

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1279

By: Dunnington

AS INTRODUCED

An Act relating to income taxation; creating the Tax Reform Act of 2017; amending 68 O.S. 2011, Section 2355, as last amended by Section 2, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2016, Section 2355), which relates to classes of taxpayers and tax rates; modifying tax rates for certain tax years; increasing the number of rates applicable to certain classes of taxpayers; amending 68 O.S. 2011, Section 2358, as last amended by Section 1, Chapter 334, O.S.L. 2016 (68 O.S. Supp. 2016, Section 2358), which relates to allowed adjustments to Oklahoma taxable income; eliminating certain exemption of capital gains income; defining terms; requiring certain entities to file income tax returns on a consolidated basis; providing criteria for qualification for requirement; providing certain exemptions; requiring certain calculations and determinations; clarifying certain liabilities; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Tax Reform Act of 2017".

SECTION 2. AMENDATORY 68 O.S. 2011, Section 2355, as last amended by Section 2, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2016, Section 2355), is amended to read as follows:

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

1. METHOD 1.

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

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

(2) 1% tax on next \$1,500.00 or part thereof,

(3) 2% tax on next \$1,250.00 or part thereof,

(4) 3% tax on next \$1,150.00 or part thereof,

(5) 4% tax on next \$1,300.00 or part thereof,

(6) 5% tax on next \$1,500.00 or part thereof,

(7) 6% tax on next \$2,300.00 or part thereof, and

(8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,

(b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and

(c) for taxable years beginning on or after
January 1, 2004, 6.65% tax on the remainder.

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

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

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

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

(4) 3% tax on next \$2,300.00 or part thereof,

(5) 4% tax on next \$2,400.00 or part thereof,

(6) 5% tax on next \$2,800.00 or part thereof,

(7) 6% tax on next \$6,000.00 or part thereof, and

(8) (a) for taxable years beginning after December

31, 1998, and before January 1, 2002, 6.75%

tax on the remainder,

(b) for taxable years beginning on or after

January 1, 2002, and before January 1, 2004,

7% tax on the remainder, and

(c) for taxable years beginning on or after

January 1, 2004, 6.65% tax on the remainder.

2. METHOD 2.

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

- (1) 1/2% tax on first \$1,000.00 or part thereof,
- (2) 1% tax on next \$1,500.00 or part thereof,
- (3) 2% tax on next \$1,250.00 or part thereof,
- (4) 3% tax on next \$1,150.00 or part thereof,
- (5) 4% tax on next \$1,200.00 or part thereof,
- (6) 5% tax on next \$1,400.00 or part thereof,
- (7) 6% tax on next \$1,500.00 or part thereof,
- (8) 7% tax on next \$1,500.00 or part thereof,
- (9) 8% tax on next \$2,000.00 or part thereof,
- (10) 9% tax on next \$3,500.00 or part thereof, and
- (11) 10% tax on the remainder.

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

- (1) 1/2% tax on the first \$2,000.00 or part thereof,
- (2) 1% tax on the next \$3,000.00 or part thereof,
- (3) 2% tax on the next \$2,500.00 or part thereof,
- (4) 3% tax on the next \$1,400.00 or part thereof,
- (5) 4% tax on the next \$1,500.00 or part thereof,

- (6) 5% tax on the next \$1,600.00 or part thereof,
- (7) 6% tax on the next \$1,250.00 or part thereof,
- (8) 7% tax on the next \$1,750.00 or part thereof,
- (9) 8% tax on the next \$3,000.00 or part thereof,
- (10) 9% tax on the next \$6,000.00 or part thereof, and
- (11) 10% tax on the remainder.

B. Individuals. For all taxable years beginning on or after January 1, 2008, and ending any tax year which begins after December 31, 2015, for which the determination required pursuant to Sections 4 2355.1F and 5 2355.1G of this ~~act~~ title is made by the State Board of Equalization, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed as follows:

1. Single individuals and married individuals filing separately:

- (a) 1/2% tax on first \$1,000.00 or part thereof,
- (b) 1% tax on next \$1,500.00 or part thereof,
- (c) 2% tax on next \$1,250.00 or part thereof,
- (d) 3% tax on next \$1,150.00 or part thereof,
- (e) 4% tax on next \$2,300.00 or part thereof,
- (f) 5% tax on next \$1,500.00 or part thereof,
- (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and

(h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title.

