

1 STATE OF OKLAHOMA

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

3 SUBCOMMITTEE RECOMMENDATION
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 SUBCOMMITTEE RECOMMENDATION

15 An Act relating to revenue and taxation; amending 68
16 O.S. 2011, Sections 2355, 2357, 2357.45 and 2358,
17 which relate to the Oklahoma Income Tax Code;
18 modifying individual income tax rates; providing for
19 computation of tax rates; providing for elimination
20 of individual income tax; modifying provisions
21 related to certain individual income tax credits;
22 modifying provisions related to computation of
23 taxable income and adjusted gross income; eliminating
24 deductions and exemptions related to computation of
adjusted gross income for individuals; prohibiting
use of tax credits by individuals; providing for
scope of prohibition regarding use of tax credits;
defining term; amending 68 O.S. 2011, Section 1353,
which relates to the apportionment of sales tax;
modifying apportionment of sales with respect to the
Ad Valorem Reimbursement Fund; modifying
apportionment of sales tax with respect to the
Teachers' Retirement System Dedicated Revenue
Revolving Fund; modifying apportionment of sales tax
with respect to the General Revenue Fund; repealing
68 O.S. 2011, Section 2355.1A, which relates to
determination regarding top marginal rate of income
tax based on certain revenue conditions; repealing 68
O.S. 2011, Sections 2358.1, 2358.1A, 2358.3, 2358.5

1 and 2358.5A, which relate to certain tax credits for
2 individuals; repealing 68 O.S. 2011, Section 2357.29,
3 which relates to an income tax credit for certain
4 residences; repealing 68 O.S. 2011, Section 2357.43,
5 which relates to an income tax credit for earned
6 income; repealing 68 O.S. 2011, Section 2357.102,
7 which relates to tax credits for dry fire hydrants;
8 repealing 68 O.S. 2011, Section 2357.203, which
9 relates to tax credits for specially trained canine
10 expenditures; repealing 68 O.S. 2011, Section
11 2357.304, which relates to tax credits for certain
12 aerospace employees; repealing 68 O.S. 2011, Sections
13 2904, 2905, 2906, 2907, 2908, 2909, 2910 and 2911,
14 which relate to an income tax credit against ad
15 volorem taxes for certain persons; repealing 68 O.S.
16 2011, Sections 5010, 5011, 5012, 5013, 5014, 5015 and
17 5016, which relate to sales tax relief provisions;
18 providing for codification; and providing effective
19 dates.

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

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

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

1. METHOD 1.

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

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

- 1 (2) 1% tax on next \$1,500.00 or part thereof,
- 2 (3) 2% tax on next \$1,250.00 or part thereof,
- 3 (4) 3% tax on next \$1,150.00 or part thereof,
- 4 (5) 4% tax on next \$1,300.00 or part thereof,
- 5 (6) 5% tax on next \$1,500.00 or part thereof,
- 6 (7) 6% tax on next \$2,300.00 or part thereof, and
- 7 (8) (a) for taxable years beginning after December
- 8 31, 1998, and before January 1, 2002, 6.75%
- 9 tax on the remainder,
- 10 (b) for taxable years beginning on or after
- 11 January 1, 2002, and before January 1, 2004,
- 12 7% tax on the remainder, and
- 13 (c) for taxable years beginning on or after
- 14 January 1, 2004, 6.65% tax on the remainder.

15 b. Married individuals filing jointly and surviving
16 spouse to the extent and in the manner that a
17 surviving spouse is permitted to file a joint return
18 under the provisions of the Internal Revenue Code and
19 heads of households as defined in the Internal Revenue
20 Code not deducting federal income tax:

- 21 (1) 1/2% tax on first \$2,000.00 or part thereof,
- 22 (2) 1% tax on next \$3,000.00 or part thereof,
- 23 (3) 2% tax on next \$2,500.00 or part thereof,
- 24 (4) 3% tax on next \$2,300.00 or part thereof,

- 1 (5) 4% tax on next \$2,400.00 or part thereof,
- 2 (6) 5% tax on next \$2,800.00 or part thereof,
- 3 (7) 6% tax on next \$6,000.00 or part thereof, and
- 4 (8) (a) for taxable years beginning after December
- 5 31, 1998, and before January 1, 2002, 6.75%
- 6 tax on the remainder,
- 7 (b) for taxable years beginning on or after
- 8 January 1, 2002, and before January 1, 2004,
- 9 7% tax on the remainder, and
- 10 (c) for taxable years beginning on or after
- 11 January 1, 2004, 6.65% tax on the remainder.

12 2. METHOD 2.

13 a. Single individuals and married individuals filing
14 separately deducting federal income tax:

- 15 (1) 1/2% tax on first \$1,000.00 or part thereof,
- 16 (2) 1% tax on next \$1,500.00 or part thereof,
- 17 (3) 2% tax on next \$1,250.00 or part thereof,
- 18 (4) 3% tax on next \$1,150.00 or part thereof,
- 19 (5) 4% tax on next \$1,200.00 or part thereof,
- 20 (6) 5% tax on next \$1,400.00 or part thereof,
- 21 (7) 6% tax on next \$1,500.00 or part thereof,
- 22 (8) 7% tax on next \$1,500.00 or part thereof,
- 23 (9) 8% tax on next \$2,000.00 or part thereof,
- 24 (10) 9% tax on next \$3,500.00 or part thereof, and

1 (11) 10% tax on the remainder.

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

8 (1) 1/2% tax on the first \$2,000.00 or part thereof,

9 (2) 1% tax on the next \$3,000.00 or part thereof,

10 (3) 2% tax on the next \$2,500.00 or part thereof,

11 (4) 3% tax on the next \$1,400.00 or part thereof,

12 (5) 4% tax on the next \$1,500.00 or part thereof,

13 (6) 5% tax on the next \$1,600.00 or part thereof,

14 (7) 6% tax on the next \$1,250.00 or part thereof,

15 (8) 7% tax on the next \$1,750.00 or part thereof,

16 (9) 8% tax on the next \$3,000.00 or part thereof,

17 (10) 9% tax on the next \$6,000.00 or part thereof, and

18 (11) 10% tax on the remainder.

