

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL 881

By: Russell, Barrington,
Garrison, Bass and Easley
of the Senate

and

Banz of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 2358, as last amended by Section 1 of Enrolled Senate Bill No. 916 of the 1st Session of the 52nd Oklahoma Legislature, which relates to income tax; deleting obsolete language; modifying certain deduction amount during certain time period; providing for deduction amounts after certain time period on the basis of certain State Board of Equalization determination; creating Special Committee on Soldier Relief; establishing membership, duties, requiring certain meetings, requiring certain report, providing for reimbursement and administrative support; setting out process for State Board of Equalization to make certain determinations and findings; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2358, as last amended by Section 1 of Enrolled Senate Bill No. 916 of the 1st

1 Session of the 52nd Oklahoma Legislature, is amended to read as
2 follows:

3 Section 2358. For all tax years beginning after December 31,
4 1981, taxable income and adjusted gross income shall be adjusted to
5 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
6 as required by this section.

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

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

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

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

21 a. For carryovers and carrybacks to taxable years
22 beginning before January 1, 1981, the amount of any
23 net operating loss deduction allowed to a taxpayer for
24 federal income tax purposes shall be reduced to an

1 amount which is the same portion thereof as the loss
2 from sources within this state, as determined pursuant
3 to this section and Section 2362 of this title, for
4 the taxable year in which such loss is sustained is of
5 the total loss for such year;

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

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

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

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

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

1 separate commercial or business situs insofar as
2 undistributed income is concerned, but shall not
3 be treated as having a separate commercial or
4 business situs insofar as distributed income is
5 concerned,

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

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

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

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

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

20 (1) sales having a situs without this state, shipped
21 directly to a point from without the state to a
22 purchaser within the state, commonly known as
23 interstate sales,
24

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

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

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

22 e. In the case of insurance companies, Oklahoma taxable
23 income shall be taxable income of the taxpayer for
24 federal tax purposes, as adjusted for the adjustments

1 provided pursuant to the provisions of paragraphs 1
2 and 2 of this subsection, apportioned as follows:

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

21 (2) if the principal source of premiums written by an
22 insurance company consists of premiums for
23 reinsurance accepted by it, the taxable income of
24 such company shall be apportioned to this state

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

1 premiums written by each such ceding company for
2 the taxable year.

3 5. The net income or loss remaining after the separate
4 allocation in paragraph 4 of this subsection, being that which is
5 derived from a unitary business enterprise, shall be apportioned to
6 this state on the basis of the arithmetical average of three factors
7 consisting of property, payroll and sales or gross revenue
8 enumerated as subparagraphs a, b and c of this paragraph. Net
9 income or loss as used in this paragraph includes that derived from
10 patent or copyright royalties, purchase discounts, and interest on
11 accounts receivable relating to or arising from a business activity,
12 the income from which is apportioned pursuant to this subsection,
13 including the sale or other disposition of such property and any
14 other property used in the unitary enterprise. Deductions used in
15 computing such net income or loss shall not include taxes based on
16 or measured by income. Provided, for corporations whose property
17 for purposes of the tax imposed by Section 2355 of this title has an
18 initial investment cost equaling or exceeding Two Hundred Million
19 Dollars (\$200,000,000.00) and such investment is made on or after
20 July 1, 1997, or for corporations which expand their property or
21 facilities in this state and such expansion has an investment cost
22 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
23 over a period not to exceed three (3) years, and such expansion is
24 commenced on or after January 1, 2000, the three factors shall be

1 apportioned with property and payroll, each comprising twenty-five
2 percent (25%) of the apportionment factor and sales comprising fifty
3 percent (50%) of the apportionment factor. The apportionment
4 factors shall be computed as follows:

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

12 (1) Property, the income from which is separately
13 allocated in paragraph 4 of this subsection,
14 shall not be included in determining this
15 fraction. The numerator of the fraction shall
16 include a portion of the investment in
17 transportation and other equipment having no
18 fixed situs, such as rolling stock, buses, trucks
19 and trailers, including machinery and equipment
20 carried thereon, airplanes, salespersons'
21 automobiles and other similar equipment, in the
22 proportion that miles traveled in Oklahoma by
23 such equipment bears to total miles traveled,
24