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

- (a) 1/2% tax on first \$2,000.00 or part thereof,
- (b) 1% tax on next \$3,000.00 or part thereof,
- (c) 2% tax on next \$2,500.00 or part thereof,
- (d) 3% tax on next \$2,300.00 or part thereof,
- (e) 4% tax on next \$2,400.00 or part thereof,
- (f) 5% tax on next \$2,800.00 or part thereof,
- (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
- (h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by

1 this subparagraph shall be contingent upon the
2 determination required to be made by the State Board
3 of Equalization pursuant to Section 2355.1A of this
4 title.

5 C. Individuals.

6 1. For all taxable years beginning on or after January 1, 2016,
7 ~~and for which the determination required pursuant to Sections 4 and~~
8 ~~5 of this act is made by the State Board of Equalization before~~
9 January 1, 2018, a tax is hereby imposed upon the Oklahoma taxable
10 income of every resident or nonresident individual, which tax shall
11 be computed as follows:

12 ~~1. Single~~

13 a. single individuals and married individuals filing
14 separately:

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

16 ~~(b)~~ (2) 1% tax on next \$1,500.00 or part thereof,

17 ~~(c)~~ (3) 2% tax on next \$1,250.00 or part thereof,

18 ~~(d)~~ (4) 3% tax on next \$1,150.00 or part thereof,

19 ~~(e)~~ (5) 4% tax on next \$2,300.00 or part thereof,

20 ~~(f)~~ (6) 5% tax on the remainder ~~if the State Board of~~
21 ~~Equalization makes a determination pursuant to~~
22 ~~Section 4 of this act or four and eighty-five~~
23 ~~hundredths (4.85%) tax on the remainder if the~~
24

~~State Board of Equalization makes a determination pursuant to Section 5 of this act., and~~

~~2. Married~~

b. married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code:

- ~~(a)~~ (1) 1/2% tax on first \$2,000.00 or part thereof,
- ~~(b)~~ (2) 1% tax on next \$3,000.00 or part thereof,
- ~~(c)~~ (3) 2% tax on next \$2,500.00 or part thereof,
- ~~(d)~~ (4) 3% tax on next \$2,300.00 or part thereof,
- ~~(e)~~ (5) 4% tax on next \$2,400.00 or part thereof,
- ~~(f)~~ (6) 5% tax on the remainder ~~if the State Board of Equalization makes a determination pursuant to Section 4 of this act or four and eighty-five hundredths percent (4.85%) tax on the remainder if the State Board of Equalization makes a determination pursuant to Section 5 of this act.~~

2. For all taxable years beginning on or after January 1, 2018,
a tax is hereby imposed upon the Oklahoma taxable income of every
resident or nonresident individual, which tax shall be computed as
follows:

1 a. single individuals and married individuals filing
2 separately:

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

4 (2) 1% tax on next \$1,500.00 or part thereof,

5 (3) 2% tax on next \$1,250.00 or part thereof,

6 (4) 3% tax on next \$1,150.00 or part thereof,

7 (5) 4% tax on next \$2,300.00 or part thereof,

8 (6) 5% tax on next \$92,800.00 or part thereof,

9 (7) 6% tax on next \$100,000.00 or part thereof,

10 (8) 7% tax on the remainder, and

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

17 (1) 1/2% tax on first \$2,000.00 or part thereof,

18 (2) 1% tax on next \$3,000.00 or part thereof,

19 (3) 2% tax on next \$2,500.00 or part thereof,

20 (4) 3% tax on next \$2,300.00 or part thereof,

21 (5) 4% tax on next \$2,400.00 or part thereof,

22 (6) 5% tax on next \$187,800 or part thereof

23 (7) 6% tax on next \$200,000 or part thereof

24 (8) 7% tax on the remainder.

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

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

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

1 tax and such other information as the Tax Commission may require.

2 Any payer who fails to withhold or pay to the Tax Commission any
3 sums herein required to be withheld or paid shall be personally and
4 individually liable therefor to the State of Oklahoma.

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

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

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

22 Every payer of amounts covered by this subsection shall deduct
23 and withhold from such amounts paid each payee an amount equal to
24 six percent (6%) thereof. Every payer required to deduct and

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

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

22 H. Tax rate tables. For all taxable years beginning after
23 December 31, 1991, in lieu of the tax imposed by subsection A, B or
24 C of this section, as applicable there is hereby imposed for each

1 taxable year on the taxable income of every individual, whose
2 taxable income for such taxable year does not exceed the ceiling
3 amount, a tax determined under tables, applicable to such taxable
4 year which shall be prescribed by the Tax Commission and which shall
5 be in such form as it determines appropriate. In the table so
6 prescribed, the amounts of the tax shall be computed on the basis of
7 the rates prescribed by subsection A, B or C of this section. For
8 purposes of this subsection, the term "ceiling amount" means, with
9 respect to any taxpayer, the amount determined by the Tax Commission
10 for the tax rate category in which such taxpayer falls.

