

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 609

By: Jolley of the Senate

and

Nelson of the House

AS INTRODUCED

An Act relating to schools; creating the Oklahoma Education Empowerment Scholarship Act; providing short title; providing definitions; creating the Oklahoma Education Empowerment Scholarship Savings Program; directing the Office of the State Treasurer to administer the program; requiring the parent or legal guardian of a qualified student to sign certain agreement; establishing requirements for participation; directing provision of certain forms; providing for verification of compliance; providing for an agreement to meet certain compulsory attendance requirement; requiring certain notification upon participation in the program; requiring annual renewal of an education empowerment scholarship savings card application; providing for certain notification upon enrollment in a resident district; providing end date for participation; stating that monies received pursuant to the program do not constitute taxable income; providing procedures for a parent or legal guardian to be removed from the program; providing for suspension of account; providing for notification in writing; providing for appeal of removal; providing for notification of State Department of Education; allowing referral of certain cases for investigation; directing the Office of the State Treasurer to establish dates for accepting applications for the program; directing the Office of the State Treasurer to provide the Department of Education with the names of students participating in the program; requiring certain calculation of amount to be transferred into

1 an education empowerment scholarship savings card;
2 requiring transfer of funds; allowing the Office of
3 the State Treasurer to retain certain amount for
4 administrative services; providing deadlines for use
5 of education empowerment scholarship savings cards
6 and submission of receipts; directing remaining
7 amount to be transferred into an Oklahoma College
8 Savings Plan account created in the name of the
9 qualified student; prohibiting certain sharing,
10 refunding or rebating of education empowerment
11 scholarship savings card funds; providing for
12 reimbursement of funds for failure to comply with the
13 program; directing remaining State Aid calculated
14 amount to be used to provide teacher bonuses;
15 creating the Oklahoma Education Empowerment
16 Scholarship Savings Revolving Fund; providing for
17 waiver; directing promulgation of rules; specifying
18 sources of fund; providing for expenditures; amending
19 68 O.S. 2011, Section 2358, as last amended by
20 Section 1, Chapter 138, O.S.L. 2014 (68 O.S. Supp.
21 2014, Section 2358), which relates to Oklahoma
22 adjusted gross income; deleting obsolete language;
23 providing certain exemption from taxable income;
24 providing for codification; providing an effective
date; and declaring an emergency.

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1 5
1 6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 7 SECTION 1. NEW LAW A new section of law to be codified
1 8 in the Oklahoma Statutes as Section 28-101 of Title 70, unless there
1 9 is created a duplication in numbering, reads as follows:

2 0 This act shall be known and may be cited as the "Oklahoma
2 1 Education Empowerment Scholarship Act".

2 2 SECTION 2. NEW LAW A new section of law to be codified
2 3 in the Oklahoma Statutes as Section 28-102 of Title 70, unless there
2 4 is created a duplication in numbering, reads as follows:

1 As used in the Oklahoma Education Empowerment Scholarship Act:

2 1. "Qualified expenditure" means an expenditure that serves an
3 educational purpose, including but not limited to:

- 4 a. online curriculum,
- 5 b. tuition at a private school accredited or in the
6 process of obtaining accreditation by the Oklahoma
7 Private School Accrediting Council,
- 8 c. receiving educational services from a public school
9 district, including a charter school, that is not the
10 resident district for the student,
- 11 d. co-curricular and extracurricular activities such as
12 athletics drama, music, student clubs and other such
13 activities,
- 14 e. textbooks,
- 15 f. tutoring,
- 16 g. testing for college entrance examinations,
- 17 h. college tuition and fees for concurrent enrollment,
18 and
- 19 i. technology center school fees and tuition for
20 concurrent enrollment;

21 2. "Qualified student" means a resident of the state who is
22 eligible to enroll in pre-kindergarten for the 2015-2016 school
23 year, a resident of the state who is eligible to enroll in grades
24 kindergarten through twelve (12) in a public school district that

1 previously was enrolled the first one hundred (100) days of the
2 school year in 2014-2015 or a child with a parent serving in active
3 duty in the United States Military; and

4 3. "Resident district" means the public school district in
5 which the student resides as defined in Section 1-113 of Title 70 of
6 the Oklahoma Statutes.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 28-103 of Title 70, unless there
9 is created a duplication in numbering, reads as follows:

10 A. There is hereby created the Oklahoma Education Empowerment
11 Scholarship Savings Program to be administered by the Office of the
12 State Treasurer to provide an education empowerment scholarship
13 savings card for qualified expenditures to support the education of
14 qualified students in this state.