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

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

15 b. The payroll factor is a fraction, the numerator of
16 which is the total compensation for services rendered
17 in the state during the tax period, and the
18 denominator of which is the total compensation for
19 services rendered everywhere during the tax period.
20 "Compensation", as used in this subsection means those
21 paid-for services to the extent related to the unitary
22 business but does not include officers' salaries,
23 wages and other compensation.
24

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

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

17 c. The sales factor is a fraction, the numerator of which
18 is the total sales or gross revenue of the taxpayer in
19 this state during the tax period, and the denominator
20 of which is the total sales or gross revenue of the
21 taxpayer everywhere during the tax period. "Sales",
22 as used in this subsection does not include sales or
23 gross revenue which are separately allocated in
24 paragraph 4 of this subsection.

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

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

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

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

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

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

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

1 factors which has the effect of increasing the portion of net income
2 attributable to Oklahoma must not be inherently arbitrary, and
3 application of the recomputed final apportionment to the net income
4 of the enterprise must attribute to Oklahoma only a reasonable
5 portion thereof.

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

1 the percentage for subsequent years. Any amount of the exemption
2 permitted to be excluded pursuant to the provisions of this
3 paragraph but not used in any year may be carried forward as an
4 exemption from income pursuant to the provisions of this paragraph
5 for a period not exceeding six (6) years following the year in which
6 the investment was originally made.

7 For purposes of this paragraph:

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

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

21 (1) the processing of agricultural commodities,
22 including receiving or storing agricultural
23 commodities, or the production of milk at a dairy
24 operation,

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

4 (3) packaging or otherwise preparing the product for
5 sale or shipment.

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

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

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

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

1 paragraph, "qualified wages" means those wages used to calculate the
2 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

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

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

6 2. For purposes of this subsection:

7 a. "Qualified small business" means an entity, whether

8 organized as a corporation, partnership, or

9 proprietorship, organized for profit with its

10 principal place of business located within this state

11 and which meets the following criteria:

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

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

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

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

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

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

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

15 2. As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

21 E. The Oklahoma adjusted gross income of any individual
22 taxpayer shall be further adjusted as follows to arrive at Oklahoma
23 taxable income:
24

1. a. In the case of individuals, there shall be added or deducted, as the case may be, the difference necessary to allow personal exemptions of One Thousand Dollars (\$1,000.00) in lieu of the personal exemptions allowed by the Internal Revenue Code.
- b. There shall be allowed an additional exemption of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is blind at the close of the tax year. For purposes of this subparagraph, an individual is blind only if the central visual acuity of the individual does not exceed 20/200 in the better eye with correcting lenses, or if the visual acuity of the individual is greater than 20/200, but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.
- c. There shall be allowed an additional exemption of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is sixty-five (65) years of age or older at the close of the tax year based upon the filing status and federal adjusted gross income of the taxpayer. Taxpayers with the following filing status may claim this exemption if the federal adjusted gross income does not exceed:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 5. a. ~~In any taxable year~~ Before July 1, 2010, the first One
18 Thousand Five Hundred Dollars (\$1,500.00) received by
19 any person from the United States as salary or
20 compensation in any form, other than retirement
21 benefits, as a member of any component of the Armed
22 Forces of the United States shall be deducted from
23 taxable income.
24

- b. On or after July 1, 2010, and ending before January 1, 2015, one hundred percent (100%) of the income received by any person from the United States as salary or compensation in any form, other than retirement benefits, as a member of any component of the Armed Forces of the United States shall be deducted from taxable income.
- c. For the taxable year beginning on January 1, 2015, and every year thereafter, if the State Board of Equalization makes a determination pursuant to Section 3 of this act that, for the purposes of this paragraph, revenue collections exceed revenue reductions, the one hundred percent (100%) deduction provided for in subparagraph b of this paragraph may be claimed.
- d. For the taxable year beginning on January 1, 2015, and every year thereafter, if the State Board of Equalization makes a determination pursuant to Section 3 of this act that, for the purposes of this paragraph, revenue collections do not exceed revenue reductions, a deduction of the first One Thousand Five Hundred Dollars (\$1,500.00) received by any person from the United States as salary or compensation in any form, other than retirement benefits, as a member

1 of any component of the Armed Forces of the United
2 States shall be allowed.

