

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 2590

By: Kouplen

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 2358, as last amended by Section 1, Chapter 235, O.S.L. 2017 (68 O.S. Supp. 2017, Section 2358), which relates to allowed adjustments to Oklahoma taxable income; eliminating certain exemption of capital gains income; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2358, as last amended by Section 1, Chapter 235, O.S.L. 2017 (68 O.S. Supp. 2017, Section 2358), is amended to read as follows:

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

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

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

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

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

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

21 b. For carryovers and carrybacks to taxable years
22 beginning after December 31, 1980, the amount of any
23 net operating loss deduction allowed for the taxable
24 year shall be an amount equal to the aggregate of the

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

1 with "Oklahoma net operating loss" and "Oklahoma
2 taxable income".

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

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

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

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

1 in apportionable income; a resident trust or
2 resident estate shall be treated as having a
3 separate commercial or business situs insofar as
4 undistributed income is concerned, but shall not
5 be treated as having a separate commercial or
6 business situs insofar as distributed income is
7 concerned,

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

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

10 (3) income from such property which is required to be
11 allocated pursuant to the provisions of paragraph
12 5 of this subsection shall be allocated as herein
13 provided;

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

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

22 (1) sales having a situs without this state, shipped
23 directly to a point from without the state to a
24

1 purchaser within the state, commonly known as
2 interstate sales,

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

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

14 the Oklahoma net income shall, at the option of the
15 taxpayer, be that portion of the total net income of
16 the taxpayer for federal income tax purposes derived
17 from the manufacture and/or processing and sales
18 everywhere as determined by the ratio of the sales
19 defined in this section made to the purchaser within
20 the state to the total sales everywhere. The term
21 "public warehouse" as used in this subparagraph means
22 a licensed public warehouse, the principal business of
23 which is warehousing merchandise for the public;
24

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

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

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

1 which the sum of the direct premiums written for
2 insurance on property or risks in this state by
3 each ceding company from which reinsurance is
4 accepted bears to the sum of the total direct
5 premiums written by each such ceding company for
6 the taxable year.

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

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

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

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

1 automobiles and other similar equipment, in the
2 proportion that miles traveled in Oklahoma by
3 such equipment bears to total miles traveled,

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

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

18 b. The payroll factor is a fraction, the numerator of
19 which is the total compensation for services rendered
20 in the state during the tax period, and the
21 denominator of which is the total compensation for
22 services rendered everywhere during the tax period.
23 "Compensation", as used in this subsection means those
24 paid-for services to the extent related to the unitary

1 business but does not include officers' salaries,
2 wages and other compensation.

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

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

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

1 gross revenue which are separately allocated in
2 paragraph 4 of this subsection.

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

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

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

Oklahoma bears to total interstate mileage traveled.

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

(5) In the case of a telephone or telegraph or other communication enterprise, the numerator of the fraction shall include that portion of the interstate revenue as is allocated pursuant to the accounting procedures prescribed by the Federal Communications Commission; provided that in respect to each corporation or business entity required by the Federal Communications Commission

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

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

1 reduction or increase in the weight of such prescribed factors.
2 Provided, however, that any such variance from such prescribed
3 factors which has the effect of increasing the portion of net income
4 attributable to Oklahoma must not be inherently arbitrary, and
5 application of the recomputed final apportionment to the net income
6 of the enterprise must attribute to Oklahoma only a reasonable
7 portion thereof.

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

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

9 For purposes of this paragraph:

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

1 commodities, or the production of milk at a dairy
2 operation,

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

6 (3) packaging or otherwise preparing the product for
7 sale or shipment.

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

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

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

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

1 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
2 paragraph, "qualified wages" means those wages used to calculate the
3 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

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

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

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

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

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

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, and ending on December 31, 2016, in the case of
17 individuals who use the standard deduction in
18 determining taxable income, there shall be added or
19 deducted, as the case may be, the difference necessary
20 to allow a standard deduction equal to the standard
21 deduction allowed by the Internal Revenue Code of
22 1986, as amended, based upon the amount and filing
23 status prescribed by such Code for purposes of filing
24 federal individual income tax returns.

g. For taxable years beginning on or after January 1, 2017, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code of 1986, as amended, as follows:

(1) Six Thousand Three Hundred Fifty Dollars (\$6,350.00) for single or married filing separately,

(2) Twelve Thousand Seven Hundred Dollars (\$12,700.00) for married filing jointly or qualifying widower with dependent child, and

(3) Nine Thousand Three Hundred Fifty Dollars (\$9,350.00) for head of household.

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

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

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

- 17 5. a. Before July 1, 2010, the first One Thousand Five
18 Hundred Dollars (\$1,500.00) received by any person
19 from the United States as salary or compensation in
20 any form, other than retirement benefits, as a member
21 of any component of the Armed Forces of the United
22 States shall be deducted from taxable income.
- 23 b. On or after July 1, 2010, one hundred percent (100%)
24 of the income received by any person from the United

1 States as salary or compensation in any form, other
2 than retirement benefits, as a member of any component
3 of the Armed Forces of the United States shall be
4 deducted from taxable income.

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

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

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

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

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

21 (a) Such individual shall return to the United
22 States if the extension is granted pursuant
23 to subparagraph a of this paragraph, return
24 to the State of Oklahoma if the extension is

1 granted pursuant to subparagraph b of this
2 paragraph or be discharged from such
3 hospital if the extension is granted
4 pursuant to subparagraph c of this
5 paragraph; or

6 (b) An executor, administrator, or conservator
7 of the estate of the taxpayer is appointed,
8 whichever event occurs the earliest.