15 B. To enroll for an education empowerment scholarship savings
16 card, the parent or legal guardian of a qualified student must sign
17 an agreement to do all of the following:

18 1. Use the education empowerment scholarship savings card only
19 for qualified expenditures that serve an educational purpose,
20 including but not limited to education in, at a minimum, the
21 subjects of reading, English language arts, mathematics, social
22 studies and science;

23 2. Not enroll the qualified student in a resident district
24 unless the parent or legal guardian agrees to reimburse the Office

1 of the State Treasurer for any funds expended through the education
2 empowerment scholarship savings card;

3 3. Not accept a scholarship from the Lindsey Nicole Henry
4 Scholarships for Students with Disabilities Program created by
5 Section 13-101.2 of Title 70 of the Oklahoma Statutes while
6 participating in the Oklahoma Education Empowerment Scholarship
7 Savings Program;

8 4. Release the resident district from all obligations to
9 educate the qualified student; and

10 5. Not use the education empowerment scholarship savings card
11 for computer hardware or other technological devices, transportation
12 of the student, or consumable education supplies, including but not
13 limited to paper, pens or markers.

14 C. Agreements shall be executed on forms provided by the Office
15 of the State Treasurer, who shall verify compliance with the
16 agreements.

17 D. A signed agreement pursuant to this section shall constitute
18 compulsory attendance required by Section 10-105 of Title 70 of the
19 Oklahoma Statutes.

20 E. The parent or legal guardian of a qualified student shall
21 notify the State Department of Education of the date the qualified
22 student withdraws from the resident district to participate in the
23 Oklahoma Education Empowerment Scholarship Savings Program.
24

1 F. A parent or legal guardian must renew a qualified student's
2 education empowerment scholarship savings card application on an
3 annual basis. The parent or legal guardian shall notify the Office
4 of the State Treasurer and the State Department of Education if the
5 qualified student enrolls in a resident district.

6 G. A qualified student shall no longer be eligible for an
7 education empowerment scholarship savings card upon high school
8 graduation or upon reaching age twenty-one (21), whichever comes
9 first.

10 H. Monies received pursuant to the Oklahoma Education
11 Empowerment Scholarship Savings Program shall not constitute taxable
12 income to the parent or legal guardian of the qualified student or
13 the qualified student.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Statutes as Section 28-104 of Title 70, unless there is
16 created a duplication in numbering, reads as follows:

17 A. The Office of the State Treasurer may remove any parent or
18 legal guardian of a qualified student from eligibility for the
19 Oklahoma Education Empowerment Scholarship Savings Program if the
20 parent or legal guardian fails to comply with the terms of the
21 contract or applicable laws, rules or orders or misuses monies or
22 fails to comply with the terms of the contract with intent to
23 defraud. The Office of the State Treasurer shall suspend the
24 education empowerment scholarship savings card of the parent or

1 legal guardian and shall notify the parent or legal guardian in
2 writing that the education empowerment scholarship savings card has
3 been suspended and that no further transactions shall be allowed.
4 The notification shall specify the reason for the suspension and
5 state that the parent or legal guardian has ten (10) days, not
6 including weekends, to respond and take corrective action. If the
7 parent or legal guardian refuses or fails to contact the Office of
8 the State Treasurer, furnish any information or make any report that
9 may be required for reinstatement within the ten-day period, the
10 Office of the State Treasurer may remove the parent or legal
11 guardian from participation in the Oklahoma Education Empowerment
12 Scholarship Savings Program.

13 B. The parent or legal guardian of a qualified student may
14 appeal the Office of the State Treasurer's decision pursuant to the
15 Administrative Procedures Act.

16 C. The Office of the State Treasurer shall notify the State
17 Department of Education of the removal of a parent or legal guardian
18 of a qualified student from participation in the Oklahoma Education
19 Empowerment Scholarship Savings Program.

