2010, for
7 which the credit would otherwise be allowable. The provisions of
8 this paragraph shall cease to be operative on July 1, 2012.

9 Beginning July 1, 2012, the credit authorized by this subsection may
10 be claimed for any event, transaction, investment, expenditure or
11 other act occurring on or after July 1, 2012, according to the
12 provisions of this subsection.

13 ~~D.~~ No additions to tax shall be made in Oklahoma income tax
14 returns by reason of the recapture or restoration of credits under
15 the Internal Revenue Code, and no other credits against tax shall be
16 allowed in Oklahoma income tax returns except as follows:

17 1. Those credits provided in this section; and

18 2. Those credits authorized by Sections 2-5-101 through 2-5-118
19 of Title 27A of the Oklahoma Statutes, which have been, or may
20 hereafter be, certified pursuant to applications therefor made on or
21 before March 22, 1971. Provided, the total amount of the credits
22 referred to in this subparagraph to be taken by the taxpayer shall
23 not exceed the certified net investment cost of the facilities or
24 processes to which such credits pertain, reduced by the greater of:

- 1 a. the reduction in federal income tax of taxpayer as the
2 result of deducting depreciation on such facilities or
3 processes, or deducting nondepreciable costs for which
4 credit has been so certified, or
5 b. the increase in the amount of Oklahoma income tax that
6 would result if taxable income were increased by the
7 amount deducted as set forth in subparagraph a of this
8 paragraph.

9 And, provided further, that, after such credits have been exhausted,
10 taxpayer shall each year thereafter adjust taxable income by adding
11 any depreciation taken on such facilities or processes, or any
12 nondepreciable costs having been included in the net investment cost
13 allowed as credit, and which depreciation or costs have been allowed
14 as a deduction in arriving at federal taxable income for such year.

15 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2357.45, is
16 amended to read as follows:

17 Section 2357.45 A. 1. For tax years beginning after December
18 31, ~~2004~~ 2012, there shall be allowed against the tax imposed on
19 corporations by subsection D of Section 2355 of this title, a credit
20 for any taxpayer ~~who~~ subject to the levy imposed pursuant to
21 subsection D of Section 2355 of this title that makes a donation to
22 an independent biomedical research institute and for tax years
23 beginning after December 31, 2010, a credit for any taxpayer who
24 makes a donation to a cancer research institute.

1 2. The credit authorized by paragraph 1 of this subsection
2 shall be limited as follows:

3 a. for calendar year 2007 and all subsequent years, the
4 credit percentage, not to exceed fifty percent (50%),
5 shall be adjusted annually so that the total estimate
6 of the credits does not exceed Two Million Dollars
7 (\$2,000,000.00) annually. The formula to be used for
8 the percentage adjusted shall be fifty percent (50%)
9 times One Million Dollars (\$1,000,000.00) divided by
10 the credits claimed in the preceding year for each
11 donation to an independent biomedical research
12 institute and fifty percent (50%) times One Million
13 Dollars (\$1,000,000.00) divided by the credits claimed
14 in the preceding year for each donation to a cancer
15 research institute,

16 b. in no event shall a taxpayer claim more than one
17 credit for a donation to any independent biomedical
18 research institute and one credit for a donation to a
19 cancer research institute in each taxable year nor
20 shall the credit exceed One Thousand Dollars
21 (\$1,000.00) for each taxpayer for each type of
22 donation,

- 1 c. for tax year 2011, no more than Fifty Thousand Dollars
2 (\$50,000.00) in total tax credits for donations to a
3 cancer research institute shall be allowed,
- 4 d. in no event shall more than fifty percent (50%) of the
5 Two Million Dollars (\$2,000,000.00) in total tax
6 credits authorized by this section, for any calendar
7 year after the effective date of this act, be
8 allocated for credits for donations to a cancer
9 research institute, and
- 10 e. in the event the total tax credits authorized by this
11 section exceed One Million Dollars (\$1,000,000.00) in
12 any calendar year for either a cancer research
13 institute or an independent biomedical research
14 institute, the Oklahoma Tax Commission shall permit
15 any excess over One Million Dollars (\$1,000,000.00)
16 but shall factor such excess into the percentage
17 adjustment formula for subsequent years for that type
18 of donation. However, any such adjustment to the
19 formula for donations to an independent biomedical
20 research institute shall not affect the formula for
21 donations to a cancer research institute, and any such
22 adjustment to the formula for donations to a cancer
23 research institute shall not affect the formula for
24

1 donations to an independent biomedical research
2 institute.

3 3. For purposes of this section, "independent biomedical
4 research institute" means an organization which is exempt from
5 taxation pursuant to the provisions of Section 501(c)(3) of the
6 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) whose primary
7 focus is conducting peer-reviewed basic biomedical research. The
8 organization shall:

- 9 a. have a board of directors,
- 10 b. be able to accept grants in its own name,
- 11 c. be an identifiable institute that has its own
12 employees and administrative staff, and
- 13 d. receive at least Fifteen Million Dollars
14 (\$15,000,000.00) in National Institute of Health
15 funding each year.