3 e. Whenever the filing of a timely income tax return by a
4 member of the Armed Forces of the United States is
5 made impracticable or impossible of accomplishment by
6 reason of:

7 ~~a.~~

8 (1) absence from the United States, which term
9 includes only the states and the District of
10 Columbia;

11 ~~b.~~

12 (2) absence from the State of Oklahoma while on
13 active duty; or

14 ~~c.~~

15 (3) confinement in a hospital within the United
16 States for treatment of wounds, injuries or
17 disease,

18 the time for filing a return and paying an income tax shall
19 be and is hereby extended without incurring liability for
20 interest or penalties, to the fifteenth day of the third
21 month following the month in which:

22 ~~(1)~~

23 (a) Such individual shall return to the United
24 States if the extension is granted pursuant

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

8 ~~(2)~~

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

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

20 6. ~~The~~ Before July 1, 2010, the salary or any other form of
21 compensation, received from the United States by a member of any
22 component of the Armed Forces of the United States, shall be
23 deducted from taxable income during the time in which the person is
24 detained by the enemy in a conflict, is a prisoner of war or is

1 missing in action and not deceased; provided, after July 1, 2010,
2 all such salary or compensation shall be subject to the deduction as
3 provided pursuant to paragraph 5 of this subsection.

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

22 8. a. An individual taxpayer, whether resident or
23 nonresident, may deduct an amount equal to the federal
24

1 income taxes paid by the taxpayer during the taxable
2 year.

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

12 c. For the purpose of this paragraph, "federal income
13 taxes paid" shall mean federal income taxes, surtaxes
14 imposed on incomes or excess profits taxes, as though
15 the taxpayer was on the accrual basis. In determining
16 the amount of deduction for federal income taxes for
17 tax year 2001, the amount of the deduction shall not
18 be adjusted by the amount of any accelerated ten
19 percent (10%) tax rate bracket credit or advanced
20 refund of the credit received during the tax year
21 provided pursuant to the federal Economic Growth and
22 Tax Relief Reconciliation Act of 2001, P.L. No. 107-
23 16, and the advanced refund of such credit shall not
24 be subject to taxation.

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

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

21 10. In taxable years beginning after December 31, 1984, Social
22 Security benefits received by an individual shall be exempt from
23 taxable income, to the extent such benefits are included in the
24

1 federal adjusted gross income pursuant to the provisions of Section
2 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

17 12. In taxable years beginning after December 31, 1995,
18 contributions made to and interest received from a medical savings
19 account established pursuant to Sections 2621 through 2623 of Title
20 63 of the Oklahoma Statutes shall be exempt from taxable income.

21 13. For taxable years beginning after December 31, 1996, the
22 Oklahoma adjusted gross income of any individual taxpayer who is a
23 swine or poultry producer may be further adjusted for the deduction
24 for depreciation allowed for new construction or expansion costs

1 which may be computed using the same depreciation method elected for
2 federal income tax purposes except that the useful life shall be
3 seven (7) years for purposes of this paragraph. If depreciation is
4 allowed as a deduction in determining the adjusted gross income of
5 an individual, any depreciation calculated and claimed pursuant to
6 this section shall in no event be a duplication of any depreciation
7 allowed or permitted on the federal income tax return of the
8 individual.

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

12 (1) the adoption of a minor, or

13 (2) a proposed adoption of a minor which did not
14 result in a decreed adoption,

15 may be deducted from the Oklahoma adjusted gross
16 income.

