

1 ENGROSSED SENATE
2 BILL NO. 862

By: Jolley and Dahm of the
Senate

3 and

4 Banz of the House

5
6
7 [gold and silver coins - legal tender - exemptions -
8 an exemption for certain capital gains - codification
- effective date]
9
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4500 of Title 62, unless there
14 is created a duplication in numbering, reads as follows:

15 Gold and silver coins issued by the United States government are
16 legal tender in the State of Oklahoma. No person may compel another
17 person to tender or accept gold or silver coins that are issued by
18 the United States government, except as agreed upon by contract.

19 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1357, as
20 amended by Section 1, Chapter 233, O.S.L. 2012 (68 O.S. Supp. 2012,
21 Section 1357), is amended to read as follows:

22 Section 1357. Exemptions - General.

23 There are hereby specifically exempted from the tax levied by
24 the Oklahoma Sales Tax Code:

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

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

6 3. Sales for resale to persons engaged in the business of
7 reselling the articles purchased, whether within or without the
8 state, provided that such sales to residents of this state are made
9 to persons to whom sales tax permits have been issued as provided in
10 the Oklahoma Sales Tax Code. This exemption shall not apply to the
11 sales of articles made to persons holding permits when such persons
12 purchase items for their use and which they are not regularly
13 engaged in the business of reselling; neither shall this exemption
14 apply to sales of tangible personal property to peddlers, solicitors
15 and other salespersons who do not have an established place of
16 business and a sales tax permit. The exemption provided by this
17 paragraph shall apply to sales of motor fuel or diesel fuel to a
18 Group Five vendor, but the use of such motor fuel or diesel fuel by
19 the Group Five vendor shall not be exempt from the tax levied by the
20 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
21 is exempt from sales tax when the motor fuel is for shipment outside
22 this state and consumed by a common carrier by rail in the conduct
23 of its business. The sales tax shall apply to the purchase of motor
24 fuel or diesel fuel in Oklahoma by a common carrier by rail when

1 such motor fuel is purchased for fueling, within this state, of any
2 locomotive or other motorized flanged wheel equipment;

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

4 5. Sales of programs relating to sporting and entertainment
5 events, and sales of advertising on billboards (including signage,
6 posters, panels, marquees, or on other similar surfaces, whether
7 indoors or outdoors) or in programs relating to sporting and
8 entertainment events, and sales of any advertising, to be displayed
9 at or in connection with a sporting event, via the Internet,
10 electronic display devices, or through public address or broadcast
11 systems. The exemption authorized by this paragraph shall be
12 effective for all sales made on or after January 1, 2001;

13 6. Sales of any advertising, other than the advertising
14 described by paragraph 5 of this section, via the Internet,
15 electronic display devices, or through the electronic media,
16 including radio, public address or broadcast systems, television
17 (whether through closed circuit broadcasting systems or otherwise),
18 and cable and satellite television, and the servicing of any
19 advertising devices;

20 7. Eggs, feed, supplies, machinery and equipment purchased by
21 persons regularly engaged in the business of raising worms, fish,
22 any insect or any other form of terrestrial or aquatic animal life
23 and used for the purpose of raising same for marketing. This
24 exemption shall only be granted and extended to the purchaser when

1 the items are to be used and in fact are used in the raising of
2 animal life as set out above. Each purchaser shall certify, in
3 writing, on the invoice or sales ticket retained by the vendor that
4 the purchaser is regularly engaged in the business of raising such
5 animal life and that the items purchased will be used only in such
6 business. The vendor shall certify to the Oklahoma Tax Commission
7 that the price of the items has been reduced to grant the full
8 benefit of the exemption. Violation hereof by the purchaser or
9 vendor shall be a misdemeanor;

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

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

20 10. Transfers of title or possession of empty, partially
21 filled, or filled returnable oil and chemical drums to any person
22 who is not regularly engaged in the business of selling, reselling
23 or otherwise transferring empty, partially filled, or filled
24 returnable oil drums;