11 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2358, as
12 last amended by Section 1, Chapter 334, O.S.L. 2016 (68 O.S. Supp.
13 2016, Section 2358), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 For purposes of this paragraph:

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

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

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

- (2) transporting the agricultural commodities or product before, during or after the processing, or
- (3) packaging or otherwise preparing the product for sale or shipment.

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

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

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

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

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

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

19 B. 1. The taxable income of any corporation shall be further
20 adjusted to arrive at Oklahoma taxable income, except those
21 corporations electing treatment as provided in subchapter S of the
22 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
23 2365 of this title, deductions pursuant to the provisions of the
24 Accelerated Cost Recovery System as defined and allowed in the

1 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
2 Section 168, for depreciation of assets placed into service after
3 December 31, 1981, shall not be allowed in calculating Oklahoma
4 taxable income. Such corporations shall be allowed a deduction for
5 depreciation of assets placed into service after December 31, 1981,
6 in accordance with provisions of the Internal Revenue Code, 26
7 U.S.C., Section 1 et seq., in effect immediately prior to the
8 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
9 basis for all such assets placed into service after December 31,
10 1981, calculated in this section shall be retained and utilized for
11 all Oklahoma income tax purposes through the final disposition of
12 such assets.

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

18 For assets placed in service and held by a corporation in which
19 accelerated cost recovery system was previously disallowed, an
20 adjustment to taxable income is required in the first taxable year
21 beginning after December 31, 1982, to reconcile the basis of such
22 assets to the basis allowed in the Internal Revenue Code. The
23 purpose of this adjustment is to equalize the basis and allowance
24

1 for depreciation accounts between that reported to the Internal
2 Revenue Service and that reported to Oklahoma.

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

9 C. 1. For taxable years beginning after December 31, 1987, the
10 taxable income of any corporation shall be further adjusted to
11 arrive at Oklahoma taxable income for transfers of technology to
12 qualified small businesses located in Oklahoma. Such transferor
13 corporation shall be allowed an exemption from taxable income of an
14 amount equal to the amount of royalty payment received as a result
15 of such transfer; provided, however, such amount shall not exceed
16 ten percent (10%) of the amount of gross proceeds received by such
17 transferor corporation as a result of the technology transfer. Such
18 exemption shall be allowed for a period not to exceed ten (10) years
19 from the date of receipt of the first royalty payment accruing from
20 such transfer. No exemption may be claimed for transfers of
21 technology to qualified small businesses made prior to January 1,
22 1988.

23 2. For purposes of this subsection:
24

1 a. "Qualified small business" means an entity, whether
2 organized as a corporation, partnership, or
3 proprietorship, organized for profit with its
4 principal place of business located within this state
5 and which meets the following criteria:

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

8 (2) Having at least fifty percent (50%) of its
9 employees and assets located in Oklahoma at the
10 time of the transfer, and

11 (3) Not a subsidiary or affiliate of the transferor
12 corporation;

13 b. "Technology" means a proprietary process, formula,
14 pattern, device or compilation of scientific or
15 technical information which is not in the public
16 domain;

17 c. "Transferor corporation" means a corporation which is
18 the exclusive and undisputed owner of the technology
19 at the time the transfer is made; and

20 d. "Gross proceeds" means the total amount of
21 consideration for the transfer of technology, whether
22 the consideration is in money or otherwise.

23 D. 1. For taxable years beginning after December 31, 2005, the
24 taxable income of any corporation, estate or trust, shall be further

1 adjusted for qualifying gains receiving capital treatment. Such
2 corporations, estates or trusts shall be allowed a deduction from
3 Oklahoma taxable income for the amount of qualifying gains receiving
4 capital treatment earned by the corporation, estate or trust during
5 the taxable year and included in the federal taxable income of such
6 corporation, estate or trust.