20 D. The Office of the State Treasurer may refer cases of
21 substantial misuse of monies to the attorney general for
22 investigation if the Office obtains evidence of fraudulent use of an
23 education empowerment scholarship savings card.
24

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 28-105 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Office of the State Treasurer shall determine a period
5 of each year during which it will accept applications for the
6 Oklahoma Education Empowerment Scholarship Savings Program for the
7 following school fiscal year. On or before July 15 of each year,
8 the Office of the State Treasurer shall provide the State Department
9 of Education the names of qualified students who shall receive
10 education empowerment scholarship savings cards for the following
11 fiscal year.

12 B. For each qualified student who is accepted into the Oklahoma
13 Education Empowerment Scholarship Savings Program pursuant to
14 Section 3 of this act, the State Department of Education shall
15 calculate the amount required to fund the education empowerment
16 scholarship savings card for the following fiscal year. The State
17 Department of Education shall transfer to the Office of the State
18 Treasurer an annual amount equal to eighty percent (80%) of the
19 total State Aid factors multiplied by the Grade Level Weight and the
20 Student Category Weights that would be generated by each qualified
21 student for the applicable school year. Of the funds transferred to
22 the Office of the State Treasurer for this program, an amount not
23 exceeding three percent (3%) may be retained by the Office of the
24

1 State Treasurer for administration of the Oklahoma Education
2 Empowerment Scholarship Savings Program.

3 C. The parent or legal guardian of a qualified student shall
4 submit receipts for qualified expenditures to the Office of the
5 State Treasurer upon request. All funds that are unused shall
6 accrue to the following year to be provided for qualified expenses
7 for that qualified student. Any funds remaining to the credit of an
8 education empowerment scholarship savings card by July 31 following
9 graduation of the student shall be transferred into an Oklahoma
10 College Savings Plan account created in the name of the qualified
11 student to be used for qualified higher education expenses as
12 defined by Section 3970.3 of Title 70 of the Oklahoma Statutes.

13 D. A provider of services pursuant to paragraph 1 of Section 2
14 of this act shall not share, refund or rebate any amount expended
15 from an education empowerment scholarship savings card with the
16 parent or qualified student in any manner.

17 E. The parent or legal guardian of an Oklahoma College Savings
18 Account Program participant who fails to comply with the
19 requirements of the Program shall reimburse the Office of the State
20 Treasurer an amount equivalent to the funds deposited to the credit
21 of an education empowerment scholarship savings card. No interest
22 or penalties shall be applicable to the reimbursement amount,
23 subject to adherence to a repayment schedule established by the
24 Office of the State Treasurer.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 28-106 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 The remaining twenty percent (20%) of the total State Aid
5 factors multiplied by the Grade Level Weight and the Student
6 Category Weights calculated pursuant to subsection B of Section 5
7 shall be used by the State Department of Education to provide
8 bonuses to teachers in the respective resident public school
9 districts.

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 28-107 of Title 70, unless there
12 is created a duplication in numbering, reads as follows:

13 There is hereby created in the State Treasury a revolving fund
14 for the Office of the State Treasurer to be designated the "Oklahoma
15 Education Empowerment Scholarship Savings Revolving Fund". The fund
16 shall be a continuing fund, not subject to fiscal year limitations,
17 and shall consist of all monies received by the Office of the State
18 Treasurer from the State Department of Education pursuant to
19 subsection B of Section 5 of this act. All monies accruing to the
20 credit of the fund are hereby appropriated and may be budgeted and
21 expended by the Office of the State Treasurer for the purpose of
22 funding education empowerment scholarship savings cards.
23 Expenditures from the fund shall be made upon warrants issued by the
24 State Treasurer against claims filed as prescribed by law with the

1 Director of the Office of Management and Enterprise Services for
2 approval and payment.

3 SECTION 8. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 28-108 of Title 70, unless there
5 is created a duplication in numbering, reads as follows:

6 A public school district or charter school may apply to the
7 State Department of Education for a waiver from participating in the
8 Oklahoma Education Empowerment Scholarship Savings Program if the
9 district board of education provides evidence showing that the
10 district's per-pupil State Aid funding would decrease if it accepted
11 qualified students.

12 SECTION 9. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 28-109 of Title 70, unless there
14 is created a duplication in numbering, reads as follows:

15 The State Board of Education and the Office of the State
16 Treasurer shall promulgate rules necessary to implement the
17 provisions of this act.