19 B. Individuals. For all taxable years beginning on or after
20 January 1, ~~2008~~ 2013, through the tax year ending December 31, 2022,
21 a tax is hereby imposed upon the Oklahoma taxable income of every
22 resident or nonresident individual, which tax shall be computed as
23 follows:
24

1 1. Single individuals and married individuals filing
2 separately:

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

4 (b) \$5.00 and 1% tax on next \$1,500.00 or part thereof,
5 except as otherwise provided by this paragraph

6 (c) \$20.00 and 2% tax on next \$1,250.00 or part thereof,
7 except as otherwise provided by this paragraph,

8 (d) ~~3%~~ \$45.00 and 2.25% tax on next \$1,150.00 or part
9 thereof, except as otherwise provided by this
10 paragraph, and

11 (e) ~~4%~~

12 (1) 2.25% tax on ~~next \$2,300.00 or part thereof,~~

13 ~~(f) 5% tax on next \$1,500.00 or part thereof,~~

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

17 ~~(h) 5.25% tax on the remainder for the 2009 and subsequent~~
18 ~~2013 tax years year, . The decrease in the top~~

19 ~~marginal individual income tax rate otherwise~~
20 ~~authorized by this subparagraph shall be contingent~~
21 ~~upon the determination required to be made by the~~
22 ~~State Board of Equalization pursuant to Section~~
23 ~~2355.1A of this title~~

24 (2) 2.00% tax on the remainder for the 2014 tax year,

- 1 (3) 1.75% tax on the remainder for the 2015 tax year,
2 (4) 1.50% tax on the remainder for the 2016 tax year,
3 (5) 1.25% tax on the remainder for the 2017 tax year,
4 (6) 1.00% tax on the remainder for the 2018 tax year,
5 (7) 0.75% tax on the remainder for the 2019 tax year,
6 (8) 0.50% tax on the remainder for the 2020 tax year,
7 (9) 0.25% tax on the remainder for the 2021 tax year,
8 and
9 (10) 0.00% tax on the remainder for the 2022 and all
10 subsequent tax years.

11 2. Married individuals filing jointly and surviving spouse to
12 the extent and in the manner that a surviving spouse is permitted to
13 file a joint return under the provisions of the Internal Revenue
14 Code and heads of households as defined in the Internal Revenue
15 Code:

- 16 (a) 1/2% tax on first \$2,000.00 or part thereof, except as
17 otherwise provided by this paragraph,
18 (b) \$10.00 plus 1% tax on next \$3,000.00 or part thereof,
19 except as otherwise provided by this paragraph,
20 (c) \$40.00 plus 2% tax on next \$2,500.00 or part thereof,
21 except as otherwise provided by this paragraph,
22 (d) ~~3%~~ \$90.00 plus 2.25% tax on next \$2,300.00 or part
23 thereof, except as otherwise provided by this
24 paragraph, and

- 1 (e) ~~4%~~
- 2 ~~(1) 2.25% tax on next \$2,300.00 or part thereof,~~
- 3 ~~(f) 5% tax on next \$2,800.00 or part thereof,~~
- 4 ~~(g) 5.50% tax on the remainder for the 2008 2013 tax year~~
5 ~~and any subsequent tax year unless the rate prescribed~~
6 ~~by subparagraph (h) of this paragraph is in effect,~~
7 ~~and~~
- 8 ~~(h) 5.25% tax on the remainder for the 2009 and subsequent~~
9 ~~tax years. The decrease in the top marginal~~
10 ~~individual income tax rate otherwise authorized by~~
11 ~~this subparagraph shall be contingent upon the~~
12 ~~determination required to be made by the State Board~~
13 ~~of Equalization pursuant to Section 2355.1A of this~~
14 ~~title,~~
- 15 (2) 2.00% tax on the remainder for the 2014 tax year,
- 16 (3) 1.75% tax on the remainder for the 2015 tax year,
- 17 (4) 1.50% tax on the remainder for the 2016 tax year,
- 18 (5) 1.25% tax on the remainder for the 2017 tax year,
- 19 (6) 1.00% tax on the remainder for the 2018 tax year,
- 20 (7) 0.75% tax on the remainder for the 2019 tax year,
- 21 (8) 0.50% tax on the remainder for the 2020 tax year,
- 22 (9) 0.25% tax on the remainder for the 2021 tax year,
- 23 and
- 24

1 (10) 0.00% tax on the remainder for the 2022 and all
2 subsequent tax years.

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

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

12 Every payer of amounts covered by this subsection shall deduct
13 and withhold from such amounts paid each payee an amount equal to
14 eight percent (8%) thereof. Every payer required to deduct and
15 withhold taxes under this subsection shall for each quarterly period
16 on or before the last day of the month following the close of each
17 such quarterly period, pay over the amount so withheld as taxes to
18 the Tax Commission, and shall file a return with each such payment.
19 Such return shall be in such form as the Tax Commission shall
20 prescribe. Every payer required under this subsection to deduct and
21 withhold a tax from a payee shall, as to the total amounts paid to
22 each payee during the calendar year, furnish to such payee, on or
23 before January 31, of the succeeding year, a written statement
24 showing the name of the payer, the name of the payee and the payee's

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

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

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

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

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

20 F. Fiduciaries. A tax is hereby imposed upon the Oklahoma
21 taxable income of every trust and estate at the same rates as are
22 provided in subsection B of this section for single individuals.
23 Fiduciaries are not allowed a deduction for any federal income tax
24 paid.

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

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

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

18 B. ~~1. There shall be allowed as a credit against the tax~~
19 ~~imposed by Section 2355 of this title the amount of tax paid another~~
20 ~~state by a resident individual, as defined in paragraph 4 of Section~~
21 ~~2353 of this title, upon income received as compensation for~~
22 ~~personal services in such other state; provided, such credit shall~~
23 ~~not be allowed with respect to any income specified in Section 114~~
24 ~~of Title 4 of the United States Code, 4 U.S.C., Section 114, upon~~

1 ~~which a state is prohibited from imposing an income tax. The credit~~
2 ~~shall not exceed such proportion of the tax payable under Section~~
3 ~~2355 of this title as the compensation for personal services subject~~
4 ~~to tax in the other state and also taxable under Section 2355 of~~
5 ~~this title bears to the Oklahoma adjusted gross income as defined in~~
6 ~~paragraph 13 of Section 2353 of this title.~~

7 ~~2. For tax years beginning after December 31, 2007, there shall~~
8 ~~be allowed to a resident individual or part-year resident individual~~
9 ~~or nonresident individual member of the Armed Forces as a credit~~
10 ~~against the tax imposed by Section 2355 of this title twenty percent~~
11 ~~(20%) of the credit for child care expenses allowed under the~~
12 ~~Internal Revenue Code of the United States or five percent (5%) of~~
13 ~~the child tax credit allowed under the Internal Revenue Code,~~
14 ~~whichever amount is greater. Neither credit authorized by this~~
15 ~~paragraph shall exceed the tax imposed by Section 2355 of this~~
16 ~~title. The maximum child care credit allowable on the Oklahoma~~
17 ~~income tax return shall be prorated on the ratio that Oklahoma~~
18 ~~adjusted gross income bears to the federal adjusted gross income.~~
19 ~~The credit authorized by this paragraph shall not be claimed by any~~
20 ~~taxpayer if the federal adjusted gross income reflected on the~~
21 ~~Oklahoma return for the taxpayer is in excess of One Hundred~~
22 ~~Thousand Dollars (\$100,000.00).~~

23 ~~6.~~ 1. Except as otherwise provided by paragraph 3 of this
24 subsection, every taxpayer who operates a manufacturing

1 establishment in the state shall be allowed a direct credit against
2 income taxes owed by such taxpayer to the state, the amount of which
3 credit shall be proportioned to the amount of gas used or consumed
4 in Oklahoma by such taxpayer in the operation of a manufacturing
5 establishment, at a rate of three (3) mills per thousand (1,000)
6 cubic feet of gas used or consumed after May 1, 1971, and during
7 each taxable year of such taxpayer provided that the credit allowed
8 herein shall not apply to the first twenty-five thousand (25,000)
9 MCF of gas used or gas used to generate electricity or consumed
10 after May 1, 1971, and during each taxable year of such taxpayer.