7 2. As used in this subsection:

8 a. "qualifying gains receiving capital treatment" means
9 the amount of net capital gains, as defined in Section
10 1222(11) of the Internal Revenue Code, included in the
11 federal income tax return of the corporation, estate
12 or trust that result from:

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

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

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

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

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

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

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

5 e. "indirect" means the taxpayer owns an interest in a
6 pass-through entity (or chain of pass-through
7 entities) that sells the asset that gives rise to the
8 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, or partnership, the deduction
2 described in this subsection shall not apply
3 unless the pass-through entity that makes the
4 sale has held the stock or ownership interest or
5 the assets for not less than three (3)
6 uninterrupted years prior to the date of the
7 transaction that created the capital gain, and
8 each pass-through entity included in the chain of
9 ownership has been a member, partner or
10 shareholder of the pass-through entity in the
11 tier immediately below it for an uninterrupted
12 period of not less than three (3) years.

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

16 1. a. In the case of individuals, there shall be added or
17 deducted, as the case may be, the difference necessary
18 to allow personal exemptions of One Thousand Dollars
19 (\$1,000.00) in lieu of the personal exemptions allowed
20 by the Internal Revenue Code.

21 b. There shall be allowed an additional exemption of One
22 Thousand Dollars (\$1,000.00) for each taxpayer or
23 spouse who is blind at the close of the tax year. For
24 purposes of this subparagraph, an individual is blind

1 only if the central visual acuity of the individual
2 does not exceed 20/200 in the better eye with
3 correcting lenses, or if the visual acuity of the
4 individual is greater than 20/200, but is accompanied
5 by a limitation in the fields of vision such that the
6 widest diameter of the visual field subtends an angle
7 no greater than twenty (20) degrees.

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

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

1 Provided, for taxable years beginning after December
2 31, 1999, amounts included in the calculation of
3 federal adjusted gross income pursuant to the
4 conversion of a traditional individual retirement
5 account to a Roth individual retirement account shall
6 be excluded from federal adjusted gross income for
7 purposes of the income thresholds provided in this
8 subparagraph.

- 9 2. a. For taxable years beginning on or before December 31,
10 2005, in the case of individuals who use the standard
11 deduction in determining taxable income, there shall
12 be added or deducted, as the case may be, the
13 difference necessary to allow a standard deduction in
14 lieu of the standard deduction allowed by the Internal
15 Revenue Code, in an amount equal to the larger of
16 fifteen percent (15%) of the Oklahoma adjusted gross
17 income or One Thousand Dollars (\$1,000.00), but not to
18 exceed Two Thousand Dollars (\$2,000.00), except that
19 in the case of a married individual filing a separate
20 return such deduction shall be the larger of fifteen
21 percent (15%) of such Oklahoma adjusted gross income
22 or Five Hundred Dollars (\$500.00), but not to exceed
23 the maximum amount of One Thousand Dollars
24 (\$1,000.00).

1 b. For taxable years beginning on or after January 1,
2 2006, and before January 1, 2007, in the case of
3 individuals who use the standard deduction in
4 determining taxable income, there shall be added or
5 deducted, as the case may be, the difference necessary
6 to allow a standard deduction in lieu of the standard
7 deduction allowed by the Internal Revenue Code, in an
8 amount equal to:

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

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

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

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

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

3 (3) Two Thousand Seven Hundred Fifty Dollars
4 (\$2,750.00), if the filing status is single or
5 married filing separate.

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

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

16 (2) Four Thousand Eight Hundred Seventy-five Dollars
17 (\$4,875.00) for a head of household, or

18 (3) Three Thousand Two Hundred Fifty Dollars
19 (\$3,250.00), if the filing status is single or
20 married filing separate.

21 e. For the taxable year beginning on January 1, 2009, and
22 ending December 31, 2009, in the case of individuals
23 who use the standard deduction in determining taxable
24 income, there shall be added or deducted, as the case

1 may be, the difference necessary to allow a standard
2 deduction in lieu of the standard deduction allowed by
3 the Internal Revenue Code, in an amount equal to:

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

7 (2) Six Thousand Three Hundred Seventy-five Dollars
8 (\$6,375.00) for a head of household, or

9 (3) Four Thousand Two Hundred Fifty Dollars
10 (\$4,250.00), if the filing status is single or
11 married filing separate.

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

15 f. For taxable years beginning on or after January 1,
16 2010, 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
20 equal to the standard deduction allowed by the
21 Internal Revenue Code of 1986, as amended, based upon
22 the amount and filing status prescribed by such Code
23 for purposes of filing federal individual income tax
24 returns.