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

4 12. Sales of food or food products for home consumption which
5 are purchased in whole or in part with coupons issued pursuant to
6 the federal food stamp program as authorized by Sections 2011
7 through 2029 of Title 7 of the United States Code, as to that
8 portion purchased with such coupons. The exemption provided for
9 such sales shall be inapplicable to such sales upon the effective
10 date of any federal law that removes the requirement of the
11 exemption as a condition for participation by the state in the
12 federal food stamp program;

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

- 16 a. is exempt from taxation pursuant to the provisions of
17 Section 501(c)(3) of the Internal Revenue Code, 26
18 U.S.C., Section 501(c)(3), and which provides and
19 delivers prepared meals for home consumption to
20 elderly or homebound persons as part of a program
21 commonly known as "Meals on Wheels" or "Mobile Meals",
22 or
23 b. is exempt from taxation pursuant to the provisions of
24 Section 501(c)(3) of the Internal Revenue Code, 26

1 U.S.C., Section 501(c)(3), and which receives federal
2 funding pursuant to the Older Americans Act of 1965,
3 as amended, for the purpose of providing nutrition
4 programs for the care and benefit of elderly persons;

- 5 14. a. Sales of tangible personal property or services to or
6 by organizations which are exempt from taxation
7 pursuant to the provisions of Section 501(c)(3) of the
8 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
9 and:

10 (1) are primarily involved in the collection and
11 distribution of food and other household products
12 to other organizations that facilitate the
13 distribution of such products to the needy and
14 such distributee organizations are exempt from
15 taxation pursuant to the provisions of Section
16 501(c)(3) of the Internal Revenue Code, 26
17 U.S.C., Section 501(c)(3), or

18 (2) facilitate the distribution of such products to
19 the needy.

- 20 b. Sales made in the course of business for profit or
21 savings, competing with other persons engaged in the
22 same or similar business shall not be exempt under
23 this paragraph;
24

1 15. Sales of tangible personal property or services to
2 children's homes which are located on church-owned property and are
3 operated by organizations exempt from taxation pursuant to the
4 provisions of the Internal Revenue Code, 26 U.S.C., Section
5 501(c) (3);

6 16. Sales of computers, data processing equipment, related
7 peripherals and telephone, telegraph or telecommunications service
8 and equipment for use in a qualified aircraft maintenance or
9 manufacturing facility. For purposes of this paragraph, "qualified
10 aircraft maintenance or manufacturing facility" means a new or
11 expanding facility primarily engaged in aircraft repair, building or
12 rebuilding whether or not on a factory basis, whose total cost of
13 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)
14 and which employs at least two hundred fifty (250) new full-time-
15 equivalent employees, as certified by the Oklahoma Employment
16 Security Commission, upon completion of the facility. In order to
17 qualify for the exemption provided for by this paragraph, the cost
18 of the items purchased by the qualified aircraft maintenance or
19 manufacturing facility shall equal or exceed the sum of Two Million
20 Dollars (\$2,000,000.00);

21 17. Sales of tangible personal property consumed or
22 incorporated in the construction or expansion of a qualified
23 aircraft maintenance or manufacturing facility as defined in
24 paragraph 16 of this section. For purposes of this paragraph, sales

1 made to a contractor or subcontractor that has previously entered
2 into a contractual relationship with a qualified aircraft
3 maintenance or manufacturing facility for construction or expansion
4 of such a facility shall be considered sales made to a qualified
5 aircraft maintenance or manufacturing facility;

6 18. Sales of the following telecommunications services:

7 a. Interstate and International "800 service". "800
8 service" means a "telecommunications service" that
9 allows a caller to dial a toll-free number without
10 incurring a charge for the call. The service is
11 typically marketed under the name "800", "855", "866",
12 "877", and "888" toll-free calling, and any subsequent
13 numbers designated by the Federal Communications
14 Commission, or

15 b. Interstate and International "900 service". "900
16 service" means an inbound toll "telecommunications
17 service" purchased by a subscriber that allows the
18 subscriber's customers to call in to the subscriber's
19 prerecorded announcement or live service. "900
20 service" does not include the charge for: collection
21 services provided by the seller of the
22 "telecommunications services" to the subscriber, or
23 service or product sold by the subscriber to the
24 subscriber's customer. The service is typically