18 SECTION 10. AMENDATORY 68 O.S. 2011, Section 2358, as
19 last amended by Section 1, Chapter 138, O.S.L. 2014 (68 O.S. Supp.
20 2014, Section 2358), is amended to read as follows:

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

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

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

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

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

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

b. For carryovers and carrybacks to taxable years beginning after December 31, 1980, the amount of any net operating loss deduction allowed for the taxable year shall be an amount equal to the aggregate of the Oklahoma net operating loss carryovers and carrybacks to such year. Oklahoma net operating losses shall be separately determined by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, as modified by the Oklahoma Income Tax Act, ~~Section 2351 et seq. of this title~~, and shall be allowed without regard to the existence of a federal net operating loss. For tax years beginning after December 31, 2000, and ending before January 1, 2008, the years to which such losses may be carried shall be determined solely by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, with the exception that the terms "net operating loss" and "taxable income" shall be replaced with "Oklahoma net operating loss" and "Oklahoma taxable income". For tax years beginning after December 31, 2007, and ending before January 1, 2009, years to which such losses may be carried back shall be limited to two (2) years. For tax years beginning after December 31, 2008, the years to which such losses may be carried

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

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

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

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

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

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

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

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

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

18 c. Net income or loss from a business activity which is
19 not a part of business carried on within or without
20 the state of a unitary character shall be separately
21 allocated to the state in which such activity is
22 conducted;
23
24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 services rendered everywhere during the tax period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 For purposes of this paragraph:

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

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

- 3 (1) the processing of agricultural commodities,
4 including receiving or storing agricultural
5 commodities, or the production of milk at a dairy
6 operation,
7 (2) transporting the agricultural commodities or
8 product before, during or after the processing,
9 or
10 (3) packaging or otherwise preparing the product for
11 sale or shipment.

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

- 19 a. Sixty Thousand Dollars (\$60,000.00), or
20 b. the loss properly shown on Schedule F of the Internal
21 Revenue Service Form 1040 reduced by one-half (1/2) of
22 the income from all other sources other than reflected
23 on Schedule F.
24

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

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

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

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

19 Notwithstanding any other provisions of the Oklahoma Income Tax
20 Act, ~~Section 2351 et seq. of this title~~, or of the Internal Revenue
21 Code to the contrary, this subsection shall control calculation of
22 depreciation of assets placed into service after December 31, 1981,
23 and before January 1, 1983.
24

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

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

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

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

5 2. For purposes of this subsection:

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

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

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

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

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

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

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

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

12 2. As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) Twenty-five Thousand Dollars (\$25,000.00) if
23 married and filing jointly;
24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) Four Thousand Eight Hundred Seventy-five Dollars
22 (\$4,875.00) for a head of household, or
23
24

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,
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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 year of the date of contribution, the amount of
5 such rollover shall be included in the adjusted gross
6 income of the taxpayer in the taxable year of the
7 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 (b) a withdrawal made as a result of the death
20 or disability of the designated beneficiary
21 of an account,

22 (c) a withdrawal that is made on the account of
23 a scholarship or the allowance or payment
24 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 any monies received pursuant to
8 the Oklahoma Education Empowerment Scholarship Savings Program as
9 established in Sections 28-101 through 28-109 of Title 70 of the
10 Oklahoma Statutes.

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

16 2. As used in this subsection:

17 a. "qualifying gains receiving capital treatment" means
18 the amount of net capital gains, as defined in Section
19 1222(11) of the Internal Revenue Code, included in an
20 individual taxpayer's federal income tax return that
21 result from:

22 (1) the sale of real property or tangible personal
23 property located within Oklahoma that has been
24 directly or indirectly owned by the individual

1 taxpayer for a holding period of at least five
2 (5) years prior to the date of the transaction
3 from which such net capital gains arise,

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

13 (3) the sale of real property, tangible personal
14 property or intangible personal property located
15 within Oklahoma as part of the sale of all or
16 substantially all of the assets of an Oklahoma
17 company, limited liability company, or
18 partnership or an Oklahoma proprietorship
19 business enterprise where such property has been
20 directly or indirectly owned by such entity or
21 business enterprise or owned by the owners of
22 such entity or business enterprise for a period
23 of at least two (2) years prior to the date of
24