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

20 c. The Tax Commission shall promulgate rules to implement
21 the provisions of this paragraph which shall contain a
22 specific list of nonrecurring adoption expenses which
23 may be presumed to qualify for the deduction. The Tax
24

1 Commission shall prescribe necessary requirements for
2 verification.

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

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

1 Thousand Dollars (\$25,000.00) or less if the filing
2 status is single, head of household, or married filing
3 separate, or Fifty Thousand Dollars (\$50,000.00) or
4 less if the filing status is married filing joint or
5 qualifying widow, shall be exempt from taxable income.
6 In taxable years beginning after December 31, 2004,
7 retirement benefits not to exceed the amounts
8 specified in this paragraph, which are received by an
9 individual whose Oklahoma adjusted gross income is
10 less than the qualifying amount specified in this
11 paragraph, shall be exempt from taxable income.

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

- 14 (1) in taxable years beginning after December 31,
15 2004, and prior to January 1, 2007, the
16 qualifying amount shall be Thirty-seven Thousand
17 Five Hundred Dollars (\$37,500.00) or less if the
18 filing status is single, head of household, or
19 married filing separate, or Seventy-Five Thousand
20 Dollars (\$75,000.00) or less if the filing status
21 is married filing jointly or qualifying widow,
22 (2) in the taxable year beginning January 1, 2007,
23 the qualifying amount shall be Fifty Thousand
24 Dollars (\$50,000.00) or less if the filing status

1 is single, head of household, or married filing
2 separate, or One Hundred Thousand Dollars
3 (\$100,000.00) or less if the filing status is
4 married filing jointly or qualifying widow,

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

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

21 (5) in the taxable year beginning January 1, 2010,
22 and subsequent taxable years, there shall be no
23 limitation upon the qualifying amount.
24

1 c. For purposes of this paragraph, "retirement benefits"
2 means the total distributions or withdrawals from the
3 following:

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

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

10 (3) an individual retirement account, annuity or
11 trust or simplified employee pension that
12 satisfies the requirements of Section 408 of the
13 Internal Revenue Code, 26 U.S.C., Section 408,

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

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

20 (6) lump-sum distributions from a retirement plan
21 which satisfies the requirements of Section
22 402(e) of the Internal Revenue Code, 26 U.S.C.,
23 Section 402(e).

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

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

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

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

15 b. In taxable years beginning after December 31, 2004,
16 each taxpayer shall be allowed a deduction for
17 contributions to accounts established pursuant to the
18 Oklahoma College Savings Plan Act. The maximum annual
19 deduction shall equal the amount of contributions to
20 all such accounts plus any contributions to such
21 accounts by the taxpayer for prior taxable years after
22 December 31, 2004, which were not deducted, but in no
23 event shall the deduction for each tax year exceed Ten
24 Thousand Dollars (\$10,000.00) for each individual

1 taxpayer or Twenty Thousand Dollars (\$20,000.00) for
2 taxpayers filing a joint return. Any amount of a
3 contribution that is not deducted by the taxpayer in
4 the year for which the contribution is made may be
5 carried forward as a deduction from income for the
6 succeeding five (5) years. For taxable years
7 beginning after December 31, 2005, deductions may be
8 taken for contributions and rollovers made during a
9 taxable year and up to April 15 of the succeeding
10 year, or the due date of a taxpayer's state income tax
11 return, excluding extensions, whichever is later.
12 Provided, a deduction for the same contribution may
13 not be taken for two (2) different taxable years.

14 c. In taxable years beginning after December 31, 2006,
15 deductions for contributions made pursuant to
16 subparagraph b of this paragraph shall be limited as
17 follows:

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

1 (2) for a taxpayer who elects to take a rollover or
2 nonqualified withdrawal within the same tax year
3 in which a contribution was made to the
4 taxpayer's account, the tax deduction otherwise
5 available pursuant to subparagraph b of this
6 paragraph shall be reduced by the amount of the
7 contribution which is equal to the rollover or
8 nonqualified withdrawal.