1 marketed under the name "900" service, and any
2 subsequent numbers designated by the Federal
3 Communications Commission,

4 c. Interstate and International "private communications
5 service". "Private communications service" means a
6 "telecommunications service" that entitles the
7 customer to exclusive or priority use of a
8 communications channel or group of channels between or
9 among termination points, regardless of the manner in
10 which such channel or channels are connected, and
11 includes switching capacity, extension lines,
12 stations, and any other associated services that are
13 provided in connection with the use of such channel or
14 channels,

15 d. "Value-added nonvoice data service". "Value-added
16 nonvoice data service" means a service that otherwise
17 meets the definition of "telecommunications services"
18 in which computer processing applications are used to
19 act on the form, content, code, or protocol of the
20 information or data primarily for a purpose other than
21 transmission, conveyance or routing,

22 e. Interstate and International telecommunications
23 service which is:
24

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

3 (2) used, allocated, or distributed by a company to
4 its affiliated group,

5 f. Regulatory assessments and charges, including charges
6 to fund the Oklahoma Universal Service Fund, the
7 Oklahoma Lifeline Fund and the Oklahoma High Cost
8 Fund, and

9 g. Telecommunications nonrecurring charges, including but
10 not limited to the installation, connection, change or
11 initiation of telecommunications services which are
12 not associated with a retail consumer sale;

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

16 20. Sales of aircraft and aircraft parts provided such sales
17 occur at a qualified aircraft maintenance facility. As used in this
18 paragraph, "qualified aircraft maintenance facility" means a
19 facility operated by an air common carrier at which there were
20 employed at least two thousand (2,000) full-time-equivalent
21 employees in the preceding year as certified by the Oklahoma
22 Employment Security Commission and which is primarily related to the
23 fabrication, repair, alteration, modification, refurbishing,
24 maintenance, building or rebuilding of commercial aircraft or

1 aircraft parts used in air common carriage. For purposes of this
2 paragraph, "air common carrier" shall also include members of an
3 affiliated group as defined by Section 1504 of the Internal Revenue
4 Code, 26 U.S.C., Section 1504;

5 21. Sales of machinery and equipment purchased and used by
6 persons and establishments primarily engaged in computer services
7 and data processing:

- 8 a. as defined under Industrial Group Numbers 7372 and
9 7373 of the Standard Industrial Classification (SIC)
10 Manual, latest version, which derive at least fifty
11 percent (50%) of their annual gross revenues from the
12 sale of a product or service to an out-of-state buyer
13 or consumer, and
- 14 b. as defined under Industrial Group Number 7374 of the
15 SIC Manual, latest version, which derive at least
16 eighty percent (80%) of their annual gross revenues
17 from the sale of a product or service to an out-of-
18 state buyer or consumer.

19 Eligibility for the exemption set out in this paragraph shall be
20 established, subject to review by the Tax Commission, by annually
21 filing an affidavit with the Tax Commission stating that the
22 facility so qualifies and such information as required by the Tax
23 Commission. For purposes of determining whether annual gross
24 revenues are derived from sales to out-of-state buyers or consumers,

1 all sales to the federal government shall be considered to be to an
2 out-of-state buyer or consumer;

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

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

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

1 25. Sales of tangible personal property or services to tax-
2 exempt independent nonprofit biomedical research foundations that
3 provide educational programs for Oklahoma science students and
4 teachers and to tax-exempt independent nonprofit community blood
5 banks headquartered in this state;

6 26. Effective May 6, 1992, sales of wireless telecommunications
7 equipment to a vendor who subsequently transfers the equipment at no
8 charge or for a discounted charge to a consumer as part of a
9 promotional package or as an inducement to commence or continue a
10 contract for wireless telecommunications services;

