

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 HOUSE BILL 1747

By: Newell, Hickman, Sanders,
Biggs, Murdock, Pfeiffer,
Ortega, Johnson, Osborn and
Park of the House

6 and

7 Schulz of the Senate

8
9
10 AS INTRODUCED

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2011, Section 2358 as last amended by Section 1,
13 Chapter 138 O.S.L. 2014 (68 O.S. Supp. 2014, Section
14 2358), which relates to computation of taxable income
15 and adjusted gross income; providing exemption for
16 income received by persons resident of certain
17 counties; prescribing limit on duration of exemption;
18 prescribing standard for purposes of determining
19 projected county population loss; and providing an
20 effective date.

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

22 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2358, as
23 last amended by Section 1, Chapter 138, O.S.L. 2014 (68 O.S. Supp.
24 2014, Section 2358), is amended to read as follows:

25 Section 2358. For all tax years beginning after December 31,
26 1981, taxable income and adjusted gross income shall be adjusted to

1 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
2 as required by this section.

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

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

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

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

17 a. For carryovers and carrybacks to taxable years
18 beginning before January 1, 1981, the amount of any
19 net operating loss deduction allowed to a taxpayer for
20 federal income tax purposes shall be reduced to an
21 amount which is the same portion thereof as the loss
22 from sources within this state, as determined pursuant
23 to this section and Section 2362 of this title, for
24

1 the taxable year in which such loss is sustained is of
2 the total loss for such year;

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

1 years. For tax years beginning after December 31,
2 2008, the years to which such losses may be carried
3 back shall be determined solely by reference to
4 Section 172 of the Internal Revenue Code, 26 U.S.C.,
5 Section 172, with the exception that the terms "net
6 operating loss" and "taxable income" shall be replaced
7 with "Oklahoma net operating loss" and "Oklahoma
8 taxable income".

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

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

19 b. Income from intangible personal property, such as
20 interest, dividends, patent or copyright royalties,
21 and gains or losses from sales of such property, shall
22 be allocated in accordance with the domiciliary situs
23 of the taxpayer, except that:
24

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

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

1 than fifty percent (50%) of the value of the
2 partnership's assets consists of intangible
3 assets, capital or ordinary gains or losses from
4 the sale of an ownership interest in the
5 partnership shall be allocated to this state in
6 accordance with the sales factor of the
7 partnership for its first full tax period
8 immediately preceding its tax period during which
9 the ownership interest in the partnership was
10 sold; the provisions of this division shall only
11 apply if the capital or ordinary gains or losses
12 from the sale of an ownership interest in a
13 partnership do not constitute qualifying gain
14 receiving capital treatment as defined in
15 subparagraph a of paragraph 2 of subsection F of
16 this section,

17 (3) income from such property which is required to be
18 allocated pursuant to the provisions of paragraph
19 5 of this subsection shall be allocated as herein
20 provided;

21 c. Net income or loss from a business activity which is
22 not a part of business carried on within or without
23 the state of a unitary character shall be separately
24

1 allocated to the state in which such activity is
2 conducted;

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

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

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

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

21 the Oklahoma net income shall, at the option of the
22 taxpayer, be that portion of the total net income of
23 the taxpayer for federal income tax purposes derived
24 from the manufacture and/or processing and sales

1 everywhere as determined by the ratio of the sales
2 defined in this section made to the purchaser within
3 the state to the total sales everywhere. The term
4 "public warehouse" as used in this subparagraph means
5 a licensed public warehouse, the principal business of
6 which is warehousing merchandise for the public;

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

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

1 on the annual statement filed by the company with
2 the Insurance Commissioner in the form approved
3 by the National Association of Insurance
4 Commissioners, or such other form as may be
5 prescribed in lieu thereof,

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

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

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

1 or measured by income. Provided, for corporations whose property
2 for purposes of the tax imposed by Section 2355 of this title has an
3 initial investment cost equaling or exceeding Two Hundred Million
4 Dollars (\$200,000,000.00) and such investment is made on or after
5 July 1, 1997, or for corporations which expand their property or
6 facilities in this state and such expansion has an investment cost
7 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
8 over a period not to exceed three (3) years, and such expansion is
9 commenced on or after January 1, 2000, the three factors shall be
10 apportioned with property and payroll, each comprising twenty-five
11 percent (25%) of the apportionment factor and sales comprising fifty
12 percent (50%) of the apportionment factor. The apportionment
13 factors shall be computed as follows:

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

21 (1) Property, the income from which is separately
22 allocated in paragraph 4 of this subsection,
23 shall not be included in determining this
24 fraction. The numerator of the fraction shall

1 include a portion of the investment in
2 transportation and other equipment having no
3 fixed situs, such as rolling stock, buses, trucks
4 and trailers, including machinery and equipment
5 carried thereon, airplanes, salespersons'
6 automobiles and other similar equipment, in the
7 proportion that miles traveled in Oklahoma by
8 such equipment bears to total miles traveled,

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

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

23 b. The payroll factor is a fraction, the numerator of
24 which is the total compensation for services rendered

1 in the state during the tax period, and the
2 denominator of which is the total compensation for
3 services rendered everywhere during the tax period.
4 "Compensation", as used in this subsection means those
5 paid-for services to the extent related to the unitary
6 business but does not include officers' salaries,
7 wages and other compensation.

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

17 (2) In any case the numerator of the fraction shall
18 include a portion of such expenditures in
19 connection with itinerant employees, such as
20 traveling salespersons, in this state only a part
21 of the time, in the proportion that time spent in
22 Oklahoma bears to total time spent in furtherance
23 of the enterprise by such employees;
24

1 c. The sales factor is a fraction, the numerator of which
2 is the total sales or gross revenue of the taxpayer in
3 this state during the tax period, and the denominator
4 of which is the total sales or gross revenue of the
5 taxpayer everywhere during the tax period. "Sales",
6 as used in this subsection does not include sales or
7 gross revenue which are separately allocated in
8 paragraph 4 of this subsection.

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

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

1 (3) In the case of an airline, truck or bus
2 enterprise or freight car, tank car, refrigerator
3 car or other railroad equipment enterprise, the
4 numerator of the fraction shall include a portion
5 of revenue from interstate transportation in the
6 proportion that interstate mileage traveled in
7 Oklahoma bears to total interstate mileage
8 traveled.

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

23 (5) In the case of a telephone or telegraph or other
24 communication enterprise, the numerator of the

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

18 In any case where the apportionment of the three factors
19 prescribed in this paragraph attributes to Oklahoma a portion of net
20 income of the enterprise out of all appropriate proportion to the
21 property owned and/or business transacted within this state, because
22 of the fact that one or more of the factors so prescribed are not
23 employed to any appreciable extent in furtherance of the enterprise;
24 or because one or more factors not so prescribed are employed to a

1 considerable extent in furtherance of the enterprise; or because of
2 other reasons, the Tax Commission is empowered to permit, after a
3 showing by taxpayer that an excessive portion of net income has been
4 attributed to Oklahoma, or require, when in its judgment an
5 insufficient portion of net income has been attributed to Oklahoma,
6 the elimination, substitution, or use of additional factors, or
7 reduction or increase in the weight of such prescribed factors.
8 Provided, however, that any such variance from such prescribed
9 factors which has the effect of increasing the portion of net income
10 attributable to Oklahoma must not be inherently arbitrary, and
11 application of the recomputed final apportionment to the net income
12 of the enterprise must attribute to Oklahoma only a reasonable
13 portion thereof.

14 6. For calendar years 1997 and 1998, the owner of a new or
15 expanded agricultural commodity processing facility in this state
16 may exclude from Oklahoma taxable income, or in the case of an
17 individual, the Oklahoma adjusted gross income, fifteen percent
18 (15%) of the investment by the owner in the new or expanded
19 agricultural commodity processing facility. For calendar year 1999,
20 and all subsequent years, the percentage, not to exceed fifteen
21 percent (15%), available to the owner of a new or expanded
22 agricultural commodity processing facility in this state claiming
23 the exemption shall be adjusted annually so that the total estimated
24 reduction in tax liability does not exceed One Million Dollars

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

15 For purposes of this paragraph:

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

1 more than, storage, cleaning, drying or transportation
2 of agricultural commodities, and

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

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

9 (2) transporting the agricultural commodities or
10 product before, during or after the processing,
11 or

12 (3) packaging or otherwise preparing the product for
13 sale or shipment.

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

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

22 b. the loss properly shown on Schedule F of the Internal
23 Revenue Service Form 1040 reduced by one-half (1/2) of
24

1 the income from all other sources other than reflected
2 on Schedule F.