16 4. For purposes of this section, "cancer research institute"
17 means an organization which is exempt from taxation pursuant to the
18 Internal Revenue Code and whose primary focus is raising the
19 standard of cancer clinical care in Oklahoma through peer-reviewed
20 cancer research and education or a not-for-profit supporting
21 organization, as that term is defined by the Internal Revenue Code,
22 affiliated with a tax-exempt organization whose primary focus is
23 raising the standard of cancer clinical care in Oklahoma through
24 peer-reviewed cancer research and education. The tax-exempt

1 organization whose primary focus is raising the standard of cancer
2 clinical care in Oklahoma through peer-reviewed cancer research and
3 education shall:

4 a. either be an independent research institute or a
5 program that is part of a state university which is a
6 member of The Oklahoma State System of Higher
7 Education, and

8 b. receive at least Four Million Dollars (\$4,000,000.00)
9 in National Cancer Institute funding each year.

10 B. In no event shall the amount of the credit exceed the amount
11 of any tax liability of the taxpayer.

12 C. Any credits allowed but not used in any tax year may be
13 carried over, in order, to each of the four (4) years following the
14 year of qualification.

15 D. The Tax Commission shall have the authority to prescribe
16 forms for purposes of claiming the credit authorized by this
17 section.

18 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2358, is
19 amended to read as follows:

20 Section 2358. For all tax years beginning after December 31,
21 ~~1981~~ 2012, taxable income and adjusted gross income shall be
22 adjusted to arrive at Oklahoma taxable income and Oklahoma adjusted
23 gross income as required by this section.

24

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

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

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

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

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

1 b. For carryovers and carrybacks to taxable years
2 beginning after December 31, 1980, the amount of any
3 net operating loss deduction allowed for the taxable
4 year shall be an amount equal to the aggregate of the
5 Oklahoma net operating loss carryovers and carrybacks
6 to such year. Oklahoma net operating losses shall be
7 separately determined by reference to Section 172 of
8 the Internal Revenue Code, 26 U.S.C., Section 172, as
9 modified by the Oklahoma Income Tax Act, Section 2351
10 et seq. of this title, and shall be allowed without
11 regard to the existence of a federal net operating
12 loss. For tax years beginning after December 31,
13 2000, and ending before January 1, 2008, the years to
14 which such losses may be carried shall be determined
15 solely by reference to Section 172 of the Internal
16 Revenue Code, 26 U.S.C., Section 172, with the
17 exception that the terms "net operating loss" and
18 "taxable income" shall be replaced with "Oklahoma net
19 operating loss" and "Oklahoma taxable income". For
20 tax years beginning after December 31, 2007, and
21 ending before January 1, 2009, years to which such
22 losses may be carried back shall be limited to two (2)
23 years. For tax years beginning after December 31,
24 2008, the years to which such losses may be carried

1 back shall be determined solely by reference to
2 Section 172 of the Internal Revenue Code, 26 U.S.C.,
3 Section 172, with the exception that the terms "net
4 operating loss" and "taxable income" shall be replaced
5 with "Oklahoma net operating loss" and "Oklahoma
6 taxable income".

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

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

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

22 (1) where such property has acquired a nonunitary
23 business or commercial situs apart from the
24 domicile of the taxpayer such income shall be

1 allocated in accordance with such business or
2 commercial situs; interest income from
3 investments held to generate working capital for
4 a unitary business enterprise shall be included
5 in apportionable income; a resident trust or
6 resident estate shall be treated as having a
7 separate commercial or business situs insofar as
8 undistributed income is concerned, but shall not
9 be treated as having a separate commercial or
10 business situs insofar as distributed income is
11 concerned,

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

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

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

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

1 d. In the case of a manufacturing or processing
2 enterprise the business of which in Oklahoma consists
3 solely of marketing its products by:

4 (1) sales having a situs without this state, shipped
5 directly to a point from without the state to a
6 purchaser within the state, commonly known as
7 interstate sales,

8 (2) sales of the product stored in public warehouses
9 within the state pursuant to "in transit"
10 tariffs, as prescribed and allowed by the
11 Interstate Commerce Commission, to a purchaser
12 within the state,

13 (3) sales of the product stored in public warehouses
14 within the state where the shipment to such
15 warehouses is not covered by "in transit"
16 tariffs, as prescribed and allowed by the
17 Interstate Commerce Commission, to a purchaser
18 within or without the state,

19 the Oklahoma net income shall, at the option of the
20 taxpayer, be that portion of the total net income of
21 the taxpayer for federal income tax purposes derived
22 from the manufacture and/or processing and sales
23 everywhere as determined by the ratio of the sales
24 defined in this section made to the purchaser within