11 2. As used in this subsection:

12 a. "manufacturing establishment" means a plant or
13 establishment which engages in the business of working
14 raw materials into wares suitable for use or which
15 gives new shapes, new qualities or new combinations to
16 matter which has already gone through some artificial
17 process,

18 b. "gas used or consumed" shall include all natural or
19 casinghead gas used in the operation of the
20 manufacturing establishment for whatever purposes, but
21 shall not include the following:

22 (1) gas which, after being severed from the earth, is
23 subsequently injected into a formation in the
24

1 state for the purpose of storing, recycling,
2 repressuring or pressure maintenance,

3 (2) gas vented or flared directly into the
4 atmosphere,

5 (3) gas used for fuel in connection with the
6 operation and development for or production of
7 oil or gas in the field where produced, and

8 (4) gas, any part of which is resold by the
9 manufacturing establishment, except as to that
10 part and quantity of the gas which is actually
11 used by the establishment and not resold, and

12 c. "one thousand (1,000) cubic feet of gas" (MCF) means
13 that quantity of gas which, measured at a pressure of
14 fifteen and twenty-five thousandths (15.025) pounds
15 per square inch absolute and at a temperature of
16 sixty-nine (69) degrees Fahrenheit, would have the
17 volume of one thousand (1,000) cubic feet.

18 3. No credit otherwise authorized by the provisions of this
19 subsection may be claimed for any event, transaction, investment,
20 expenditure or other act occurring on or after July 1, 2010, for
21 which the credit would otherwise be allowable. The provisions of
22 this paragraph shall cease to be operative on July 1, 2012.
23 Beginning July 1, 2012, the credit authorized by this subsection may
24 be claimed for any event, transaction, investment, expenditure or

1 other act occurring on or after July 1, 2012, according to the
2 provisions of this subsection.

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

7 1. Those credits provided in this section; and

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

15 a. the reduction in federal income tax of taxpayer as the
16 result of deducting depreciation on such facilities or
17 processes, or deducting nondepreciable costs for which
18 credit has been so certified, or

19 b. the increase in the amount of Oklahoma income tax that
20 would result if taxable income were increased by the
21 amount deducted as set forth in subparagraph a of this
22 paragraph.

23 And, provided further, that, after such credits have been exhausted,
24 taxpayer shall each year thereafter adjust taxable income by adding

1 any depreciation taken on such facilities or processes, or any
2 nondepreciable costs having been included in the net investment cost
3 allowed as credit, and which depreciation or costs have been allowed
4 as a deduction in arriving at federal taxable income for such year.

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

7 Section 2357.45 A. 1. For tax years beginning after December
8 31, ~~2004~~ 2012, there shall be allowed against the tax imposed on
9 corporations by subsection D of Section 2355 of this title, a credit
10 for any taxpayer ~~who~~ subject to the levy imposed pursuant to
11 subsection D of Section 2355 of this title that makes a donation to
12 an independent biomedical research institute and for tax years
13 beginning after December 31, 2010, a credit for any taxpayer who
14 makes a donation to a cancer research institute.

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

17 a. for calendar year 2007 and all subsequent years, the
18 credit percentage, not to exceed fifty percent (50%),
19 shall be adjusted annually so that the total estimate
20 of the credits does not exceed Two Million Dollars
21 (\$2,000,000.00) annually. The formula to be used for
22 the percentage adjusted shall be fifty percent (50%)
23 times One Million Dollars (\$1,000,000.00) divided by
24 the credits claimed in the preceding year for each

1 donation to an independent biomedical research
2 institute and fifty percent (50%) times One Million
3 Dollars (\$1,000,000.00) divided by the credits claimed
4 in the preceding year for each donation to a cancer
5 research institute,

6 b. in no event shall a taxpayer claim more than one
7 credit for a donation to any independent biomedical
8 research institute and one credit for a donation to a
9 cancer research institute in each taxable year nor
10 shall the credit exceed One Thousand Dollars
11 (\$1,000.00) for each taxpayer for each type of
12 donation,

13 c. for tax year 2011, no more than Fifty Thousand Dollars
14 (\$50,000.00) in total tax credits for donations to a
15 cancer research institute shall be allowed,

16 d. in no event shall more than fifty percent (50%) of the
17 Two Million Dollars (\$2,000,000.00) in total tax
18 credits authorized by this section, for any calendar
19 year after the effective date of this act, be
20 allocated for credits for donations to a cancer
21 research institute, and

22 e. in the event the total tax credits authorized by this
23 section exceed One Million Dollars (\$1,000,000.00) in
24 any calendar year for either a cancer research

1 institute or an independent biomedical research
2 institute, the Oklahoma Tax Commission shall permit
3 any excess over One Million Dollars (\$1,000,000.00)
4 but shall factor such excess into the percentage
5 adjustment formula for subsequent years for that type
6 of donation. However, any such adjustment to the
7 formula for donations to an independent biomedical
8 research institute shall not affect the formula for
9 donations to a cancer research institute, and any such
10 adjustment to the formula for donations to a cancer
11 research institute shall not affect the formula for
12 donations to an independent biomedical research
13 institute.

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

- 20 a. have a board of directors,
- 21 b. be able to accept grants in its own name,
- 22 c. be an identifiable institute that has its own
23 employees and administrative staff, and
24

1 d. receive at least Fifteen Million Dollars
2 (\$15,000,000.00) in National Institute of Health
3 funding each year.

4 4. For purposes of this section, "cancer research institute"
5 means an organization which is exempt from taxation pursuant to the
6 Internal Revenue Code and whose primary focus is raising the
7 standard of cancer clinical care in Oklahoma through peer-reviewed
8 cancer research and education or a not-for-profit supporting
9 organization, as that term is defined by the Internal Revenue Code,
10 affiliated with a tax-exempt organization whose primary focus is
11 raising the standard of cancer clinical care in Oklahoma through
12 peer-reviewed cancer research and education. The tax-exempt
13 organization whose primary focus is raising the standard of cancer
14 clinical care in Oklahoma through peer-reviewed cancer research and
15 education shall:

16 a. either be an independent research institute or a
17 program that is part of a state university which is a
18 member of The Oklahoma State System of Higher
19 Education, and

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

22 B. In no event shall the amount of the credit exceed the amount
23 of any tax liability of the taxpayer.

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

4 D. The Tax Commission shall have the authority to prescribe
5 forms for purposes of claiming the credit authorized by this
6 section.