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

14 4. A resident individual with a physical disability
15 constituting a substantial handicap to employment may deduct from
16 Oklahoma adjusted gross income such expenditures to modify a motor
17 vehicle, home or workplace as are necessary to compensate for his or
18 her handicap. A veteran certified by the Department of Veterans
19 Affairs of the federal government as having a service-connected
20 disability shall be conclusively presumed to be an individual with a
21 physical disability constituting a substantial handicap to
22 employment. The Tax Commission shall promulgate rules containing a
23 list of combinations of common disabilities and modifications which
24

1 may be presumed to qualify for this deduction. The Tax Commission
2 shall prescribe necessary requirements for verification.

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

9 b. On or after July 1, 2010, one hundred percent (100%)
10 of the income received by any person from the United
11 States as salary or compensation in any form, other
12 than retirement benefits, as a member of any component
13 of the Armed Forces of the United States shall be
14 deducted from taxable income.

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

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

22 (2) absence from the State of Oklahoma while on
23 active duty; or
24

1 (3) confinement in a hospital within the United
2 States for treatment of wounds, injuries or
3 disease,
4 the time for filing a return and paying an income tax shall
5 be and is hereby extended without incurring liability for
6 interest or penalties, to the fifteenth day of the third
7 month following the month in which:

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

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

20 Provided, that the Tax Commission may, in its discretion, grant
21 any member of the Armed Forces of the United States an extension of
22 time for filing of income tax returns and payment of income tax
23 without incurring liabilities for interest or penalties. Such
24 extension may be granted only when in the judgment of the Tax

1 Commission a good cause exists therefor and may be for a period in
2 excess of six (6) months. A record of every such extension granted,
3 and the reason therefor, shall be kept.

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

12 7. a. An individual taxpayer, whether resident or
13 nonresident, may deduct an amount equal to the federal
14 income taxes paid by the taxpayer during the taxable
15 year.

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

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

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

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

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

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

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

1 account, including any earnings thereon, shall be included in
2 taxable income when withdrawn in the same manner as withdrawals from
3 individual retirement accounts within the meaning of Section 408 of
4 the Internal Revenue Code.

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

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

21 13. a. In taxable years beginning after December 31, 2002,
22 nonrecurring adoption expenses paid by a resident
23 individual taxpayer in connection with:
24 (1) the adoption of a minor, or

1 (2) a proposed adoption of a minor which did not
2 result in a decreed adoption,
3 may be deducted from the Oklahoma adjusted gross
4 income.

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

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

14 d. "Nonrecurring adoption expenses" means adoption fees,
15 court costs, medical expenses, attorney fees and
16 expenses which are directly related to the legal
17 process of adoption of a child including, but not
18 limited to, costs relating to the adoption study,
19 health and psychological examinations, transportation
20 and reasonable costs of lodging and food for the child
21 or adoptive parents which are incurred to complete the
22 adoption process and are not reimbursed by other
23 sources. The term "nonrecurring adoption expenses"
24 shall not include attorney fees incurred for the

1 purpose of litigating a contested adoption, from and
2 after the point of the initiation of the contest,
3 costs associated with physical remodeling, renovation
4 and alteration of the adoptive parents' home or
5 property, except for a special needs child as
6 authorized by the court.

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

- (1) in taxable years beginning after December 31, 2004, and prior to January 1, 2007, the qualifying amount shall be Thirty-seven Thousand Five Hundred Dollars (\$37,500.00) or less if the filing status is single, head of household, or married filing separate, or Seventy-Five Thousand Dollars (\$75,000.00) or less if the filing status is married filing jointly or qualifying widow,
- (2) in the taxable year beginning January 1, 2007, the qualifying amount shall be Fifty Thousand Dollars (\$50,000.00) or less if the filing status is single, head of household, or married filing separate, or One Hundred Thousand Dollars (\$100,000.00) or less if the filing status is married filing jointly or qualifying widow,
- (3) in the taxable year beginning January 1, 2008, the qualifying amount shall be Sixty-two Thousand Five Hundred Dollars (\$62,500.00) or less if the filing status is single, head of household, or married filing separate, or One Hundred Twenty-five Thousand Dollars (\$125,000.00) or less if the filing status is married filing jointly or qualifying widow,

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

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

12 c. For purposes of this paragraph, "retirement benefits"
13 means the total distributions or withdrawals from the
14 following:

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

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

21 (3) an individual retirement account, annuity or
22 trust or simplified employee pension that
23 satisfies the requirements of Section 408 of the
24 Internal Revenue Code, 26 U.S.C., Section 408,