1 the state to the total sales everywhere. The term
2 "public warehouse" as used in this subparagraph means
3 a licensed public warehouse, the principal business of
4 which is warehousing merchandise for the public;

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

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

1 by the National Association of Insurance
2 Commissioners, or such other form as may be
3 prescribed in lieu thereof,

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

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

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

1 initial investment cost equaling or exceeding Two Hundred Million
2 Dollars (\$200,000,000.00) and such investment is made on or after
3 July 1, 1997, or for corporations which expand their property or
4 facilities in this state and such expansion has an investment cost
5 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
6 over a period not to exceed three (3) years, and such expansion is
7 commenced on or after January 1, 2000, the three factors shall be
8 apportioned with property and payroll, each comprising twenty-five
9 percent (25%) of the apportionment factor and sales comprising fifty
10 percent (50%) of the apportionment factor. The apportionment
11 factors shall be computed as follows:

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

19 (1) Property, the income from which is separately
20 allocated in paragraph 4 of this subsection,
21 shall not be included in determining this
22 fraction. The numerator of the fraction shall
23 include a portion of the investment in
24 transportation and other equipment having no

1 fixed situs, such as rolling stock, buses, trucks
2 and trailers, including machinery and equipment
3 carried thereon, airplanes, salespersons'
4 automobiles and other similar equipment, in the
5 proportion that miles traveled in Oklahoma by
6 such equipment bears to total miles traveled,

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

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

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

1 services rendered everywhere during the tax period.

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

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

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

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

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

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

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

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

1 numerator of the fraction shall include a portion
2 of revenue from interstate transportation in the
3 proportion that interstate mileage traveled in
4 Oklahoma bears to total interstate mileage
5 traveled.

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

20 (5) In the case of a telephone or telegraph or other
21 communication enterprise, the numerator of the
22 fraction shall include that portion of the
23 interstate revenue as is allocated pursuant to
24 the accounting procedures prescribed by the

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

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

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

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

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

12 For purposes of this paragraph:

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

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

3 (1) the processing of agricultural commodities,
4 including receiving or storing agricultural
5 commodities, or the production of milk at a dairy
6 operation,

7 (2) transporting the agricultural commodities or
8 product before, during or after the processing,
9 or

10 (3) packaging or otherwise preparing the product for
11 sale or shipment.

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

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

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

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

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

15 10. For taxable years beginning on or after January 1, 2010,
16 there shall be added to Oklahoma taxable income an amount equal to
17 the amount of deferred income not included in such taxable income
18 pursuant to Section 108(i)(1) of the Internal Revenue Code of 1986
19 as amended by Section 1231 of the American Recovery and Reinvestment
20 Act of 2009 (P.L. No. 111-5). There shall be subtracted from
21 Oklahoma taxable income an amount equal to the amount of deferred
22 income included in such taxable income pursuant to Section 108(i)(1)
23 of the Internal Revenue Code of 1986, as amended by Section 1231 of
24 the American Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

1 B. 1. The taxable income of any corporation shall be further
2 adjusted to arrive at Oklahoma taxable income, except those
3 corporations electing treatment as provided in subchapter S of the
4 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
5 2365 of this title, deductions pursuant to the provisions of the
6 Accelerated Cost Recovery System as defined and allowed in the
7 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
8 Section 168, for depreciation of assets placed into service after
9 December 31, 1981, shall not be allowed in calculating Oklahoma
10 taxable income. Such corporations shall be allowed a deduction for
11 depreciation of assets placed into service after December 31, 1981,
12 in accordance with provisions of the Internal Revenue Code, 26
13 U.S.C., Section 1 et seq., in effect immediately prior to the
14 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
15 basis for all such assets placed into service after December 31,
16 1981, calculated in this section shall be retained and utilized for
17 all Oklahoma income tax purposes through the final disposition of
18 such assets.

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

24

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

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

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

1 from the date of receipt of the first royalty payment accruing from
2 such transfer. No exemption may be claimed for transfers of
3 technology to qualified small businesses made prior to January 1,
4 1988.

5 2. For purposes of this subsection:

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

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

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

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

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

22 c. "Transferor corporation" means a corporation which is
23 the exclusive and undisputed owner of the technology
24 at the time the transfer is made; and

1 d. "Gross proceeds" means the total amount of
2 consideration for the transfer of technology, whether
3 the consideration is in money or otherwise.

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

12 2. As used in this subsection:

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

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

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

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

20 b. "holding period" means an uninterrupted period of
21 time. The holding period shall include any additional
22 period when the property was held by another
23 individual or entity, if such additional period is
24

1 included in the taxpayer's holding period for the
2 asset pursuant to the Internal Revenue Code,

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

9 d. "direct" means the taxpayer directly owns the asset,
10 and

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

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

1 pass-through entity in the tier immediately below
2 it for an uninterrupted period of not less than
3 five (5) years.