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

9 Section 2358. For all tax years beginning after December 31,
10 ~~1981~~ 2012, taxable income and adjusted gross income shall be
11 adjusted to arrive at Oklahoma taxable income and Oklahoma adjusted
12 gross income as required by this section.

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

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

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

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

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

12 b. For carryovers and carrybacks to taxable years
13 beginning after December 31, 1980, the amount of any
14 net operating loss deduction allowed for the taxable
15 year shall be an amount equal to the aggregate of the
16 Oklahoma net operating loss carryovers and carrybacks
17 to such year. Oklahoma net operating losses shall be
18 separately determined by reference to Section 172 of
19 the Internal Revenue Code, 26 U.S.C., Section 172, as
20 modified by the Oklahoma Income Tax Act, Section 2351
21 et seq. of this title, and shall be allowed without
22 regard to the existence of a federal net operating
23 loss. For tax years beginning after December 31,
24 2000, and ending before January 1, 2008, the years to

1 which such losses may be carried shall be determined
2 solely by reference to Section 172 of the Internal
3 Revenue Code, 26 U.S.C., Section 172, with the
4 exception that the terms "net operating loss" and
5 "taxable income" shall be replaced with "Oklahoma net
6 operating loss" and "Oklahoma taxable income". For
7 tax years beginning after December 31, 2007, and
8 ending before January 1, 2009, years to which such
9 losses may be carried back shall be limited to two (2)
10 years. For tax years beginning after December 31,
11 2008, the years to which such losses may be carried
12 back shall be determined solely by reference to
13 Section 172 of the Internal Revenue Code, 26 U.S.C.,
14 Section 172, with the exception that the terms "net
15 operating loss" and "taxable income" shall be replaced
16 with "Oklahoma net operating loss" and "Oklahoma
17 taxable income".

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

- 23 a. Income from real and tangible personal property, such
24 as rents, oil and mining production or royalties, and

1 gains or losses from sales of such property, shall be
2 allocated in accordance with the situs of such
3 property;

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

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

23 (2) for taxable years beginning after December 31,
24 2003, capital or ordinary gains or losses from

1 the sale of an ownership interest in a publicly
2 traded partnership, as defined by Section 7704(b)
3 of the Internal Revenue Code of 1986, as amended,
4 shall be allocated to this state in the ratio of
5 the original cost of such partnership's tangible
6 property in this state to the original cost of
7 such partnership's tangible property everywhere,
8 as determined at the time of the sale; if more
9 than fifty percent (50%) of the value of the
10 partnership's assets consists of intangible
11 assets, capital or ordinary gains or losses from
12 the sale of an ownership interest in the
13 partnership shall be allocated to this state in
14 accordance with the sales factor of the
15 partnership for its first full tax period
16 immediately preceding its tax period during which
17 the ownership interest in the partnership was
18 sold; the provisions of this division shall only
19 apply if the capital or ordinary gains or losses
20 from the sale of an ownership interest in a
21 partnership do not constitute qualifying gain
22 receiving capital treatment as defined in
23 subparagraph a of paragraph 2 of subsection ~~F~~ E
24 of this section,

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

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

10 d. In the case of a manufacturing or processing
11 enterprise the business of which in Oklahoma consists
12 solely of marketing its products by:

13 (1) sales having a situs without this state, shipped
14 directly to a point from without the state to a
15 purchaser within the state, commonly known as
16 interstate sales,

17 (2) sales of the product stored in public warehouses
18 within the state pursuant to "in transit"
19 tariffs, as prescribed and allowed by the
20 Interstate Commerce Commission, to a purchaser
21 within the state,

22 (3) sales of the product stored in public warehouses
23 within the state where the shipment to such
24 warehouses is not covered by "in transit"

1 tariffs, as prescribed and allowed by the
2 Interstate Commerce Commission, to a purchaser
3 within or without the state,

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

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

19 (1) except as otherwise provided by division (2) of
20 this subparagraph, taxable income of an insurance
21 company for a taxable year shall be apportioned
22 to this state by multiplying such income by a
23 fraction, the numerator of which is the direct
24 premiums written for insurance on property or

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

13 (2) if the principal source of premiums written by an
14 insurance company consists of premiums for
15 reinsurance accepted by it, the taxable income of
16 such company shall be apportioned to this state
17 by multiplying such income by a fraction, the
18 numerator of which is the sum of (a) direct
19 premiums written for insurance on property or
20 risks in this state, plus (b) premiums written
21 for reinsurance accepted in respect of property
22 or risks in this state, and the denominator of
23 which is the sum of (c) direct premiums written
24 for insurance on property or risks everywhere,

1 plus (d) premiums written for reinsurance
2 accepted in respect of property or risks
3 everywhere. For purposes of this paragraph,
4 premiums written for reinsurance accepted in
5 respect of property or risks in this state,
6 whether or not otherwise determinable, may at the
7 election of the company be determined on the
8 basis of the proportion which premiums written
9 for insurance accepted from companies
10 commercially domiciled in Oklahoma bears to
11 premiums written for reinsurance accepted from
12 all sources, or alternatively in the proportion
13 which the sum of the direct premiums written for
14 insurance on property or risks in this state by
15 each ceding company from which reinsurance is
16 accepted bears to the sum of the total direct
17 premiums written by each such ceding company for
18 the taxable year.

19 5. The net income or loss remaining after the separate
20 allocation in paragraph 4 of this subsection, being that which is
21 derived from a unitary business enterprise, shall be apportioned to
22 this state on the basis of the arithmetical average of three factors
23 consisting of property, payroll and sales or gross revenue
24 enumerated as subparagraphs a, b and c of this paragraph. Net

1 income or loss as used in this paragraph includes that derived from
2 patent or copyright royalties, purchase discounts, and interest on
3 accounts receivable relating to or arising from a business activity,
4 the income from which is apportioned pursuant to this subsection,
5 including the sale or other disposition of such property and any
6 other property used in the unitary enterprise. Deductions used in
7 computing such net income or loss shall not include taxes based on
8 or measured by income. Provided, for corporations whose property
9 for purposes of the tax imposed by Section 2355 of this title has an
10 initial investment cost equaling or exceeding Two Hundred Million
11 Dollars (\$200,000,000.00) and such investment is made on or after
12 July 1, 1997, or for corporations which expand their property or
13 facilities in this state and such expansion has an investment cost
14 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
15 over a period not to exceed three (3) years, and such expansion is
16 commenced on or after January 1, 2000, the three factors shall be
17 apportioned with property and payroll, each comprising twenty-five
18 percent (25%) of the apportionment factor and sales comprising fifty
19 percent (50%) of the apportionment factor. The apportionment
20 factors shall be computed as follows:

21 a. The property factor is a fraction, the numerator of
22 which is the average value of the taxpayer's real and
23 tangible personal property owned or rented and used in
24 this state during the tax period and the denominator

1 of which is the average value of all the taxpayer's
2 real and tangible personal property everywhere owned
3 or rented and used during the tax period.