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

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

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

1 of the Internal Revenue Code of 1986, as amended by Section 1231 of
2 the American Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

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

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

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

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

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

- (1) 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, one hundred percent (100%)
16 of the income received by any person from the United
17 States as salary or compensation in any form, other
18 than retirement benefits, as a member of any component
19 of the Armed Forces of the United States shall be
20 deducted from taxable income.

21 c. Whenever the filing of a timely income tax return by a
22 member of the Armed Forces of the United States is
23 made impracticable or impossible of accomplishment by
24 reason of:

- 1 (1) absence from the United States, which term
2 includes only the states and the District of
3 Columbia;
- 4 (2) absence from the State of Oklahoma while on
5 active duty; or
- 6 (3) confinement in a hospital within the United
7 States for treatment of wounds, injuries or
8 disease,

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

- 13 (a) Such individual shall return to the United
14 States if the extension is granted pursuant
15 to subparagraph a of this paragraph, return
16 to the State of Oklahoma if the extension is
17 granted pursuant to subparagraph b of this
18 paragraph or be discharged from such
19 hospital if the extension is granted
20 pursuant to subparagraph c of this
21 paragraph; or
- 22 (b) An executor, administrator, or conservator
23 of the estate of the taxpayer is appointed,
24 whichever event occurs the earliest.

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

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

17 7. a. An individual taxpayer, whether resident or
18 nonresident, may deduct an amount equal to the federal
19 income taxes paid by the taxpayer during the taxable
20 year.

21 b. Federal taxes as described in subparagraph a of this
22 paragraph shall be deductible by any individual
23 taxpayer, whether resident or nonresident, only to the
24 extent they relate to income subject to taxation

1 pursuant to the provisions of the Oklahoma Income Tax
2 Act. The maximum amount allowable in the preceding
3 paragraph shall be prorated on the ratio of the
4 Oklahoma adjusted gross income to federal adjusted
5 gross income.

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

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

22 8. Retirement benefits not to exceed Five Thousand Five Hundred
23 Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five
24 Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand

1 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax
2 years, which are received by an individual from the civil service of
3 the United States, the Oklahoma Public Employees Retirement System,
4 the Teachers' Retirement System of Oklahoma, the Oklahoma Law
5 Enforcement Retirement System, the Oklahoma Firefighters Pension and
6 Retirement System, the Oklahoma Police Pension and Retirement
7 System, the employee retirement systems created by counties pursuant
8 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the
9 Uniform Retirement System for Justices and Judges, the Oklahoma
10 Wildlife Conservation Department Retirement Fund, the Oklahoma
11 Employment Security Commission Retirement Plan, or the employee
12 retirement systems created by municipalities pursuant to Section 48-
13 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
14 from taxable income.

15 9. In taxable years beginning after December 31, 1984, Social
16 Security benefits received by an individual shall be exempt from
17 taxable income, to the extent such benefits are included in the
18 federal adjusted gross income pursuant to the provisions of Section
19 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

20 10. For taxable years beginning after December 31, 1994, lump-
21 sum distributions from employer plans of deferred compensation,
22 which are not qualified plans within the meaning of Section 401(a)
23 of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which
24 are deposited in and accounted for within a separate bank account or

1 brokerage account in a financial institution within this state,
2 shall be excluded from taxable income in the same manner as a
3 qualifying rollover contribution to an individual retirement account
4 within the meaning of Section 408 of the Internal Revenue Code, 26
5 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage
6 account, including any earnings thereon, shall be included in
7 taxable income when withdrawn in the same manner as withdrawals from
8 individual retirement accounts within the meaning of Section 408 of
9 the Internal Revenue Code.

10 11. In taxable years beginning after December 31, 1995,
11 contributions made to and interest received from a medical savings
12 account established pursuant to Sections 2621 through 2623 of Title
13 63 of the Oklahoma Statutes shall be exempt from taxable income.

14 12. For taxable years beginning after December 31, 1996, the
15 Oklahoma adjusted gross income of any individual taxpayer who is a
16 swine or poultry producer may be further adjusted for the deduction
17 for depreciation allowed for new construction or expansion costs
18 which may be computed using the same depreciation method elected for
19 federal income tax purposes except that the useful life shall be
20 seven (7) years for purposes of this paragraph. If depreciation is
21 allowed as a deduction in determining the adjusted gross income of
22 an individual, any depreciation calculated and claimed pursuant to
23 this section shall in no event be a duplication of any depreciation
24

1 allowed or permitted on the federal income tax return of the
2 individual.