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

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

22 ~~1. a. In the case of individuals, there shall be added or~~
23 ~~deducted, as the case may be, the difference necessary~~
24 ~~to allow personal exemptions of One Thousand Dollars~~

1 ~~(\$1,000.00) in lieu of the personal exemptions allowed~~
2 ~~by the Internal Revenue Code.~~

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

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

22 ~~(1) Twenty-five Thousand Dollars (\$25,000.00) if~~
23 ~~married and filing jointly;~~

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

7 ~~Provided, for taxable years beginning after December~~
8 ~~31, 1999, amounts included in the calculation of~~
9 ~~federal adjusted gross income pursuant to the~~
10 ~~conversion of a traditional individual retirement~~
11 ~~account to a Roth individual retirement account shall~~
12 ~~be excluded from federal adjusted gross income for~~
13 ~~purposes of the income thresholds provided in this~~
14 ~~subparagraph.~~

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

1 ~~in the case of a married individual filing a separate~~
2 ~~return such deduction shall be the larger of fifteen~~
3 ~~percent (15%) of such Oklahoma adjusted gross income~~
4 ~~or Five Hundred Dollars (\$500.00), but not to exceed~~
5 ~~the maximum amount of One Thousand Dollars~~
6 ~~(\$1,000.00),~~

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

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

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

20 e. ~~For the taxable year beginning on January 1, 2007, and~~
21 ~~ending December 31, 2007, in the case of individuals~~
22 ~~who use the standard deduction in determining taxable~~
23 ~~income, there shall be added or deducted, as the case~~
24 ~~may be, the difference necessary to allow a standard~~

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

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

6 ~~(2) Four Thousand One Hundred Twenty-five Dollars~~
7 ~~(\$4,125.00) for a head of household; or~~

8 ~~(3) Two Thousand Seven Hundred Fifty Dollars~~
9 ~~(\$2,750.00), if the filing status is single or~~
10 ~~married filing separate.~~

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

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

21 ~~(2) Four Thousand Eight Hundred Seventy-five Dollars~~
22 ~~(\$4,875.00) for a head of household; or~~

1 ~~(3) Three Thousand Two Hundred Fifty Dollars~~
2 ~~(\$3,250.00), if the filing status is single or~~
3 ~~married filing separate.~~

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

11 ~~(1) Eight Thousand Five Hundred Dollars (\$8,500.00),~~
12 ~~if the filing status is married filing joint or~~
13 ~~qualifying widow, or~~

14 ~~(2) Six Thousand Three Hundred Seventy-five Dollars~~
15 ~~(\$6,375.00) for a head of household, or~~

16 ~~(3) Four Thousand Two Hundred Fifty Dollars~~
17 ~~(\$4,250.00), if the filing status is single or~~
18 ~~married filing separate.~~

19 ~~Oklahoma adjusted gross income shall be increased by~~
20 ~~any amounts paid for motor vehicle excise taxes which~~
21 ~~were deducted as allowed by the Internal Revenue Code.~~

22 ~~f. For taxable years beginning on or after January 1,~~
23 ~~2010, in the case of individuals who use the standard~~
24 ~~deduction in determining taxable income, there shall~~

1 ~~be added or deducted, as the case may be, the~~
2 ~~difference necessary to allow a standard deduction~~
3 ~~equal to the standard deduction allowed by the~~
4 ~~Internal Revenue Code of 1986, as amended, based upon~~
5 ~~the amount and filing status prescribed by such Code~~
6 ~~for purposes of filing federal individual income tax~~
7 ~~returns.~~

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

21 ~~4. A resident individual with a physical disability~~
22 ~~constituting a substantial handicap to employment may deduct from~~
23 ~~Oklahoma adjusted gross income such expenditures to modify a motor~~
24 ~~vehicle, home or workplace as are necessary to compensate for his or~~

1 ~~her handicap. A veteran certified by the Department of Veterans~~
2 ~~Affairs of the federal government as having a service-connected~~
3 ~~disability shall be conclusively presumed to be an individual with a~~
4 ~~physical disability constituting a substantial handicap to~~
5 ~~employment. The Tax Commission shall promulgate rules containing a~~
6 ~~list of combinations of common disabilities and modifications which~~
7 ~~may be presumed to qualify for this deduction. The Tax Commission~~
8 ~~shall prescribe necessary requirements for verification.~~

9 5. a. ~~Before July 1, 2010, the first One Thousand Five~~
10 ~~Hundred Dollars (\$1,500.00) received by any person~~
11 ~~from the United States as salary or compensation in~~
12 ~~any form, other than retirement benefits, as a member~~
13 ~~of any component of the Armed Forces of the United~~
14 ~~States shall be deducted from taxable income.~~

15 b. ~~On or after July 1, 2010, and ending before January 1,~~
16 ~~2015, one hundred percent (100%) of the income~~
17 ~~received by any person from the United States as~~
18 ~~salary or compensation in any form, other than~~
19 ~~retirement benefits, as a member of any component of~~
20 ~~the Armed Forces of the United States shall be~~
21 ~~deducted from taxable income.~~