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

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

23 (3) The average value of property shall be determined
24 by averaging the values at the beginning and

1 ending of the tax period but the Oklahoma Tax
2 Commission may require the averaging of monthly
3 values during the tax period if reasonably
4 required to reflect properly the average value of
5 the taxpayer's property;

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

15 (1) In the case of a transportation enterprise, the
16 numerator of the fraction shall include a portion
17 of such expenditure in connection with employees
18 operating equipment over a fixed route, such as
19 railroad employees, airline pilots, or bus
20 drivers, in this state only a part of the time,
21 in the proportion that mileage traveled in
22 Oklahoma bears to total mileage traveled by such
23 employees,
24

1 (2) In any case the numerator of the fraction shall
2 include a portion of such expenditures in
3 connection with itinerant employees, such as
4 traveling salespersons, in this state only a part
5 of the time, in the proportion that time spent in
6 Oklahoma bears to total time spent in furtherance
7 of the enterprise by such employees;

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

16 (1) Sales of tangible personal property have a situs
17 in this state if the property is delivered or
18 shipped to a purchaser other than the United
19 States government, within this state regardless
20 of the FOB point or other conditions of the sale;
21 or the property is shipped from an office, store,
22 warehouse, factory or other place of storage in
23 this state and (a) the purchaser is the United
24 States government or (b) the taxpayer is not

1 doing business in the state of the destination of
2 the shipment.

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

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

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

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

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

1 In any case where the apportionment of the three factors
2 prescribed in this paragraph attributes to Oklahoma a portion of net
3 income of the enterprise out of all appropriate proportion to the
4 property owned and/or business transacted within this state, because
5 of the fact that one or more of the factors so prescribed are not
6 employed to any appreciable extent in furtherance of the enterprise;
7 or because one or more factors not so prescribed are employed to a
8 considerable extent in furtherance of the enterprise; or because of
9 other reasons, the Tax Commission is empowered to permit, after a
10 showing by taxpayer that an excessive portion of net income has been
11 attributed to Oklahoma, or require, when in its judgment an
12 insufficient portion of net income has been attributed to Oklahoma,
13 the elimination, substitution, or use of additional factors, or
14 reduction or increase in the weight of such prescribed factors.
15 Provided, however, that any such variance from such prescribed
16 factors which has the effect of increasing the portion of net income
17 attributable to Oklahoma must not be inherently arbitrary, and
18 application of the recomputed final apportionment to the net income
19 of the enterprise must attribute to Oklahoma only a reasonable
20 portion thereof.

21 6. For calendar years 1997 and 1998, the owner of a new or
22 expanded agricultural commodity processing facility in this state
23 may exclude from Oklahoma taxable income, ~~or in the case of an~~
24 ~~individual, the Oklahoma adjusted gross income,~~ fifteen percent

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

22 For purposes of this paragraph:

- 23 a. "Agricultural commodity processing facility" means
24 building, structures, fixtures and improvements used

1 or operated primarily for the processing or production
2 of marketable products from agricultural commodities.
3 The term shall also mean a dairy operation that
4 requires a depreciable investment of at least Two
5 Hundred Fifty Thousand Dollars (\$250,000.00) and which
6 produces milk from dairy cows. The term does not
7 include a facility that provides only, and nothing
8 more than, storage, cleaning, drying or transportation
9 of agricultural commodities, and

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

- 12 (1) the processing of agricultural commodities,
13 including receiving or storing agricultural
14 commodities, or the production of milk at a dairy
15 operation,
- 16 (2) transporting the agricultural commodities or
17 product before, during or after the processing,
18 or
- 19 (3) packaging or otherwise preparing the product for
20 sale or shipment.

21 7. Despite any provision to the contrary in paragraph 3 of this
22 subsection, for taxable years beginning after December 31, 1999, in
23 the case of a taxpayer which has a farming loss, such farming loss
24 shall be considered a net operating loss carryback in accordance

1 with and to the extent of the Internal Revenue Code, 26 U.S.C.,
2 Section 172(b)(G). However, the amount of the net operating loss
3 carryback shall not exceed the lesser of:

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

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

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

23 10. For taxable years beginning on or after January 1, 2010,
24 there shall be added to Oklahoma taxable income an amount equal to

1 the amount of deferred income not included in such taxable income
2 pursuant to Section 108(i)(1) of the Internal Revenue Code of 1986
3 as amended by Section 1231 of the American Recovery and Reinvestment
4 Act of 2009 (P.L. No. 111-5). There shall be subtracted from
5 Oklahoma taxable income an amount equal to the amount of deferred
6 income included in such taxable income pursuant to Section 108(i)(1)
7 of the Internal Revenue Code of 1986, as amended by Section 1231 of
8 the American Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

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

1 all Oklahoma income tax purposes through the final disposition of
2 such assets.

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

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

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

22 C. 1. For taxable years beginning after December 31, 1987, the
23 taxable income of any corporation shall be further adjusted to
24 arrive at Oklahoma taxable income for transfers of technology to

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

12 2. For purposes of this subsection:

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

- 18 (1) Capitalization of not more than Two Hundred Fifty
19 Thousand Dollars (\$250,000.00),
20 (2) Having at least fifty percent (50%) of its
21 employees and assets located in Oklahoma at the
22 time of the transfer, and
23 (3) Not a subsidiary or affiliate of the transferor
24 corporation;

1 b. "Technology" means a proprietary process, formula,
2 pattern, device or compilation of scientific or
3 technical information which is not in the public
4 domain;

5 c. "Transferor corporation" means a corporation which is
6 the exclusive and undisputed owner of the technology
7 at the time the transfer is made; and

8 d. "Gross proceeds" means the total amount of
9 consideration for the transfer of technology, whether
10 the consideration is in money or otherwise.

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

19 2. As used in this subsection:

20 a. "qualifying gains receiving capital treatment" means
21 the amount of net capital gains, as defined in Section
22 1222(11) of the Internal Revenue Code, included in the
23 federal income tax return of the corporation, estate
24 or trust that result from:

1 (1) the sale of real property or tangible personal
2 property located within Oklahoma that has been
3 directly or indirectly owned by the corporation,
4 estate or trust for a holding period of at least
5 five (5) years prior to the date of the
6 transaction from which such net capital gains
7 arise,

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

16 (3) the sale of real property, tangible personal
17 property or intangible personal property located
18 within Oklahoma as part of the sale of all or
19 substantially all of the assets of an Oklahoma
20 company, limited liability company, or
21 partnership where such property has been directly
22 or indirectly owned by such entity owned by the
23 owners of such entity, and used in or derived
24 from such entity for a period of at least three

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

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

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

15 d. "direct" means the taxpayer directly owns the asset,
16 and

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

21 (1) With respect to sales of real property or
22 tangible personal property located within
23 Oklahoma, the deduction described in this
24 subsection shall not apply unless the pass-

1 through entity that makes the sale has held the
2 property for not less than five (5) uninterrupted
3 years prior to the date of the transaction that
4 created the capital gain, and each pass-through
5 entity included in the chain of ownership has
6 been a member, partner, or shareholder of the
7 pass-through entity in the tier immediately below
8 it for an uninterrupted period of not less than
9 five (5) years.