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

14 28. Beginning July 1, 2005, sales of aircraft engine repairs,
15 modification, and replacement parts, sales of aircraft frame repairs
16 and modification, aircraft interior modification, and paint, and
17 sales of services employed in the repair, modification and
18 replacement of parts of aircraft engines, aircraft frame and
19 interior repair and modification, and paint;

20 29. Sales of materials and supplies to the owner or operator of
21 a ship, motor vessel or barge that is used in interstate or
22 international commerce if the materials and supplies:
23
24

1 a. are loaded on the ship, motor vessel or barge and used
2 in the maintenance and operation of the ship, motor
3 vessel or barge, or

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

6 30. Sales of tangible personal property made at estate sales at
7 which such property is offered for sale on the premises of the
8 former residence of the decedent by a person who is not required to
9 be licensed pursuant to the Transient Merchant Licensing Act, or who
10 is not otherwise required to obtain a sales tax permit for the sale
11 of such property pursuant to the provisions of Section 1364 of this
12 title; provided:

13 a. such sale or event may not be held for a period
14 exceeding three (3) consecutive days,

15 b. the sale must be conducted within six (6) months of
16 the date of death of the decedent, and

17 c. the exemption allowed by this paragraph shall not be
18 allowed for property that was not part of the
19 decedent's estate;

20 31. Beginning January 1, 2004, sales of electricity and
21 associated delivery and transmission services, when sold exclusively
22 for use by an oil and gas operator for reservoir dewatering projects
23 and associated operations commencing on or after July 1, 2003, in
24 which the initial water-to-oil ratio is greater than or equal to

1 five-to-one water-to-oil, and such oil and gas development projects
2 have been classified by the Corporation Commission as a reservoir
3 dewatering unit;

4 32. Sales of prewritten computer software that is delivered
5 electronically. For purposes of this paragraph, "delivered
6 electronically" means delivered to the purchaser by means other than
7 tangible storage media;

8 33. Sales of modular dwelling units when built at a production
9 facility and moved in whole or in parts, to be assembled on-site,
10 and permanently affixed to the real property and used for
11 residential or commercial purposes. The exemption provided by this
12 paragraph shall equal forty-five percent (45%) of the total sales
13 price of the modular dwelling unit. For purposes of this paragraph,
14 "modular dwelling unit" means a structure that is not subject to the
15 motor vehicle excise tax imposed pursuant to Section 2103 of this
16 title;

17 34. Sales of tangible personal property or services to persons
18 who are residents of Oklahoma and have been honorably discharged
19 from active service in any branch of the Armed Forces of the United
20 States or Oklahoma National Guard and who have been certified by the
21 United States Department of Veterans Affairs or its successor to be
22 in receipt of disability compensation at the one-hundred-percent
23 rate and the disability shall be permanent and have been sustained
24 through military action or accident or resulting from disease

1 contracted while in such active service or the surviving spouse of
2 such person if the person is deceased and the spouse has not
3 remarried; provided, sales for the benefit of the person to a spouse
4 of the eligible person or to a member of the household in which the
5 eligible person resides and who is authorized to make purchases on
6 the person's behalf, when such eligible person is not present at the
7 sale, shall also be exempt for purposes of this paragraph. Sales
8 qualifying for the exemption authorized by this paragraph shall not
9 exceed Twenty-five Thousand Dollars (\$25,000.00) per year per
10 individual while the disabled veteran is living. Sales qualifying
11 for the exemption authorized by this paragraph shall not exceed One
12 Thousand Dollars (\$1,000.00) per year for an unremarried surviving
13 spouse. Upon request of the Tax Commission, a person asserting or
14 claiming the exemption authorized by this paragraph shall provide a
15 statement, executed under oath, that the total sales amounts for
16 which the exemption is applicable have not exceeded Twenty-five
17 Thousand Dollars (\$25,000.00) per year per living disabled veteran
18 or One Thousand Dollars (\$1,000.00) per year for an unremarried
19 surviving spouse. If the amount of such exempt sales exceeds such
20 amount, the sales tax in excess of the authorized amount shall be
21 treated as a direct sales tax liability and may be recovered by the
22 Tax Commission in the same manner provided by law for other taxes,
23 including penalty and interest;