22 c. ~~For the taxable year beginning on January 1, 2015, and~~
23 ~~every year thereafter, if the State Board of~~
24 ~~Equalization makes a determination pursuant to Section~~

1 ~~2355.1D of this title that, for the purposes of this~~
2 ~~paragraph, revenue collections exceed revenue~~
3 ~~reductions, the one hundred percent (100%) deduction~~
4 ~~provided for in subparagraph b of this paragraph may~~
5 ~~be claimed.~~

6 d. ~~For the taxable year beginning on January 1, 2015, and~~
7 ~~every year thereafter, if the State Board of~~
8 ~~Equalization makes a determination pursuant to Section~~
9 ~~2355.1D of this title that, for the purposes of this~~
10 ~~paragraph, revenue collections do not exceed revenue~~
11 ~~reductions, a deduction of the first One Thousand Five~~
12 ~~Hundred Dollars (\$1,500.00) received by any person~~
13 ~~from the United States as salary or compensation in~~
14 ~~any form, other than retirement benefits, as a member~~
15 ~~of any component of the Armed Forces of the United~~
16 ~~States shall be allowed.~~

17 e. ~~Whenever the filing of a timely income tax return by a~~
18 ~~member of the Armed Forces of the United States is~~
19 ~~made impracticable or impossible of accomplishment by~~
20 ~~reason of:~~

21 ~~(1) absence from the United States, which term~~
22 ~~includes only the states and the District of~~
23 ~~Columbia;~~

1 ~~(2) absence from the State of Oklahoma while on~~
2 ~~active duty; or~~

3 ~~(3) confinement in a hospital within the United~~
4 ~~States for treatment of wounds, injuries or~~
5 ~~disease,~~

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

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

19 ~~(b) An executor, administrator, or conservator~~
20 ~~of the estate of the taxpayer is appointed,~~
21 ~~whichever 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. Before July 1, 2010, the salary or any other form of~~
7 ~~compensation, received from the United States by a member of any~~
8 ~~component of the Armed Forces of the United States, shall be~~
9 ~~deducted from taxable income during the time in which the person is~~
10 ~~detained by the enemy in a conflict, is a prisoner of war or is~~
11 ~~missing in action and not deceased; provided, after July 1, 2010,~~
12 ~~all such salary or compensation shall be subject to the deduction as~~
13 ~~provided pursuant to paragraph 5 of this subsection.~~

14 ~~7. Notwithstanding anything in the Internal Revenue Code or in~~
15 ~~the Oklahoma Income Tax Act to the contrary, it is expressly~~
16 ~~provided that, in the case of resident individuals, amounts received~~
17 ~~as dividends or distributions of earnings from savings and loan~~
18 ~~associations or credit unions located in Oklahoma, and interest~~
19 ~~received on savings accounts and time deposits from such sources or~~
20 ~~from state and national banks or trust companies located in~~
21 ~~Oklahoma, shall qualify as dividends for the purpose of the dividend~~
22 ~~exclusion, and taxable income shall be adjusted accordingly to~~
23 ~~arrive at Oklahoma taxable income; provided, however, that the~~
24 ~~dividend, distribution of earnings and/or interest exclusion~~

1 ~~provided for hereinabove shall not be cumulative to the maximum~~
2 ~~dividend exclusion allowed by the Internal Revenue Code. Any~~
3 ~~dividend exclusion already allowed by the Internal Revenue Code and~~
4 ~~reflected in the taxpayer's Oklahoma taxable income together with~~
5 ~~exclusion allowed herein shall not exceed the total of One Hundred~~
6 ~~Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00)~~
7 ~~per couple filing a joint return.~~

8 ~~8. a. An individual taxpayer, whether resident or~~
9 ~~nonresident, may deduct an amount equal to the federal~~
10 ~~income taxes paid by the taxpayer during the taxable~~
11 ~~year.~~

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

21 ~~c. For the purpose of this paragraph, "federal income~~
22 ~~taxes paid" shall mean federal income taxes, surtaxes~~
23 ~~imposed on incomes or excess profits taxes, as though~~
24 ~~the taxpayer was on the accrual basis. In determining~~

1 ~~the amount of deduction for federal income taxes for~~
2 ~~tax year 2001, the amount of the deduction shall not~~
3 ~~be adjusted by the amount of any accelerated ten~~
4 ~~percent (10%) tax rate bracket credit or advanced~~
5 ~~refund of the credit received during the tax year~~
6 ~~provided pursuant to the federal Economic Growth and~~
7 ~~Tax Relief Reconciliation Act of 2001, P.L. No. 107-~~
8 ~~16, and the advanced refund of such credit shall not~~
9 ~~be subject to taxation.~~

10 ~~d. The provisions of this paragraph shall apply to all~~
11 ~~taxable years ending after December 31, 1978, and~~
12 ~~beginning before January 1, 2006.~~