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

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

4 1. a. ~~In the case of individuals, there shall be added or~~
5 ~~deducted, as the case may be, the difference necessary~~
6 ~~to allow personal exemptions of One Thousand Dollars~~
7 ~~(\$1,000.00) in lieu of the personal exemptions allowed~~
8 ~~by the Internal Revenue Code.~~

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

20 c. ~~There shall be allowed an additional exemption of One~~
21 ~~Thousand Dollars (\$1,000.00) for each taxpayer or~~
22 ~~spouse who is sixty-five (65) years of age or older at~~
23 ~~the close of the tax year based upon the filing status~~
24 ~~and federal adjusted gross income of the taxpayer.~~

1 ~~Taxpayers with the following filing status may claim~~
2 ~~this exemption if the federal adjusted gross income~~
3 ~~does not exceed:~~

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

6 ~~(2) Twelve Thousand Five Hundred Dollars (\$12,500.00)~~
7 ~~if married and filing separately;~~

8 ~~(3) Fifteen Thousand Dollars (\$15,000.00) if single;~~
9 ~~and~~

10 ~~(4) Nineteen Thousand Dollars (\$19,000.00) if a~~
11 ~~qualifying head of household.~~

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

20 2. a. ~~For taxable years beginning on or before December 31,~~
21 ~~2005, in the case of individuals who use the standard~~
22 ~~deduction in determining taxable income, there shall~~
23 ~~be added or deducted, as the case may be, the~~
24 ~~difference necessary to allow a standard deduction in~~

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

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

- 20 ~~(1) Three Thousand Dollars (\$3,000.00), if the filing~~
21 ~~status is married filing joint, head of household~~
22 ~~or qualifying widow; or~~
23 ~~(2) Two Thousand Dollars (\$2,000.00), if the filing~~
24 ~~status is single or married filing separate.~~

1 e. ~~For the taxable year beginning on January 1, 2007, and~~
2 ~~ending December 31, 2007, in the case of individuals~~
3 ~~who use the standard deduction in determining taxable~~
4 ~~income, there shall be added or deducted, as the case~~
5 ~~may be, the difference necessary to allow a standard~~
6 ~~deduction in lieu of the standard deduction allowed by~~
7 ~~the Internal Revenue Code, in an amount equal to:~~

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

11 ~~(2) Four Thousand One Hundred Twenty five Dollars~~
12 ~~(\$4,125.00) for a head of household; or~~

13 ~~(3) Two Thousand Seven Hundred Fifty Dollars~~
14 ~~(\$2,750.00), if the filing status is single or~~
15 ~~married filing separate.~~

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

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

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

- 16 ~~(1) Eight Thousand Five Hundred Dollars (\$8,500.00),~~
17 ~~if the filing status is married filing joint or~~
18 ~~qualifying widow, or~~
19 ~~(2) Six Thousand Three Hundred Seventy-five Dollars~~
20 ~~(\$6,375.00) for a head of household, or~~
21 ~~(3) Four Thousand Two Hundred Fifty Dollars~~
22 ~~(\$4,250.00), if the filing status is single or~~
23 ~~married filing separate.~~

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

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

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

1 ~~deductions and personal exemptions shall be subject to proration as~~
2 ~~provided by law.~~

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

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

21 ~~b. On or after July 1, 2010, and ending before January 1,~~
22 ~~2015, one hundred percent (100%) of the income~~
23 ~~received by any person from the United States as~~
24 ~~salary or compensation in any form, other than~~

1 ~~retirement benefits, as a member of any component of~~
2 ~~the Armed Forces of the United States shall be~~
3 ~~deducted from taxable income.~~

4 ~~e. For the taxable year beginning on January 1, 2015, and~~
5 ~~every year thereafter, if the State Board of~~
6 ~~Equalization makes a determination pursuant to Section~~
7 ~~2355.1D of this title that, for the purposes of this~~
8 ~~paragraph, revenue collections exceed revenue~~
9 ~~reductions, the one hundred percent (100%) deduction~~
10 ~~provided for in subparagraph b of this paragraph may~~
11 ~~be claimed.~~

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

23 ~~e. Whenever the filing of a timely income tax return by a~~
24 ~~member of the Armed Forces of the United States is~~

1 ~~made impracticable or impossible of accomplishment by~~
2 ~~reason of:~~

3 ~~(1) absence from the United States, which term~~
4 ~~includes only the states and the District of~~
5 ~~Columbia;~~

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

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

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

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

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

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

12 ~~6. Before July 1, 2010, the salary or any other form of~~
13 ~~compensation, received from the United States by a member of any~~
14 ~~component of the Armed Forces of the United States, shall be~~
15 ~~deducted from taxable income during the time in which the person is~~
16 ~~detained by the enemy in a conflict, is a prisoner of war or is~~
17 ~~missing in action and not deceased; provided, after July 1, 2010,~~
18 ~~all such salary or compensation shall be subject to the deduction as~~
19 ~~provided pursuant to paragraph 5 of this subsection.~~

20 ~~7. Notwithstanding anything in the Internal Revenue Code or in~~
21 ~~the Oklahoma Income Tax Act to the contrary, it is expressly~~
22 ~~provided that, in the case of resident individuals, amounts received~~
23 ~~as dividends or distributions of earnings from savings and loan~~
24 ~~associations or credit unions located in Oklahoma, and interest~~

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

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

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

1 ~~Oklahoma adjusted gross income to federal adjusted~~
2 ~~gross income.~~

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

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

19 ~~9. Retirement benefits not to exceed Five Thousand Five Hundred~~
20 ~~Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five~~
21 ~~Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand~~
22 ~~Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax~~
23 ~~years, which are received by an individual from the civil service of~~
24 ~~the United States, the Oklahoma Public Employees Retirement System,~~

1 ~~the Teachers' Retirement System of Oklahoma, the Oklahoma Law~~
2 ~~Enforcement Retirement System, the Oklahoma Firefighters Pension and~~
3 ~~Retirement System, the Oklahoma Police Pension and Retirement~~
4 ~~System, the employee retirement systems created by counties pursuant~~
5 ~~to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the~~
6 ~~Uniform Retirement System for Justices and Judges, the Oklahoma~~
7 ~~Wildlife Conservation Department Retirement Fund, the Oklahoma~~
8 ~~Employment Security Commission Retirement Plan, or the employee~~
9 ~~retirement systems created by municipalities pursuant to Section 48-~~
10 ~~101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt~~
11 ~~from taxable income.~~