24

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

16 36. Sales of intrastate charter and tour bus transportation.
17 As used in this paragraph, "intrastate charter and tour bus
18 transportation" means the transportation of persons from one
19 location in this state to another location in this state in a motor
20 vehicle which has been constructed in such a manner that it may
21 lawfully carry more than eighteen persons, and which is ordinarily
22 used or rented to carry persons for compensation. Provided, this
23 exemption shall not apply to regularly scheduled bus transportation
24 for the general public;

1 37. Sales of vitamins, minerals and dietary supplements by a
2 licensed chiropractor to a person who is the patient of such
3 chiropractor at the physical location where the chiropractor
4 provides chiropractic care or services to such patient. The
5 provisions of this paragraph shall not be applicable to any drug,
6 medicine or substance for which a prescription by a licensed
7 physician is required;

8 38. Sales of goods, wares, merchandise, tangible personal
9 property, machinery and equipment to a web search portal located in
10 this state which derives at least eighty percent (80%) of its annual
11 gross revenue from the sale of a product or service to an out-of-
12 state buyer or consumer. For purposes of this paragraph, "web
13 search portal" means an establishment classified under NAICS code
14 519130 which operates web sites that use a search engine to generate
15 and maintain extensive databases of Internet addresses and content
16 in an easily searchable format;

17 39. Sales of tangible personal property consumed or
18 incorporated in the construction or expansion of a facility for a
19 corporation organized under Section 437 et seq. of Title 18 of the
20 Oklahoma Statutes as a rural electric cooperative. For purposes of
21 this paragraph, sales made to a contractor or subcontractor that has
22 previously entered into a contractual relationship with a rural
23 electric cooperative for construction or expansion of a facility
24 shall be considered sales made to a rural electric cooperative;

1 40. Sales of tangible personal property or services to a
2 business primarily engaged in the repair of consumer electronic
3 goods, including, but not limited to, cell phones, compact disc
4 players, personal computers, MP3 players, digital devices for the
5 storage and retrieval of information through hard-wired or wireless
6 computer or Internet connections, if the devices are sold to the
7 business by the original manufacturer of such devices and the
8 devices are repaired, refitted or refurbished for sale by the entity
9 qualifying for the exemption authorized by this paragraph directly
10 to retail consumers or if the devices are sold to another business
11 entity for sale to retail consumers;

12 41. Before July 1, 2019, sales of rolling stock when sold or
13 leased by the manufacturer, regardless of whether the purchaser is a
14 public services corporation engaged in business as a common carrier
15 of property or passengers by railway, for use or consumption by a
16 common carrier directly in the rendition of public service. For
17 purposes of this paragraph, "rolling stock" means locomotives,
18 autocars and railroad cars; and

19 42. Sales of gold, silver, platinum, palladium or other bullion
20 items such as coins and bars and legal tender of any nation, which
21 legal tender is sold according to its value as precious metal or as
22 an investment. ~~To qualify for the exemption, the gold, silver,~~
23 ~~platinum, palladium or other bullion items must be stored within a~~
24 ~~recognized depository facility.~~ As used in the paragraph, "bullion"

1 means any precious metal, including, but not limited to, gold,
2 silver, platinum and palladium, that is in such a state or condition
3 that its value depends upon its precious metal content and not its
4 form. ~~As used in this paragraph, "depository facility" means an~~
5 ~~institution that accepts delivery of precious metals on behalf of~~
6 ~~the purchaser and provides storage of such precious metals, but~~
7 ~~shall not include financial institutions as defined in subsection E~~
8 ~~of Section 71 of Title 62 of the Oklahoma Statutes.~~ The exemption
9 authorized by this paragraph shall not apply to fabricated metals
10 that have been processed or manufactured for artistic use or as
11 jewelry.

12 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2358, is
13 amended to read as follows:

14 Section 2358. For all tax years beginning after December 31,
15 1981, taxable income and adjusted gross income shall be adjusted to
16 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
17 as required by this section.