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

1 ~~Wildlife Conservation Department Retirement Fund, the Oklahoma~~
2 ~~Employment Security Commission Retirement Plan, or the employee~~
3 ~~retirement systems created by municipalities pursuant to Section 48-~~
4 ~~101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt~~
5 ~~from taxable income.~~

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

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

1 ~~12. In taxable years beginning after December 31, 1995,~~
2 ~~contributions made to and interest received from a medical savings~~
3 ~~account established pursuant to Sections 2621 through 2623 of Title~~
4 ~~63 of the Oklahoma Statutes shall be exempt from taxable income.~~

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

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

- 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 ~~e. 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(c) 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~~

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

e. ~~In taxable years beginning after December 31, 2006, deductions for contributions made pursuant to subparagraph b of this paragraph shall be limited as follows:~~

1 ~~(1) for a taxpayer who qualified for the five year~~
2 ~~carryforward election and who takes a rollover or~~
3 ~~nonqualified 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 ~~nonqualified withdrawal, and~~

8 ~~(2) for a taxpayer who elects to take a rollover or~~
9 ~~nonqualified 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 ~~nonqualified 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 nonqualified withdrawal of~~
24 ~~contributions for which a deduction was taken pursuant~~

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

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

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

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

22 c. ~~The Oklahoma Tax Commission shall promulgate rules to~~
23 ~~implement the provisions of this paragraph which shall~~
24 ~~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, 2009, 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 ~~or a registered emergency medical responder provided by Section 1-~~
8 ~~2505.1 of Title 63 of the Oklahoma Statutes.~~

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

13 ~~24. For taxable years beginning after December 31, 2008, there~~
14 ~~shall be exempt from taxable income any payment in an amount less~~
15 ~~than Six Hundred Dollars (\$600.00) received by a person as an award~~
16 ~~for participation in a competitive livestock show event. For~~
17 ~~purposes of this paragraph, the payment shall be treated as a~~
18 ~~scholarship amount paid by the entity sponsoring the event and the~~
19 ~~sponsoring entity shall cause the payment to be categorized as a~~
20 ~~scholarship in its books and records.~~

21 ~~F. 1. For taxable years beginning after December 31, 2004, a~~
22 ~~deduction from the Oklahoma adjusted gross income of any individual~~
23 ~~taxpayer shall be allowed for qualifying gains receiving capital~~
24

1 ~~treatment that are included in the federal adjusted gross income of~~
2 ~~such individual taxpayer during the taxable year.~~

3 ~~2. As used in this subsection:~~

4 a. ~~"qualifying gains receiving capital treatment" means~~
5 ~~the amount of net capital gains, as defined in Section~~
6 ~~1222(11) of the Internal Revenue Code, included in an~~
7 ~~individual taxpayer's federal income tax return that~~
8 ~~result from:~~

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

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

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

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

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

1 of the transaction from which the net capital gains
2 arise,

3 d. "direct" means the individual taxpayer directly owns
4 the asset,

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

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

22 (2) With respect to sales of stock or ownership
23 interest in or sales of all or substantially all
24 of the assets of an Oklahoma company, limited

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

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

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

3 ~~G.~~ 1. For purposes of computing its Oklahoma taxable income
4 under this section, the dividends-paid deduction otherwise allowed
5 by federal law in computing net income of a real estate investment
6 trust that is subject to federal income tax shall be added back in
7 computing the tax imposed by this state under this title if the real
8 estate investment trust is a captive real estate investment trust.

9 2. For purposes of computing its Oklahoma taxable income under
10 this section, a taxpayer shall add back otherwise deductible rents
11 and interest expenses paid to a captive real estate investment trust
12 that is not subject to the provisions of paragraph 1 of this
13 subsection. As used in this subsection:

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

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

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

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

- 15 (1) any real estate investment trust as defined in
16 paragraph a of this subsection other than a
17 "captive real estate investment trust", or
18 (2) any qualified real estate investment trust
19 subsidiary under Section 856(i) of the Internal
20 Revenue Code of 1986, as amended, other than a
21 qualified REIT subsidiary of a "captive real
22 estate investment trust", or
23 (3) any Listed Australian Property Trust (meaning an
24 Australian unit trust registered as a "Managed

1 Investment Scheme" under the Australian
2 Corporations Act in which the principal class of
3 units is listed on a recognized stock exchange in
4 Australia and is regularly traded on an
5 established securities market), or an entity
6 organized as a trust, provided that a Listed
7 Australian Property Trust owns or controls,
8 directly or indirectly, seventy-five percent
9 (75%) or more of the voting power or value of the
10 beneficial interests or shares of such trust, or
11 (4) any Qualified Foreign Entity, meaning a
12 corporation, trust, association or partnership
13 organized outside the laws of the United States
14 and which satisfies the following criteria:
15 (a) at least seventy-five percent (75%) of the
16 entity's total asset value at the close of
17 its taxable year is represented by real
18 estate assets, as defined in Section
19 856(c) (5) (B) of the Internal Revenue Code of
20 1986, as amended, thereby including shares
21 or certificates of beneficial interest in
22 any real estate investment trust, cash and
23 cash equivalents, and U.S. Government
24 securities,