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

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

1 ~~within the meaning of Section 408 of the Internal Revenue Code, 26~~
2 ~~U.S.C., Section 408. Amounts withdrawn from such bank or brokerage~~
3 ~~account, including any earnings thereon, shall be included in~~
4 ~~taxable income when withdrawn in the same manner as withdrawals from~~
5 ~~individual retirement accounts within the meaning of Section 408 of~~
6 ~~the Internal Revenue Code.~~

7 ~~12. In taxable years beginning after December 31, 1995,~~
8 ~~contributions made to and interest received from a medical savings~~
9 ~~account established pursuant to Sections 2621 through 2623 of Title~~
10 ~~63 of the Oklahoma Statutes shall be exempt from taxable income.~~

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

1 ~~14. a. In taxable years beginning after December 31, 2002,~~
2 ~~nonrecurring adoption expenses paid by a resident~~
3 ~~individual taxpayer in connection with:~~

4 ~~(1) the adoption of a minor, or~~

5 ~~(2) a proposed adoption of a minor which did not~~
6 ~~result in a decreed adoption,~~

7 ~~may be deducted from the Oklahoma adjusted gross~~
8 ~~income.~~

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

12 ~~c. The Tax Commission shall promulgate rules to implement~~
13 ~~the provisions of this paragraph which shall contain a~~
14 ~~specific list of nonrecurring adoption expenses which~~
15 ~~may be presumed to qualify for the deduction. The Tax~~
16 ~~Commission shall prescribe necessary requirements for~~
17 ~~verification.~~

18 ~~d. "Nonrecurring adoption expenses" means adoption fees,~~
19 ~~court costs, medical expenses, attorney fees and~~
20 ~~expenses which are directly related to the legal~~
21 ~~process of adoption of a child including, but not~~
22 ~~limited to, costs relating to the adoption study,~~
23 ~~health and psychological examinations, transportation~~
24 ~~and reasonable costs of lodging and food for the child~~

1 ~~or adoptive parents which are incurred to complete the~~
2 ~~adoption process and are not reimbursed by other~~
3 ~~sources. The term "nonrecurring adoption expenses"~~
4 ~~shall not include attorney fees incurred for the~~
5 ~~purpose of litigating a contested adoption, from and~~
6 ~~after the point of the initiation of the contest,~~
7 ~~costs associated with physical remodeling, renovation~~
8 ~~and alteration of the adoptive parents' home or~~
9 ~~property, except for a special needs child as~~
10 ~~authorized by the court.~~

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

1 ~~less than the qualifying amount specified in this~~
2 ~~paragraph, shall be exempt from taxable income.~~

3 ~~b. For purposes of this paragraph, the qualifying amount~~
4 ~~shall be as follows:~~

5 ~~(1) in taxable years beginning after December 31,~~
6 ~~2004, and prior to January 1, 2007, the~~
7 ~~qualifying amount shall be Thirty-seven Thousand~~
8 ~~Five Hundred Dollars (\$37,500.00) or less if the~~
9 ~~filing status is single, head of household, or~~
10 ~~married filing separate, or Seventy-Five Thousand~~
11 ~~Dollars (\$75,000.00) or less if the filing status~~
12 ~~is married filing jointly or qualifying widow,~~

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

20 ~~(3) in the taxable year beginning January 1, 2008,~~
21 ~~the qualifying amount shall be Sixty-two Thousand~~
22 ~~Five Hundred Dollars (\$62,500.00) or less if the~~
23 ~~filing status is single, head of household, or~~
24 ~~married filing separate, or One Hundred Twenty-~~

1 ~~five Thousand Dollars (\$125,000.00) or less if~~
2 ~~the filing status is married filing jointly or~~
3 ~~qualifying widow,~~

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

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

15 ~~e. For purposes of this paragraph, "retirement benefits"~~
16 ~~means the total distributions or withdrawals from the~~
17 ~~following:~~

18 ~~(1) an employee pension benefit plan which satisfies~~
19 ~~the requirements of Section 401 of the Internal~~
20 ~~Revenue Code, 26 U.S.C., Section 401,~~

21 ~~(2) an eligible deferred compensation plan that~~
22 ~~satisfies the requirements of Section 457 of the~~
23 ~~Internal Revenue Code, 26 U.S.C., Section 457,~~

24

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

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

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

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

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

19 ~~18. a. In taxable years beginning after December 31, 2001,~~
20 ~~and before January 1, 2005, there shall be allowed a~~
21 ~~deduction in the amount of contributions to accounts~~
22 ~~established pursuant to the Oklahoma College Savings~~
23 ~~Plan Act. The deduction shall equal the amount of~~
24 ~~contributions to accounts, but in no event shall the~~

1 ~~deduction for each contributor exceed Two Thousand~~
2 ~~Five Hundred Dollars (\$2,500.00) each taxable year for~~
3 ~~each account.~~

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

1 ~~Provided, a deduction for the same contribution may~~
2 ~~not be taken for two (2) different taxable years.~~

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

7 ~~(1) for a taxpayer who qualified for the five-year~~
8 ~~carryforward election and who takes a rollover or~~
9 ~~nonqualified withdrawal during that period, the~~
10 ~~tax deduction otherwise available pursuant to~~
11 ~~subparagraph b of this paragraph shall be reduced~~
12 ~~by the amount which is equal to the rollover or~~
13 ~~nonqualified withdrawal, and~~

14 ~~(2) for a taxpayer who elects to take a rollover or~~
15 ~~nonqualified withdrawal within the same tax year~~
16 ~~in which a contribution was made to the~~
17 ~~taxpayer's account, the tax deduction otherwise~~
18 ~~available pursuant to subparagraph b of this~~
19 ~~paragraph shall be reduced by the amount of the~~
20 ~~contribution which is equal to the rollover or~~
21 ~~nonqualified withdrawal.~~

22 d. ~~If a taxpayer elects to take a rollover on a~~
23 ~~contribution for which a deduction has been taken~~
24 ~~pursuant to subparagraph b of this paragraph within~~

1 ~~one year of the date of contribution, the amount of~~
2 ~~such rollover shall be included in the adjusted gross~~
3 ~~income of the taxpayer in the taxable year of the~~
4 ~~rollover.~~

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

11 f. ~~As used in this paragraph:~~

12 ~~(1) "non-qualified withdrawal" means a withdrawal~~
13 ~~from an Oklahoma College Savings Plan account~~
14 ~~other than one of the following:~~

15 ~~(a) a qualified withdrawal,~~

16 ~~(b) a withdrawal made as a result of the death~~
17 ~~or disability of the designated beneficiary~~
18 ~~of an account,~~

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

1 amount of the scholarship, allowance, or
2 payment, or

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

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

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

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

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

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

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

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

11 ~~22. For taxable years beginning after December 31, 2009, there~~
12 ~~shall be exempt from taxable income any amount received by the~~
13 ~~beneficiary of the death benefit for an emergency medical technician~~
14 ~~or a registered emergency medical responder provided by Section 1-~~
15 ~~2505.1 of Title 63 of the Oklahoma Statutes.~~