3 13. a. In taxable years beginning after December 31, 2002,
4 nonrecurring adoption expenses paid by a resident
5 individual taxpayer in connection with:

6 (1) the adoption of a minor, or

7 (2) a proposed adoption of a minor which did not
8 result in a decreed adoption,

9 may be deducted from the Oklahoma adjusted gross
10 income.

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

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

20 d. "Nonrecurring adoption expenses" means adoption fees,
21 court costs, medical expenses, attorney fees and
22 expenses which are directly related to the legal
23 process of adoption of a child including, but not
24 limited to, costs relating to the adoption study,

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

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

1 specified in this paragraph, which are received by an
2 individual whose Oklahoma adjusted gross income is
3 less than the qualifying amount specified in this
4 paragraph, shall be exempt from taxable income.

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

- 7 (1) in taxable years beginning after December 31,
8 2004, and prior to January 1, 2007, the
9 qualifying amount shall be Thirty-seven Thousand
10 Five Hundred Dollars (\$37,500.00) or less if the
11 filing status is single, head of household, or
12 married filing separate, or Seventy-five Thousand
13 Dollars (\$75,000.00) or less if the filing status
14 is married filing jointly or qualifying widow,
15 (2) in the taxable year beginning January 1, 2007,
16 the qualifying amount shall be Fifty Thousand
17 Dollars (\$50,000.00) or less if the filing status
18 is single, head of household, or married filing
19 separate, or One Hundred Thousand Dollars
20 (\$100,000.00) or less if the filing status is
21 married filing jointly or qualifying widow,
22 (3) in the taxable year beginning January 1, 2008,
23 the qualifying amount shall be Sixty-two Thousand
24 Five Hundred Dollars (\$62,500.00) or less if the

1 filing status is single, head of household, or
2 married filing separate, or One Hundred Twenty-
3 five Thousand Dollars (\$125,000.00) or less if
4 the filing status is married filing jointly or
5 qualifying widow,

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

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

17 c. For purposes of this paragraph, "retirement benefits"
18 means the total distributions or withdrawals from the
19 following:

20 (1) an employee pension benefit plan which satisfies
21 the requirements of Section 401 of the Internal
22 Revenue Code, 26 U.S.C., Section 401,
23
24

- 1 (2) an eligible deferred compensation plan that
2 satisfies the requirements of Section 457 of the
3 Internal Revenue Code, 26 U.S.C., Section 457,
4 (3) an individual retirement account, annuity or
5 trust or simplified employee pension that
6 satisfies the requirements of Section 408 of the
7 Internal Revenue Code, 26 U.S.C., Section 408,
8 (4) an employee annuity subject to the provisions of
9 Section 403(a) or (b) of the Internal Revenue
10 Code, 26 U.S.C., Section 403(a) or (b),
11 (5) United States Retirement Bonds which satisfy the
12 requirements of Section 86 of the Internal
13 Revenue Code, 26 U.S.C., Section 86, or
14 (6) lump-sum distributions from a retirement plan
15 which satisfies the requirements of Section
16 402(e) of the Internal Revenue Code, 26 U.S.C.,
17 Section 402(e).

18 d. The amount of the exemption provided by this paragraph
19 shall be limited to Five Thousand Five Hundred Dollars
20 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
21 Hundred Dollars (\$7,500.00) for the 2005 tax year and
22 Ten Thousand Dollars (\$10,000.00) for the tax year
23 2006 and for all subsequent tax years. Any individual
24 who claims the exemption provided for in paragraph 8

1 of this subsection shall not be permitted to claim a
2 combined total exemption pursuant to this paragraph
3 and paragraph 8 of this subsection in an amount
4 exceeding Five Thousand Five Hundred Dollars
5 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
6 Hundred Dollars (\$7,500.00) for the 2005 tax year and
7 Ten Thousand Dollars (\$10,000.00) for the 2006 tax
8 year and all subsequent tax years.

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

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

22 17. a. In taxable years beginning after December 31, 2001,
23 and before January 1, 2005, there shall be allowed a
24 deduction in the amount of contributions to accounts

1 established pursuant to the Oklahoma College Savings
2 Plan Act. The deduction shall equal the amount of
3 contributions to accounts, but in no event shall the
4 deduction for each contributor exceed Two Thousand
5 Five Hundred Dollars (\$2,500.00) each taxable year for
6 each account.