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

21 1. There shall be added interest income on obligations of any
22 state or political subdivision thereto which is not otherwise
23 exempted pursuant to other laws of this state, to the extent that
24

1 such interest is not included in taxable income and adjusted gross
2 income.

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

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

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

18 b. For carryovers and carrybacks to taxable years
19 beginning after December 31, 1980, the amount of any
20 net operating loss deduction allowed for the taxable
21 year shall be an amount equal to the aggregate of the
22 Oklahoma net operating loss carryovers and carrybacks
23 to such year. Oklahoma net operating losses shall be
24 separately determined by reference to Section 172 of

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

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

19 11. For taxable years beginning on or after January 1, 2015,
20 there shall be exempt from Oklahoma taxable income, or in the case
21 of an individual, the Oklahoma adjusted gross income, any amount of
22 net capital gains, as defined in 26 U.S.C.A., Section 1222 of the
23 Internal Revenue Code and included in the federal income tax return,
24

1 which result from the sale or exchange of gold or silver for another
2 form of legal tender.

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

21 Notwithstanding any other provisions of the Oklahoma Income Tax
22 Act, Section 2351 et seq. of this title, or of the Internal Revenue
23 Code to the contrary, this subsection shall control calculation of
24

1 depreciation of assets placed into service after December 31, 1981,
2 and before January 1, 1983.

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

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

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

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

7 2. For purposes of this subsection:

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

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

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

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

20 b. "Technology" means a proprietary process, formula,
21 pattern, device or compilation of scientific or
22 technical information which is not in the public
23 domain;
24

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

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

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

15 2. As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 1. a. In the case of individuals, there shall be added or
2 deducted, as the case may be, the difference necessary
3 to allow personal exemptions of One Thousand Dollars
4 (\$1,000.00) in lieu of the personal exemptions allowed
5 by the Internal Revenue Code.
- 6 b. There shall be allowed an additional exemption of One
7 Thousand Dollars (\$1,000.00) for each taxpayer or
8 spouse who is blind at the close of the tax year. For
9 purposes of this subparagraph, an individual is blind
10 only if the central visual acuity of the individual
11 does not exceed 20/200 in the better eye with
12 correcting lenses, or if the visual acuity of the
13 individual is greater than 20/200, but is accompanied
14 by a limitation in the fields of vision such that the
15 widest diameter of the visual field subtends an angle
16 no greater than twenty (20) degrees.
- 17 c. There shall be allowed an additional exemption of One
18 Thousand Dollars (\$1,000.00) for each taxpayer or
19 spouse who is sixty-five (65) years of age or older at
20 the close of the tax year based upon the filing status
21 and federal adjusted gross income of the taxpayer.
22 Taxpayers with the following filing status may claim
23 this exemption if the federal adjusted gross income
24 does not exceed:

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

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

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

1 income or One Thousand Dollars (\$1,000.00), but not to
2 exceed Two Thousand Dollars (\$2,000.00), except that
3 in the case of a married individual filing a separate
4 return such deduction shall be the larger of fifteen
5 percent (15%) of such Oklahoma adjusted gross income
6 or Five Hundred Dollars (\$500.00), but not to exceed
7 the maximum amount of One Thousand Dollars
8 (\$1,000.00) ~~+~~ —

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

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

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

22 c. For the taxable year beginning on January 1, 2007, and
23 ending December 31, 2007, in the case of individuals
24 who use the standard deduction in determining taxable

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

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

8 (2) Four Thousand One Hundred Twenty-five Dollars
9 (\$4,125.00) for a head of household; or

10 (3) Two Thousand Seven Hundred Fifty Dollars
11 (\$2,750.00), if the filing status is single or
12 married filing separate.