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

16 e. If a taxpayer makes a nonqualified withdrawal of
17 contributions for which a deduction was taken pursuant
18 to subparagraph b of this paragraph, such nonqualified
19 withdrawal and any earnings thereon shall be included
20 in the adjusted gross income of the taxpayer in the
21 taxable year of the nonqualified withdrawal.

22 f. As used in this paragraph:
23
24

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

4 (a) a qualified withdrawal,

5 (b) a withdrawal made as a result of the death
6 or disability of the designated beneficiary
7 of an account,

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

16 (d) a rollover or change of designated
17 beneficiary as permitted by subsection F of
18 Section 3970.7 of Title 70 of Oklahoma
19 Statutes, and

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

23 19. For taxable years beginning after December 31, 2005,
24 retirement benefits received by an individual from any component of

1 the Armed Forces of the United States in an amount not to exceed the
2 greater of seventy-five percent (75%) of such benefits or Ten
3 Thousand Dollars (\$10,000.00) shall be exempt from taxable income
4 but in no case less than the amount of the exemption provided by
5 paragraph 15 of this subsection.

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

- 13 a. in the taxable year beginning January 1, 2007, twenty
14 percent (20%) of such benefits shall be exempt,
- 15 b. in the taxable year beginning January 1, 2008, forty
16 percent (40%) of such benefits shall be exempt,
- 17 c. in the taxable year beginning January 1, 2009, sixty
18 percent (60%) of such benefits shall be exempt,
- 19 d. in the taxable year beginning January 1, 2010, eighty
20 percent (80%) of such benefits shall be exempt, and
- 21 e. in the taxable year beginning January 1, 2011, and
22 subsequent taxable years, one hundred percent (100%)
23 of such benefits shall be exempt.

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

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

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

23 22. For taxable years beginning after December 31, 2008, there
24 shall be exempt from taxable income any amount received by the

1 beneficiary of the death benefit for an emergency medical technician
2 provided by Section 1-2505.1 of Title 63 of the Oklahoma Statutes.

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

8 2. As used in this subsection:

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

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

20 (2) the sale of stock or the sale of a direct or
21 indirect ownership interest in an Oklahoma
22 company, limited liability company, or
23 partnership where such stock or ownership
24 interest has been directly or indirectly owned by

1 the individual taxpayer for a holding period of
2 at least two (2) years prior to the date of the
3 transaction from which the net capital gains
4 arise, or

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

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

1 c. "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
24

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
24

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

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

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

21 a. the term "real estate investment trust" or "REIT"
22 means the meaning ascribed to such term in Section 856
23 of the Internal Revenue Code of 1986, as amended,
24

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

9 (1) treated as an association taxable as a
10 corporation under the Internal Revenue Code of
11 1986, as amended, and

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

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

21 c. the term "association taxable as a corporation" shall
22 not include the following entities:
23
24

- 1 (1) any real estate investment trust as defined in
2 paragraph a of this subsection other than a
3 "captive real estate investment trust", or
4 (2) any qualified real estate investment trust
5 subsidiary under Section 856(i) of the Internal
6 Revenue Code of 1986, as amended, other than a
7 qualified REIT subsidiary of a "captive real
8 estate investment trust", or
9 (3) any Listed Australian Property Trust (meaning an
10 Australian unit trust registered as a "Managed
11 Investment Scheme" under the Australian
12 Corporations Act in which the principal class of
13 units is listed on a recognized stock exchange in
14 Australia and is regularly traded on an
15 established securities market), or an entity
16 organized as a trust, provided that a Listed
17 Australian Property Trust owns or controls,
18 directly or indirectly, seventy-five percent
19 (75%) or more of the voting power or value of the
20 beneficial interests or shares of such trust, or
21 (4) any Qualified Foreign Entity, meaning a
22 corporation, trust, association or partnership
23 organized outside the laws of the United States
24 and which satisfies the following criteria:

- (a) at least seventy-five percent (75%) of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in Section 856(c)(5)(B) of the Internal Revenue Code of 1986, as amended, thereby including shares or certificates of beneficial interest in any real estate investment trust, cash and cash equivalents, and U.S. Government securities,
- (b) the entity receives a dividend-paid deduction comparable to Section 561 of the Internal Revenue Code of 1986, as amended, or is exempt from entity level tax,
- (c) the entity is required to distribute at least eighty-five percent (85%) of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest on an annual basis,
- (d) not more than ten percent (10%) of the voting power or value in such entity is held directly or indirectly or constructively by a single entity or individual, or the shares

1 or beneficial interests of such entity are
2 regularly traded on an established
3 securities market, and

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

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

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

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2355.1C of Title 68, unless
3 there is created a duplication in numbering, reads as follows:

4 A. As used in this section:

5 1. "Revenue collections" means the amount of revenue estimated
6 to have been collected and expected to be collected by the state
7 beginning on July 1, 2010, and ending before January 1, 2015, from
8 sales tax, motor vehicle taxes and fees, vehicle excise tax and
9 motor fuel tax from all taxpayers who receive salary or compensation
10 in any form other than retirement benefits from the United States as
11 a member of any component of the Armed Forces of the United States
12 or as the dependent of such member;

13 2. "Revenue reductions" means the amount of income tax revenue
14 which is exempt pursuant to subparagraph b of paragraph 5 of
15 subsection E of Section 2358 of Title 68 of the Oklahoma Statutes.

16 B. 1. There is hereby created until December 1, 2014, the
17 Special Committee on Soldier Relief. The special committee shall
18 conduct a comprehensive multi-year review of the amount of state tax
19 revenue generated by members of the armed forces and their families
20 who are Oklahoma residents.

21 2. The special committee shall be comprised of the following:

22 a. each of the members of the Veterans and Military
23 Affairs Committee of the Oklahoma House of
24 Representatives,

- b. each of the members of the Veterans and Military Affairs Committee of the Oklahoma State Senate,
- c. two members of the Oklahoma Senate who do not serve on the Senate Veterans and Military Affairs Committee, appointed by the President Pro Tempore of the Senate,
- d. two members of the Oklahoma House of Representatives who do not serve on the House Veterans and Military Affairs Committee, appointed by the Speaker of the Oklahoma House of Representatives,
- e. one member appointed by the President Pro Tempore of the Senate who shall represent the United States Armed Forces recruitment efforts in the State of Oklahoma, and
- f. one member appointed by the Speaker of the Oklahoma House of Representatives who shall represent the Oklahoma Military Department, Oklahoma National Guard or reserve forces serving in Oklahoma;

D. The task force shall:

- 1. Estimate the amount of revenue collected and expected to be collected by the state beginning on July 1, 2010, and ending before January 1, 2015, from sales tax, motor vehicle taxes and fees, vehicle excise tax and motor fuel tax from all taxpayers who receive salary or compensation in any form other than retirement benefits from the United States as a member of any component of the Armed

1 Forces of the United States; provided, where such data has not yet
2 become available or is available only through projections, estimates
3 shall be provided and noted as such and methodology shall be
4 provided;

5 2. Review all available data from the United States Department
6 of Defense, the Oklahoma Tax Commission and any other government-
7 generated data on the number of individuals recruited in Oklahoma,
8 the number of such individuals who claim Oklahoma as their home of
9 record, and the number of those recruited here who do not claim
10 Oklahoma as their home of record;

11 3. Review any additional data and information which the
12 Committee considers relevant to the development of an estimate of
13 the amount of state tax revenue collected as the result of members
14 of any component of the Armed Forces of the United States claiming
15 Oklahoma as their home; and

16 4. Submit a report by December 1, 2014, to the State Board of
17 Equalization. The report shall include findings and recommendations
18 regarding the impact of members of any component of the Armed Forces
19 of the United States in Oklahoma on state tax revenue collections
20 and expected collections between July 1, 2010 and January 1, 2015.