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

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

- 1 7. a. An individual taxpayer, whether resident or
2 nonresident, may deduct an amount equal to the federal
3 income taxes paid by the taxpayer during the taxable
4 year.
- 5 b. Federal taxes as described in subparagraph a of this
6 paragraph shall be deductible by any individual
7 taxpayer, whether resident or nonresident, only to the
8 extent they relate to income subject to taxation
9 pursuant to the provisions of the Oklahoma Income Tax
10 Act. The maximum amount allowable in the preceding
11 paragraph shall be prorated on the ratio of the
12 Oklahoma adjusted gross income to federal adjusted
13 gross income.
- 14 c. For the purpose of this paragraph, "federal income
15 taxes paid" shall mean federal income taxes, surtaxes
16 imposed on incomes or excess profits taxes, as though
17 the taxpayer was on the accrual basis. In determining
18 the amount of deduction for federal income taxes for
19 tax year 2001, the amount of the deduction shall not
20 be adjusted by the amount of any accelerated ten
21 percent (10%) tax rate bracket credit or advanced
22 refund of the credit received during the tax year
23 provided pursuant to the federal Economic Growth and
24 Tax Relief Reconciliation Act of 2001, P.L. No. 107-

1 16, and the advanced refund of such credit shall not
2 be subject to taxation.

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

6 8. Retirement benefits not to exceed Five Thousand Five Hundred
7 Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five
8 Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand
9 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax
10 years, which are received by an individual from the civil service of
11 the United States, the Oklahoma Public Employees Retirement System,
12 the Teachers' Retirement System of Oklahoma, the Oklahoma Law
13 Enforcement Retirement System, the Oklahoma Firefighters Pension and
14 Retirement System, the Oklahoma Police Pension and Retirement
15 System, the employee retirement systems created by counties pursuant
16 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the
17 Uniform Retirement System for Justices and Judges, the Oklahoma
18 Wildlife Conservation Department Retirement Fund, the Oklahoma
19 Employment Security Commission Retirement Plan, or the employee
20 retirement systems created by municipalities pursuant to Section 48-
21 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
22 from taxable income.

23 9. In taxable years beginning after December 31, 1984, Social
24 Security benefits received by an individual shall be exempt from

1 taxable income, to the extent such benefits are included in the
2 federal adjusted gross income pursuant to the provisions of Section
3 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

18 11. In taxable years beginning after December 31, 1995,
19 contributions made to and interest received from a medical savings
20 account established pursuant to Sections 2621 through 2623 of Title
21 63 of the Oklahoma Statutes shall be exempt from taxable income.

22 12. For taxable years beginning after December 31, 1996, the
23 Oklahoma adjusted gross income of any individual taxpayer who is a
24 swine or poultry producer may be further adjusted for the deduction

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

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

13 (1) the adoption of a minor, or

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

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

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

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

1 Commission shall prescribe necessary requirements for
2 verification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 d. If a taxpayer elects to take a rollover on a
10 contribution for which a deduction has been taken
11 pursuant to subparagraph b of this paragraph within
12 one (1) year of the date of contribution, the amount
13 of such rollover shall be included in the adjusted
14 gross income of the taxpayer in the taxable year of
15 the rollover.

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

22 f. As used in this paragraph:
23
24

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

- (a) a qualified withdrawal,
- (b) a withdrawal made as a result of the death or disability of the designated beneficiary of an account,
- (c) a withdrawal that is made on the account of a scholarship or the allowance or payment described in Section 135(d)(1)(B) or (C) or by the Internal Revenue Code, received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or 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

1 the Armed Forces of the United States in an amount not to exceed the
2 greater of seventy-five percent (75%) of such benefits or Ten
3 Thousand Dollars (\$10,000.00) shall be exempt from taxable income
4 but in no case less than the amount of the exemption provided by
5 paragraph 14 of this subsection.

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

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

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

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

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

23 21. For taxable years beginning after December 31, 2009, there
24 shall be exempt from taxable income any amount received by the

1 beneficiary of the death benefit for an emergency medical technician
2 or a registered emergency medical responder provided by Section 1-
3 2505.1 of Title 63 of the Oklahoma Statutes.

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

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

16 24. For taxable years beginning on or after January 1, 2016,
17 taxable income shall be increased by any amount of state and local
18 sales or income taxes deducted under 26 U.S.C., Section 164 of the
19 Internal Revenue Code. If the amount of state and local taxes
20 deducted on the federal return is limited, taxable income on the
21 state return shall be increased only by the amount actually deducted
22 after any such limitations are applied.

23 ~~F. 1. For taxable years beginning after December 31, 2004, a~~
24 ~~deduction from the Oklahoma adjusted gross income of any individual~~

1 ~~taxpayer shall be allowed for qualifying gains receiving capital~~
2 ~~treatment that are included in the federal adjusted gross income of~~
3 ~~such individual taxpayer during the taxable year.~~

4 ~~2. As used in this subsection:~~

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

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

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

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

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

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

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

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

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

~~f. "Oklahoma proprietorship business enterprise" means a
business enterprise whose income and expenses have
been reported on Schedule C or F of an individual
taxpayer's federal income tax return, or any similar
successor schedule published by the Internal Revenue
Service and 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.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

15 SECTION 2. This act shall become effective January 1, 2019.
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17 56-2-8397 JM 12/27/17
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