(4) an employee annuity subject to the provisions of
Section 403(a) or (b) of the Internal Revenue
Code, 26 U.S.C., Section 403(a) or (b),
(5) United States Retirement Bonds which satisfy the
requirements of Section 86 of the Internal
Revenue Code, 26 U.S.C., Section 86, or
(6) lump-sum distributions from a retirement plan
which satisfies the requirements of Section
402(e) of the Internal Revenue Code, 26 U.S.C.,
Section 402(e).

d. The amount of the exemption provided by this paragraph
shall be limited to Five Thousand Five Hundred Dollars
(\$5,500.00) for the 2004 tax year, Seven Thousand Five
Hundred Dollars (\$7,500.00) for the 2005 tax year and
Ten Thousand Dollars (\$10,000.00) for the tax year
2006 and for all subsequent tax years. Any individual
who claims the exemption provided for in paragraph 8
of this subsection shall not be permitted to claim a
combined total exemption pursuant to this paragraph
and paragraph 8 of this subsection in an amount
exceeding Five Thousand Five Hundred Dollars
(\$5,500.00) for the 2004 tax year, Seven Thousand Five
Hundred Dollars (\$7,500.00) for the 2005 tax year and

1 Ten Thousand Dollars (\$10,000.00) for the 2006 tax
2 year and all subsequent tax years.

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

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

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

b. In taxable years beginning after December 31, 2004, each taxpayer shall be allowed a deduction for contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The maximum annual deduction shall equal the amount of contributions to all such accounts plus any contributions to such accounts by the taxpayer for prior taxable years after December 31, 2004, which were not deducted, but in no event shall the deduction for each tax year exceed Ten Thousand Dollars (\$10,000.00) for each individual taxpayer or Twenty Thousand Dollars (\$20,000.00) for taxpayers filing a joint return. Any amount of a contribution that is not deducted by the taxpayer in the year for which the contribution is made may be carried forward as a deduction from income for the succeeding five (5) years. For taxable years beginning after December 31, 2005, deductions may be taken for contributions and rollovers made during a taxable year and up to April 15 of the succeeding year, or the due date of a taxpayer's state income tax return, excluding extensions, whichever is later. Provided, a deduction for the same contribution may not be taken for two (2) different taxable years.

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

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

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

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

1 income of the taxpayer in the taxable year of the
2 rollover.

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

9 f. As used in this paragraph:

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

13 (a) a qualified withdrawal,

14 (b) a withdrawal made as a result of the death
15 or disability of the designated beneficiary
16 of an account,

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

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

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

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

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

a. in the taxable year beginning January 1, 2007, twenty percent (20%) of such benefits shall be exempt,

- b. in the taxable year beginning January 1, 2008, forty percent (40%) of such benefits shall be exempt,
- c. in the taxable year beginning January 1, 2009, sixty percent (60%) of such benefits shall be exempt,
- d. in the taxable year beginning January 1, 2010, eighty percent (80%) of such benefits shall be exempt, and
- e. in the taxable year beginning January 1, 2011, and subsequent taxable years, one hundred percent (100%) of such benefits shall be exempt.

20. a. For taxable years beginning after December 31, 2007, a resident individual may deduct up to Ten Thousand Dollars (\$10,000.00) from Oklahoma adjusted gross income if the individual, or the dependent of the individual, while living, donates one or more human organs of the individual to another human being for human organ transplantation. As used in this paragraph, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow. A deduction that is claimed under this paragraph may be claimed in the taxable year in which the human organ transplantation occurs.
- b. An individual may claim this deduction only once, and the deduction may be claimed only for unreimbursed

1 expenses that are incurred by the individual and
2 related to the organ donation of the individual.

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

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

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

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

1 sponsoring entity shall cause the payment to be categorized as a
2 scholarship in its books and records.

3 24. For taxable years beginning on or after January 1, 2016,
4 taxable income shall be increased by any amount of state and local
5 sales or income taxes deducted under 26 U.S.C., Section 164 of the
6 Internal Revenue Code. If the amount of state and local taxes
7 deducted on the federal return is limited, taxable income on the
8 state return shall be increased only by the amount actually deducted
9 after any such limitations are applied.