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

20 ~~24. For taxable years beginning after December 31, 2008, there~~
21 ~~shall be exempt from taxable income any payment in an amount less~~
22 ~~than Six Hundred Dollars (\$600.00) received by a person as an award~~
23 ~~for participation in a competitive livestock show event. For~~
24 ~~purposes of this paragraph, the payment shall be treated as a~~

1 ~~scholarship amount paid by the entity sponsoring the event and the~~
2 ~~sponsoring entity shall cause the payment to be categorized as a~~
3 ~~scholarship in its books and records.~~

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

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

10 ~~a. "qualifying gains receiving capital treatment" means~~
11 ~~the amount of net capital gains, as defined in Section~~
12 ~~1222(11) of the Internal Revenue Code, included in an~~
13 ~~individual taxpayer's federal income tax return that~~
14 ~~result from:~~

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

21 ~~(2) the sale of stock or the sale of a direct or~~
22 ~~indirect ownership interest in an Oklahoma~~
23 ~~company, limited liability company, or~~
24 ~~partnership where such stock or ownership~~

1 ~~interest has been directly or indirectly owned by~~
2 ~~the individual taxpayer for a holding period of~~
3 ~~at least two (2) years prior to the date of the~~
4 ~~transaction from which the net capital gains~~
5 ~~arise, or~~

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

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

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

7 d. ~~"direct" means the individual taxpayer directly owns~~
8 ~~the asset,~~

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

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

1 ~~it for an uninterrupted period of not less than~~
2 ~~five (5) years.~~

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

23 ~~f. "Oklahoma proprietorship business enterprise" means a~~
24 ~~business enterprise whose income and expenses have~~

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

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

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

- 19 a. the term "real estate investment trust" or "REIT"
20 means the meaning ascribed to such term in Section 856
21 of the Internal Revenue Code of 1986, as amended,
22 b. the term "captive real estate investment trust" means
23 a real estate investment trust, the shares or
24 beneficial interests of which are not regularly traded

1 on an established securities market and more than
2 fifty percent (50%) of the voting power or value of
3 the beneficial interests or shares of which are owned
4 or controlled, directly or indirectly, or
5 constructively, by a single entity that is:

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

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

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

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

1 Revenue Code of 1986, as amended, other than a
2 qualified REIT subsidiary of a "captive real
3 estate investment trust", or

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

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

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

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

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

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

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

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

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

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

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

23 A. For taxable years beginning January 1, 2013, and for any
24 taxable year thereafter, no individual may claim any tax credit

1 authorized pursuant to the provisions of the Oklahoma Income Tax
2 Code or any other provision of law if the credit results from an
3 allocation to that individual of a tax credit as a result of
4 partnership tax treatment authorized or required pursuant to the
5 provisions of the federal Internal Revenue Code of 1986, as amended,
6 or as a result of any provision of the Oklahoma Income Tax Code or
7 other provision of state law that would otherwise allow such
8 allocation.

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

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

22 SECTION 6. AMENDATORY 68 O.S. 2011, Section 1353, is
23 amended to read as follows:
24

1 Section 1353. A. It is hereby declared to be the purpose of
2 the Oklahoma Sales Tax Code to provide funds for the financing of
3 the program provided for by the Oklahoma Social Security Act and to
4 provide revenues for the support of the functions of the state
5 government of Oklahoma, and for this purpose it is hereby expressly
6 provided that, revenues derived pursuant to the provisions of the
7 Oklahoma Sales Tax Code, subject to the apportionment requirements
8 for the Oklahoma Tax Commission and Office of State Finance Joint
9 Computer Enhancement Fund provided by Section 265 of this title,
10 shall be apportioned as follows:

11 1. a. the following amounts shall be paid to the State
12 Treasurer to be placed to the credit of the General
13 Revenue Fund to be paid out pursuant to direct
14 appropriation by the Legislature:

15	Fiscal Year	Amount
16	FY 2003 and FY 2004	86.04%
17	FY 2005	85.83%
18	FY 2006	85.54%
19	FY 2007	85.04%
20	FY 2008 and each fiscal	
21	year thereafter	83.61%
22	<u>FY 2013</u>	<u>83.61%</u>
23	<u>FY 2014 through FY 2018</u>	<u>81.61%</u>
24	<u>FY 2019 and thereafter</u>	<u>81.36%</u>

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

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

3. The following amounts shall be paid to the State Treasurer to be placed to the credit of the Teachers' Retirement System 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>

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

- 5 a. thirty-six percent (36%) shall be placed to the credit
6 of the Oklahoma Tourism Promotion Revolving Fund, and
- 7 b. sixty-four percent (64%) shall be placed to the credit
8 of the Oklahoma Tourism Capital Improvement Revolving
9 Fund; and

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

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

22 7. For the fiscal year ending June 30, 2014, and for each of
23 the succeeding four (4) fiscal years, concluding with the fiscal
24 year ending June 30, 2018, five-tenths of one percent (0.5%) shall

1 be apportioned to the Ad Valorem Reimbursement Fund created pursuant
2 to Section 193 of Title 62 of the Oklahoma Statutes which
3 apportionment shall be in addition to any other apportionment made
4 to the Ad Valorem Reimbursement Fund. For the fiscal year ending
5 June 30, 2019, and for each fiscal year thereafter, seventy-five
6 hundredths of one percent (0.75%) shall be apportioned to the Ad
7 Valorem Reimbursement Fund created pursuant to Section 193 of Title
8 62 of the Oklahoma Statutes which apportionment shall be in addition
9 to any other apportionment made to the Ad Valorem Reimbursement
10 Fund.

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

21 SECTION 7. REPEALER 68 O.S. 2011, Section 2355.1A, is
22 hereby repealed.

23 SECTION 8. REPEALER 68 O.S. 2011, Section 2357.29, is
24 hereby repealed.

1 SECTION 9. REPEALER 68 O.S. 2011, Section 2357.43, is
2 hereby repealed.

3 SECTION 10. REPEALER 68 O.S. 2011, Section 2357.102, is
4 hereby repealed.

5 SECTION 11. REPEALER 68 O.S. 2011, Section 2357.203, is
6 hereby repealed.

7 SECTION 12. REPEALER 68 O.S. 2011, Section 2357.304, is
8 hereby repealed.

9 SECTION 13. REPEALER 68 O.S. 2011, Sections 2904, 2905,
10 2906, 2907, 2908, 2909, 2910 and 2911, are hereby repealed.

11 SECTION 14. REPEALER 68 O.S. 2011, Sections 5010, 5011,
12 5012, 5013, 5014, 5015 and 5016, are hereby repealed.

13 SECTION 15. REPEALER 68 O.S. 2011, Sections 2358.1,
14 2358.1A, 2358.3, 2358.5 and 2358.5A, are hereby repealed.

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

17 SECTION 17. Section 6 of this act shall become effective July
18 1, 2013.

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