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

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

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

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

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

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

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

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

1 (2) years. For purposes of this division,
2 uninterrupted ownership prior to the effective
3 date of this act shall be included in the
4 determination of the required holding period
5 prescribed by this division, and

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

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

21 2. For purposes of computing its Oklahoma taxable income under
22 this section, a taxpayer shall add back otherwise deductible rents
23 and interest expenses paid to a captive real estate investment trust
24

1 that is not subject to the provisions of paragraph 1 of this
2 subsection. As used in this subsection:

- 3 a. the term "real estate investment trust" or "REIT"
4 means the meaning ascribed to such term in Section 856
5 of the Internal Revenue Code of 1986, as amended,
- 6 b. the term "captive real estate investment trust" means
7 a real estate investment trust, the shares or
8 beneficial interests of which are not regularly traded
9 on an established securities market and more than
10 fifty percent (50%) of the voting power or value of
11 the beneficial interests or shares of which are owned
12 or controlled, directly or indirectly, or
13 constructively, by a single entity that is:
- 14 (1) treated as an association taxable as a
15 corporation under the Internal Revenue Code of
16 1986, as amended, and
- 17 (2) not exempt from federal income tax pursuant to
18 the provisions of Section 501(a) of the Internal
19 Revenue Code of 1986, as amended.

20 The term shall not include a real estate investment
21 trust that is intended to be regularly traded on an
22 established securities market, and that satisfies the
23 requirements of Section 856(a)(5) and (6) of the U.S.
24

1 Internal Revenue Code by reason of Section 856(h) (2)
2 of the Internal Revenue Code,

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

5 (1) any real estate investment trust as defined in
6 paragraph a of this subsection other than a
7 "captive real estate investment trust", or

8 (2) any qualified real estate investment trust
9 subsidiary under Section 856(i) of the Internal
10 Revenue Code of 1986, as amended, other than a
11 qualified REIT subsidiary of a "captive real
12 estate investment trust", or

13 (3) any Listed Australian Property Trust (meaning an
14 Australian unit trust registered as a "Managed
15 Investment Scheme" under the Australian
16 Corporations Act in which the principal class of
17 units is listed on a recognized stock exchange in
18 Australia and is regularly traded on an
19 established securities market), or an entity
20 organized as a trust, provided that a Listed
21 Australian Property Trust owns or controls,
22 directly or indirectly, seventy-five percent
23 (75%) or more of the voting power or value of the
24 beneficial interests or shares of such trust, or

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

5 (a) at least seventy-five percent (75%) of the
6 entity's total asset value at the close of
7 its taxable year is represented by real
8 estate assets, as defined in Section
9 856(c) (5) (B) of the Internal Revenue Code of
10 1986, as amended, thereby including shares
11 or certificates of beneficial interest in
12 any real estate investment trust, cash and
13 cash equivalents, and U.S. Government
14 securities,

15 (b) the entity receives a dividend-paid
16 deduction comparable to Section 561 of the
17 Internal Revenue Code of 1986, as amended,
18 or is exempt from entity level tax,

19 (c) the entity is required to distribute at
20 least eighty-five percent (85%) of its
21 taxable income, as computed in the
22 jurisdiction in which it is organized, to
23 the holders of its shares or certificates of
24 beneficial interest on an annual basis,

- (d) not more than ten percent (10%) of the voting power or value in such entity is held directly or indirectly or constructively by a single entity or individual, or the shares or beneficial interests of such entity are regularly traded on an established securities market, and
- (e) the entity is organized in a country which has a tax treaty with the United States.

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

4. A real estate investment trust that does not become regularly traded on an established securities market within one (1) year of the date on which it first becomes a real estate investment trust shall be deemed not to have been regularly traded on an established securities market, retroactive to the date it first became a real estate investment trust, and shall file an amended return reflecting such retroactive designation for any tax year or part year occurring during its initial year of status as a real estate investment trust. For purposes of this subsection, a real estate investment trust becomes a real estate investment trust on

1 the first day it has both met the requirements of Section 856 of the
2 Internal Revenue Code and has elected to be treated as a real estate
3 investment trust pursuant to Section 856(c)(1) of the Internal
4 Revenue Code.

5 SECTION 11. This act shall become effective July 1, 2015.

6 SECTION 12. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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