- 1 (b) the entity receives a dividend-paid
2 deduction comparable to Section 561 of the
3 Internal Revenue Code of 1986, as amended,
4 or is exempt from entity level tax,
- 5 (c) the entity is required to distribute at
6 least eighty-five percent (85%) of its
7 taxable income, as computed in the
8 jurisdiction in which it is organized, to
9 the holders of its shares or certificates of
10 beneficial interest on an annual basis,
- 11 (d) not more than ten percent (10%) of the
12 voting power or value in such entity is held
13 directly or indirectly or constructively by
14 a single entity or individual, or the shares
15 or beneficial interests of such entity are
16 regularly traded on an established
17 securities market, and
- 18 (e) the entity is organized in a country which
19 has a tax treaty with the United States.

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

1 4. A real estate investment trust that does not become
2 regularly traded on an established securities market within one (1)
3 year of the date on which it first becomes a real estate investment
4 trust shall be deemed not to have been regularly traded on an
5 established securities market, retroactive to the date it first
6 became a real estate investment trust, and shall file an amended
7 return reflecting such retroactive designation for any tax year or
8 part year occurring during its initial year of status as a real
9 estate investment trust. For purposes of this subsection, a real
10 estate investment trust becomes a real estate investment trust on
11 the first day it has both met the requirements of Section 856 of the
12 Internal Revenue Code and has elected to be treated as a real estate
13 investment trust pursuant to Section 856(c)(1) of the Internal
14 Revenue Code.

15 SECTION 5. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2358.1B of Title 68, unless
17 there is created a duplication in numbering, reads as follows:

18 A. For taxable years beginning January 1, 2013, and for any
19 taxable year thereafter, no individual may claim any tax credit
20 authorized pursuant to the provisions of the Oklahoma Income Tax
21 Code or any other provision of law if the credit results from an
22 allocation to that individual of a tax credit as a result of
23 partnership tax treatment authorized or required pursuant to the
24 provisions of the federal Internal Revenue Code of 1986, as amended,

1 or as a result of any provision of the Oklahoma Income Tax Code or
2 other provision of state law that would otherwise allow such
3 allocation.

4 B. The provisions of this section shall be applicable to any
5 and all pass-through entities including but not limited to general
6 partnerships, limited partnerships, corporations for which a
7 Subchapter S election is in effect pursuant to the federal Internal
8 Revenue Code of 1986, as amended, a limited liability company
9 treated as a partnership, or any other entity treated as a
10 partnership for purposes of federal or state income tax law.

11 C. As used in this section, "tax credit" means any method by
12 which a tax rate is multiplied by a tax base to compute a gross tax
13 liability from which is subtracted an amount to arrive at a net tax
14 liability. As used in this section, "tax credit" does not mean the
15 reduction of a tax liability resulting from a deduction or exemption
16 authorized by the statutory provisions creating the tax.

17 SECTION 6. AMENDATORY 68 O.S. 2011, Section 1353, is
18 amended to read as follows:

19 Section 1353. A. It is hereby declared to be the purpose of
20 the Oklahoma Sales Tax Code to provide funds for the financing of
21 the program provided for by the Oklahoma Social Security Act and to
22 provide revenues for the support of the functions of the state
23 government of Oklahoma, and for this purpose it is hereby expressly
24 provided that, revenues derived pursuant to the provisions of the

1 Oklahoma Sales Tax Code, subject to the apportionment requirements
2 for the Oklahoma Tax Commission and Office of State Finance Joint
3 Computer Enhancement Fund provided by Section 265 of this title,
4 shall be apportioned as follows:

5 1. a. the following amounts shall be paid to the State
6 Treasurer to be placed to the credit of the General
7 Revenue Fund to be paid out pursuant to direct
8 appropriation by the Legislature:

9	Fiscal Year	Amount
10	FY 2003 and FY 2004	86.04%
11	FY 2005	85.83%
12	FY 2006	85.54%
13	FY 2007	85.04%
14	FY 2008 and each fiscal	
15	year thereafter	83.61%
16	<u>FY 2013</u>	<u>83.61%</u>
17	<u>FY 2014 through FY 2018</u>	<u>81.61%</u>
18	<u>FY 2019 and thereafter</u>	<u>81.36%</u>

19 b. in the event that additional monies are necessary
20 pursuant to paragraph 6 of this section, such
21 additional monies shall be deducted in the proportion
22 determined by the State Board of Equalization pursuant
23 to paragraph 3 of Section 2355.1B of this title from
24 the monies apportioned to the General Revenue Fund;