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

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 an~~
19 ~~individual taxpayer's federal income tax return that~~
20 ~~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 individual~~
24 ~~taxpayer for a holding period of at least five~~

~~(5) years prior to the date of the transaction
from which such net capital gains arise,~~

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

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

- ~~b. "holding period" means an uninterrupted period of time. The holding period shall include any additional period when the property was held by another individual or entity, if such additional period is included in the taxpayer's holding period for the asset pursuant to the Internal Revenue Code,~~
- ~~c. "Oklahoma company," "limited liability company," or "partnership" means an entity whose primary headquarters have been located in Oklahoma for at least three (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise,~~
- ~~d. "direct" means the individual taxpayer directly owns the asset,~~
- ~~e. "indirect" means the individual taxpayer owns an interest in a pass-through entity (or chain of pass-through entities) that sells the asset that gives rise to the qualifying gains receiving capital treatment.~~
- ~~(1) With respect to sales of real property or tangible personal property located within Oklahoma, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the property for not less than five (5) 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 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, partnership or Oklahoma proprietorship business enterprise, 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 for not less than two (2) 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 two (2) years. For purposes of this division, uninterrupted ownership prior to July 1, 2007,~~

1 ~~shall be included in the determination of the~~
2 ~~required holding period prescribed by this~~
3 ~~division, and~~

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

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

19 2. For purposes of computing its Oklahoma taxable income under
20 this section, a taxpayer shall add back otherwise deductible rents
21 and interest expenses paid to a captive real estate investment trust
22 that is not subject to the provisions of paragraph 1 of this
23 subsection. As used in this subsection:
24

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

18 The term shall not include a real estate investment

19 trust that is intended to be regularly traded on an

20 established securities market, and that satisfies the

21 requirements of Section 856(a)(5) and (6) of the U.S.

22 Internal Revenue Code by reason of Section 856(h)(2)

23 of the Internal Revenue Code,

24

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

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

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

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

1 organized outside the laws of the United States
2 and which satisfies the following criteria:

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

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

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

23 (d) not more than ten percent (10%) of the
24 voting power or value in such entity is held

1 directly or indirectly or constructively by
2 a single entity or individual, or the shares
3 or beneficial interests of such entity are
4 regularly traded on an established
5 securities market, and

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

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

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

1 investment trust pursuant to Section 856(c)(1) of the Internal
2 Revenue Code.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2355.3 of Title 68, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The provisions of this section shall apply to tax years
7 beginning on or after January 1, 2018.

8 B. As used in this section:

9 1. "Affiliated group" means a group of one or more entities in
10 which a controlling interest is owned by a common owner or owners,
11 either corporate or noncorporate, or by one or more of the member
12 entities;

13 2. "Combined group" means entities that are part of an
14 affiliated group engaged in a unitary business and that are required
15 to file a group report under this section;

16 3. "Consolidated group" means a group of two or more
17 corporations treated as a single person for purposes of Oklahoma
18 income taxation under the provisions of subsection C of this
19 section;

20 4. "Controlling interest" means:

21 a. for a corporation, either more than fifty percent
22 (50%), owned directly or indirectly, of the total
23 combined voting power of all classes of stock of the
24 corporation, or more than fifty percent (50%), owned

- 1 directly or indirectly, of the beneficial ownership
2 interest in the voting stock of the corporation,
- 3 b. for a partnership, association, trust or other entity
4 other than a limited liability company, more than
5 fifty percent (50%), owned directly or indirectly, of
6 the capital, profits or beneficial interest in the
7 partnership, association, trust or other entity, and
- 8 c. for a limited liability company, either more than
9 fifty percent (50%), owned directly or indirectly, of
10 the total membership interest of the limited liability
11 company or more than fifty percent (50%), owned
12 directly or indirectly, of the beneficial ownership
13 interest in the membership interest of the limited
14 liability company;

15 5. "Reporting person" means a person in a consolidated group or
16 combined group that is designated by that group to legally bind the
17 group for all filings and tax liabilities and to receive all legal
18 notices with respect to matters related to the Oklahoma Income Tax
19 Act; and

20 6. "Unitary business" means a single economic enterprise that
21 is made up either of separate parts of a single business entity, of
22 multiple business entities that are related under Section 267 or
23 1563 of the Internal Revenue Code, or of a commonly controlled group
24 of business entities that are sufficiently interdependent,

1 integrated and interrelated through their activities so as to
2 provide a synergy and mutual benefit that produces a sharing or
3 exchange of value among them and a significant flow of value to the
4 separate parts. Two or more business entities are presumed to be a
5 unitary business if the businesses have unity of ownership,
6 operation and use as indicated by a centralized management or a
7 centralized executive force; centralized purchasing, advertising or
8 accounting; inter-entity sales or leases; inter-entity services,
9 including administrative, employee benefits, human resources, legal,
10 financial and cash management services; inter-entity debts; inter-
11 entity use of proprietary materials; interlocking directorates; or
12 interlocking inter-entity officers. In no event and under no
13 circumstances shall the preceding sentence be construed as exclusive
14 of any and all other factors indicative of a unitary business. For
15 purposes of this section, the term "unitary business" shall be
16 broadly construed, to the extent permitted by the United States
17 Constitution.