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

1 taxable year and up to April 15 of the succeeding
2 year, or the due date of a taxpayer's state income tax
3 return, excluding extensions, whichever is later.

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

6 c. In taxable years beginning after December 31, 2006,
7 deductions for contributions made pursuant to
8 subparagraph b of this paragraph shall be limited as
9 follows:

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

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

- 1 d. If a taxpayer elects to take a rollover on a
2 contribution for which a deduction has been taken
3 pursuant to subparagraph b of this paragraph within
4 one (1) year of the date of contribution, the amount
5 of such rollover shall be included in the adjusted
6 gross income of the taxpayer in the taxable year of
7 the rollover.
- 8 e. If a taxpayer makes a nonqualified withdrawal of
9 contributions for which a deduction was taken pursuant
10 to subparagraph b of this paragraph, such nonqualified
11 withdrawal and any earnings thereon shall be included
12 in the adjusted gross income of the taxpayer in the
13 taxable year of the nonqualified withdrawal.
- 14 f. As used in this paragraph:
- 15 (1) "non-qualified withdrawal" means a withdrawal
16 from an Oklahoma College Savings Plan account
17 other than one of the following:
- 18 (a) a qualified withdrawal,
19
20 (b) a withdrawal made as a result of the death
21 or disability of the designated beneficiary
22 of an account,
23
24 (c) a withdrawal that is made on the account of
a scholarship or the allowance or payment
described in Section 135(d)(1)(B) or (C) or

1 by the Internal Revenue Code, received by
2 the designated beneficiary to the extent the
3 amount of the refund does not exceed the
4 amount of the scholarship, allowance, or
5 payment, or

6 (d) a rollover or change of designated
7 beneficiary as permitted by subsection F of
8 Section 3970.7 of Title 70 of Oklahoma
9 Statutes, and

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

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

20 19. For taxable years beginning after December 31, 2006,
21 retirement benefits received by federal civil service retirees,
22 including survivor annuities, paid in lieu of Social Security
23 benefits shall be exempt from taxable income to the extent such
24 benefits are included in the federal adjusted gross income pursuant

1 to the provisions of Section 86 of the Internal Revenue Code, 26
2 U.S.C., Section 86, according to the following schedule:

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

14 20. a. For taxable years beginning after December 31, 2007, a
15 resident individual may deduct up to Ten Thousand
16 Dollars (\$10,000.00) from Oklahoma adjusted gross
17 income if the individual, or the dependent of the
18 individual, while living, donates one or more human
19 organs of the individual to another human being for
20 human organ transplantation. As used in this
21 paragraph, "human organ" means all or part of a liver,
22 pancreas, kidney, intestine, lung, or bone marrow. A
23 deduction that is claimed under this paragraph may be
24

1 claimed in the taxable year in which the human organ
2 transplantation occurs.

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

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

13 21. For taxable years beginning after December 31, 2009, there
14 shall be exempt from taxable income any amount received by the
15 beneficiary of the death benefit for an emergency medical technician
16 or a registered emergency medical responder provided by Section 1-
17 2505.1 of Title 63 of the Oklahoma Statutes.

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

22 23. For taxable years beginning after December 31, 2008, there
23 shall be exempt from taxable income any payment in an amount less
24 than Six Hundred Dollars (\$600.00) received by a person as an award

1 for participation in a competitive livestock show event. For
2 purposes of this paragraph, the payment shall be treated as a
3 scholarship amount paid by the entity sponsoring the event and the
4 sponsoring entity shall cause the payment to be categorized as a
5 scholarship in its books and records.

6 24. For taxable years beginning after December 31, 2015, there
7 shall be exempt from taxable income, for a period of five (5)
8 taxable years beginning with the first year during which the income
9 is received, one hundred percent (100%) of income received by a
10 natural person who, prior to establishing residency in Oklahoma, was
11 a resident of any other state or other jurisdiction and who becomes
12 a resident of any county within the state which has been projected
13 to have a decline in its population between the effective date of
14 this act and December 31, 2075, as identified in a publication
15 released by the Oklahoma Department of Commerce entitled, "2012
16 Demographic State of the State Report - Oklahoma State and County
17 Population Projections through 2075". With respect to any person
18 for whom the exemption is applicable, the exemption authorized by
19 this paragraph shall expire as of December 31 of the fifth year
20 during which the income is received.

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
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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 2. This act shall become effective January 1, 2016.

16
17 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,
18 dated 02/11/2015 - DO PASS, As Coauthored.
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