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

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

23 (2) Four Thousand Eight Hundred Seventy-five Dollars
24 (\$4,875.00) for a head of household, or

1 (3) Three Thousand Two Hundred Fifty Dollars

2 (\$3,250.00), if the filing status is single or
3 married filing separate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (2) absence from the State of Oklahoma while on
2 active duty; or
3 (3) confinement in a hospital within the United
4 States for treatment of wounds, injuries or
5 disease,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 filing status is single, head of household, or
2 married filing separate, or Seventy-Five Thousand
3 Dollars (\$75,000.00) or less if the filing status
4 is married filing jointly or qualifying widow,
5 (2) in the taxable year beginning January 1, 2007,
6 the qualifying amount shall be Fifty Thousand
7 Dollars (\$50,000.00) or less if the filing status
8 is single, head of household, or married filing
9 separate, or One Hundred Thousand Dollars
10 (\$100,000.00) or less if the filing status is
11 married filing jointly or qualifying widow,
12 (3) in the taxable year beginning January 1, 2008,
13 the qualifying amount shall be Sixty-two Thousand
14 Five Hundred Dollars (\$62,500.00) or less if the
15 filing status is single, head of household, or
16 married filing separate, or One Hundred Twenty-
17 five Thousand Dollars (\$125,000.00) or less if
18 the filing status is married filing jointly or
19 qualifying widow,
20 (4) in the taxable year beginning January 1, 2009,
21 the qualifying amount shall be One Hundred
22 Thousand Dollars (\$100,000.00) or less if the
23 filing status is single, head of household, or
24 married filing separate, or Two Hundred Thousand

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

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

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

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

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

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

20 (4) an employee annuity subject to the provisions of
21 Section 403(a) or (b) of the Internal Revenue
22 Code, 26 U.S.C., Section 403(a) or (b),
23
24

(5) United States Retirement Bonds which satisfy the requirements of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, or
(6) lump-sum distributions from a retirement plan which satisfies the requirements of Section 402(e) of the Internal Revenue Code, 26 U.S.C., 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

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

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

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

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

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

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

1 (1) for a taxpayer who qualified for the five-year
2 carryforward election and who takes a rollover or
3 nonqualified withdrawal during that period, the
4 tax deduction otherwise available pursuant to
5 subparagraph b of this paragraph shall be reduced
6 by the amount which is equal to the rollover or
7 nonqualified withdrawal, and

8 (2) for a taxpayer who elects to take a rollover or
9 nonqualified withdrawal within the same tax year
10 in which a contribution was made to the
11 taxpayer's account, the tax deduction otherwise
12 available pursuant to subparagraph b of this
13 paragraph shall be reduced by the amount of the
14 contribution which is equal to the rollover or
15 nonqualified withdrawal.

16 d. If a taxpayer elects to take a rollover on a
17 contribution for which a deduction has been taken
18 pursuant to subparagraph b of this paragraph within
19 one year of the date of contribution, the amount of
20 such rollover shall be included in the adjusted gross
21 income of the taxpayer in the taxable year of the
22 rollover.

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

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

5 f. As used in this paragraph:

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

9 (a) a qualified withdrawal,

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

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

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

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

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

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

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

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

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

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

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

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

4 22. For taxable years beginning after December 31, 2009, there
5 shall be exempt from taxable income any amount received by the
6 beneficiary of the death benefit for an emergency medical technician
7 or a registered emergency medical responder provided by Section 1-
8 2505.1 of Title 63 of the Oklahoma Statutes.

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

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

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

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

3 2. As used in this subsection:

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

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

15 (2) the sale of stock or the sale of a direct or
16 indirect ownership interest in an Oklahoma
17 company, limited liability company, or
18 partnership where such stock or ownership
19 interest has been directly or indirectly owned by
20 the individual taxpayer for a holding period of
21 at least two (2) years prior to the date of the
22 transaction from which the net capital gains
23 arise, or
24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Investment Scheme" under the Australian Corporations Act in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market), or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, seventy-five percent (75%) or more of the voting power or value of the beneficial interests or shares of such trust, or

(4) any Qualified Foreign Entity, meaning a corporation, trust, association or partnership organized outside the laws of the United States 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,

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

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

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

15 SECTION 4. This act shall become effective November 1, 2014.
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1 Passed the Senate the 10th day of March, 2014.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2014.

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8 _____
9 Presiding Officer of the House
10 of Representatives