18 Any business conducted by a pass-through entity that is owned
19 directly or indirectly by an entity shall be treated as conducted by
20 the entity, to the extent of the entity's distributive share of the
21 pass-through entity's income, regardless of the percentage of the
22 entity's ownership interest. A business conducted directly or
23 indirectly by one entity is unitary with that portion of a business
24 conducted by another entity through its direct or indirect interest

1 in a pass-through entity if there is a synergy and exchange and flow
2 of value between the two parts of the business and the two entities
3 are members of the same commonly controlled group.

4 C. 1. If two or more corporations file federal income tax
5 returns on a consolidated basis, such corporations shall be required
6 to file consolidated returns for purposes of determining their
7 Oklahoma income tax liability.

8 2. Corporations, or any portion thereof, in such consolidated
9 group which are also included in a combined group as part of a
10 unitary business shall determine the combined group's total revenue
11 and net revenue which shall be separately stated as an entity in the
12 consolidated group's returns for purposes of determining their
13 Oklahoma income tax liability.

14 3. Corporations, or any portion thereof, in such consolidated
15 group which are not included in a combined group shall determine
16 such corporation's total revenue and net revenue on a component-
17 member-by-component-member basis in accordance with the provisions
18 of the Oklahoma Income Tax Act.

19 4. The net revenue for business done in this state to determine
20 the Oklahoma income tax liability for the consolidated group shall
21 be the sum of each of the component member's and combined group's
22 net revenue or net loss, if any, properly apportioned to this state.

23 D. 1. Except for entities that are members of a consolidated
24 group under subsection C of this section, all entities that are part

1 of an affiliated group engaged in a unitary business shall file a
2 combined group report in lieu of individual reports based on the
3 combined group's business. The combined group may not include an
4 entity that conducts business outside the United States if eighty
5 percent (80%) or more of the entity's property and payroll, as
6 determined by factors under Section 2358 of Title 68 of the Oklahoma
7 Statutes, are assigned to locations outside the United States. The
8 combined group may not include an entity that conducts business
9 outside the United States and has no property or payroll if eighty
10 percent (80%) or more of the entity's total revenue is assigned to
11 locations outside the United States.

12 2. The combined group is a single entity for purposes of the
13 application of the tax levied under the Oklahoma Income Tax Act.

14 3. For purposes of the Oklahoma Income Tax Act, a combined
15 group shall determine its total revenue by:

- 16 a. determining the total revenue of each of its members
17 as if the member were a separate entity,
- 18 b. adding the total revenues of the members determined
19 under subparagraph a of this paragraph together, and
- 20 c. subtracting, to the extent included under subparagraph
21 a of this paragraph, items of total revenue received
22 from another member of the combined group.

1 4. For purposes of the Oklahoma Income Tax Act, a combined
2 group shall determine its allowable deduction for ordinary trade or
3 business expenses to arrive at net revenue by:

4 a. determining the ordinary trade or business expenses

5 other than interest, taxes, depreciation and

6 amortization for each of its members as if the member

7 were a separate entity,

8 b. adding the amounts of ordinary trade or business

9 expenses determined under subparagraph a of this

10 paragraph together, and

11 c. subtracting from the amount determined under

12 subparagraph b of this paragraph any ordinary trade or

13 business expenses paid from one member of the combined

14 group to another member of the combined group, but

15 only to the extent the corresponding item of total

16 revenue was subtracted under subparagraph c of

17 paragraph 3 of this subsection.

18 5. Each entity that is part of a combined group report shall,
19 for purposes of determining net revenue and apportionment, include
20 its activities for the same period used by the combined group.

21 6. The members of a combined group shall be jointly and
22 severally liable for the tax of the combined group. The members of
23 a combined group shall be jointly and severally liable for the
24 interest, penalties and costs associated with the combined report.

SECTION 5. This act shall become effective January 1, 2018.

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