1 2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-
2 hundredths percent (10.42%), shall be paid to the State Treasurer to
3 be placed to the credit of the Education Reform Revolving Fund of
4 the State Department of Education and for FY 2006 and each fiscal
5 year thereafter, ten and forty-six one-hundredths percent (10.46%)
6 shall be paid to the State Treasurer to be placed to the credit of
7 the Education Reform Revolving Fund of the State Department of
8 Education;

9 3. The following amounts shall be paid to the State Treasurer
10 to be placed to the credit of the Teachers' Retirement System
11 Dedicated Revenue Revolving Fund:

Fiscal Year	Amount
FY 2003 and FY 2004	3.54%
FY 2005	3.75%
FY 2006	4.0%
FY 2007	4.5%
FY 2008 <u>2014</u> and each	
fiscal year thereafter	5.0% <u>6.5%</u>

19 4. For the fiscal year beginning July 1, 2010, and for each
20 fiscal year thereafter, eighty-seven one-hundredths percent (0.87%)
21 shall be paid to the State Treasurer to be further apportioned as
22 follows:

23 a. thirty-six percent (36%) shall be placed to the credit
24 of the Oklahoma Tourism Promotion Revolving Fund, and

1 b. sixty-four percent (64%) shall be placed to the credit
2 of the Oklahoma Tourism Capital Improvement Revolving
3 Fund; and

4 5. For the fiscal year beginning July 1, 2010, and for each
5 fiscal year thereafter, six one-hundredths percent (0.06%) shall be
6 placed to the credit of the Oklahoma Historical Society Capital
7 Improvement and Operations Revolving Fund.

8 6. During the first fiscal year after the State Board of
9 Equalization has made a determination as provided in Section 2355.1B
10 of this title, regarding a baseline amount of revenue apportioned
11 pursuant to paragraph 3 of this section, and for each fiscal year
12 thereafter, in no event shall monies apportioned pursuant to
13 paragraph 3 of this section, paragraph 3 of Section 1403 of this
14 title and subparagraph c of paragraph 1 of Section 2352 of this
15 title be less than such baseline amount.

16 7. For the fiscal year ending June 30, 2014, and for each of
17 the succeeding four (4) fiscal years, concluding with the fiscal
18 year ending June 30, 2018, five-tenths of one percent (0.5%) shall
19 be apportioned to the Ad Valorem Reimbursement Fund created pursuant
20 to Section 193 of Title 62 of the Oklahoma Statutes which
21 apportionment shall be in addition to any other apportionment made
22 to the Ad Valorem Reimbursement Fund. For the fiscal year ending
23 June 30, 2019, and for each fiscal year thereafter, seventy-five
24 hundredths of one percent (0.75%) shall be apportioned to the Ad

1 Valorem Reimbursement Fund created pursuant to Section 193 of Title
2 62 of the Oklahoma Statutes which apportionment shall be in addition
3 to any other apportionment made to the Ad Valorem Reimbursement
4 Fund.

5 B. Provided, for the fiscal year beginning July 1, 2007, and
6 every fiscal year thereafter, an amount of revenue shall be
7 apportioned to each municipality or county which levies a sales tax
8 subject to the provisions of Section 1357.10 of this title and
9 subsection F of Section 2701 of this title equal to the amount of
10 sales tax revenue of such municipality or county exempted by the
11 provisions of Section 1357.10 of this title and subsection F of
12 Section 2701 of this title. The Oklahoma Tax Commission shall
13 promulgate and adopt rules necessary to implement the provisions of
14 this subsection.

15 SECTION 7. REPEALER 68 O.S. 2011, Section 2355.1A, is
16 hereby repealed.

17 SECTION 8. REPEALER 68 O.S. 2011, Section 2357.29, is
18 hereby repealed.

19 SECTION 9. REPEALER 68 O.S. 2011, Section 2357.43, is
20 hereby repealed.

21 SECTION 10. REPEALER 68 O.S. 2011, Section 2357.102, is
22 hereby repealed.

23 SECTION 11. REPEALER 68 O.S. 2011, Section 2357.203, is
24 hereby repealed.

1 SECTION 12. REPEALER 68 O.S. 2011, Section 2357.304, is
2 hereby repealed.

3 SECTION 13. REPEALER 68 O.S. 2011, Sections 2904, 2905,
4 2906, 2907, 2908, 2909, 2910 and 2911, are hereby repealed.

5 SECTION 14. REPEALER 68 O.S. 2011, Sections 5010, 5011,
6 5012, 5013, 5014, 5015 and 5016, are hereby repealed.

7 SECTION 15. REPEALER 68 O.S. 2011, Sections 2358.1,
8 2358.1A, 2358.3, 2358.5 and 2358.5A, are hereby repealed.

9 SECTION 16. Sections 1 through 5, 7, 8, 9, 10, 11, 12, 13, 14,
10 and 15 of this act shall become effective January 1, 2013.

11 SECTION 17. Section 6 of this act shall become effective July
12 1, 2013.

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