21 E. Members of the task force shall receive no compensation for
22 serving on the task force, but shall receive travel reimbursement as
23 follows:
24

1 1. State employees who are members of the task force shall be
2 reimbursed for travel expenses incurred in the performance of their
3 duties by their respective agencies in accordance with the State
4 Travel Reimbursement Act;

5 2. All other task force members shall be reimbursed by the
6 appointing authority for travel expenses incurred in the performance
7 of their duties in accordance with the State Travel Reimbursement
8 Act; and

9 3. Legislative members shall be reimbursed in accordance with
10 Section 456 of Title 74 of the Oklahoma Statutes.

11 F. The Special Committee on Soldier Relief shall meet as often
12 as necessary to conduct business but shall meet no less than three
13 (3) times, with an organizational meeting to be held prior to
14 December 31, 2009. The organizational meeting shall be called by
15 the Chair of the Finance Committee of the Oklahoma State Senate. A
16 majority of members of the Special Committee shall constitute a
17 quorum.

18 G. Administrative support for the Special Committee shall be
19 provided by the State Senate, House of Representatives and the
20 Oklahoma Tax Commission.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2355.1D of Title 68, unless
23 there is created a duplication in numbering, reads as follows:
24

1 A. The provisions of this section shall be applicable with
2 respect to the implementation of the income tax deduction provided
3 pursuant to the provisions of subparagraph b of paragraph 5 of
4 subsection E of Section 2358 of Title 68 of the Oklahoma Statutes
5 which shall be contingent upon a determination by the State Board of
6 Equalization made by a comparison of the revenue collections and
7 revenue deductions described by this section and by consideration of
8 the recommendations and findings of the Special Committee on Soldier
9 Relief.

10 B. In addition to any other duties prescribed by law, at the
11 meeting required by paragraph 1 of Section 23 of Article X of the
12 Oklahoma Constitution to be held in December 2014, the State Board
13 of Equalization shall determine:

14 1. The amount of state revenue estimated to have been collected
15 and expected to be collected beginning on July 1, 2010, and ending
16 before January 1, 2015, from sales tax, motor vehicle taxes and
17 fees, vehicle excise tax and motor fuel tax from all taxpayers who
18 receive salary or compensation in any form other than retirement
19 benefits from the United States as a member of any component of the
20 Armed Forces of the United States; and

21 2. The amount by which the income tax revenue beginning on July
22 1, 2010, and ending before January 1, 2015, is estimated to have
23 been reduced by the exemption provided pursuant to subparagraph b of
24

1 paragraph 5 of subsection E of Section 2358 of Title 68 of the
2 Oklahoma Statutes.

3 C. If the amount determined pursuant to the provisions of
4 paragraph 1 of subsection B of this section is equal to or greater
5 than the amount determined pursuant to the provisions of paragraph 2
6 of subsection B of this section, the Board shall make a finding that
7 applicable revenue collections will authorize the implementation of
8 the provisions of subparagraph c of paragraph 5 of subsection E of
9 Section 2358 of Title 68 of the Oklahoma Statutes, and the one
10 hundred percent (100%) deduction authorized by subparagraph c of
11 paragraph 5 of subsection E of Section 2358 of Title 68 of the
12 Oklahoma Statutes shall remain in effect.

13 D. If the amount determined pursuant to the provisions of
14 paragraph 1 of subsection B of this section is less than the amount
15 determined pursuant to the provisions of paragraph 2 of subsection B
16 of this section, the Board shall make a finding that applicable
17 revenue collections will not authorize the implementation of the
18 provisions of subparagraph c of paragraph 5 of subsection E of
19 Section 2358 of Title 68 of the Oklahoma Statutes, and the One
20 Thousand Five Hundred Dollar (\$1,500.00) deduction authorized by
21 subparagraph d of paragraph 5 of subsection E of Section 2358 of
22 Title 68 of the Oklahoma Statutes shall become effective for the tax
23 year beginning on January 1, 2015, and every year thereafter.

SECTION 4. This act shall become effective July 1, 2010.

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