

OKLAHOMA HOUSE OF REPRESENTATIVES  
COMMITTEE REPORT

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JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET COMMITTEE

**HB1037**

By: Wallace of the House

Thompson of the Senate

Title: Revenue and taxation; income tax; rates; exceptions; deductions;  
effective date.

Coauthored By:

Recommendation: **DO PASS AS AMENDED BY CS**

Amendments:

1. Committee Substitute Attached



\_\_\_\_\_  
Chr.  
Representative Kevin Wallace

YEAS: 14

Cockroft, Dunnington, Echols, Hall, Kannady, Loring, McBride, O'Donnell, Osborn (L), Pfeiffer,  
Roberts (D), Sears, Wallace, Watson

NAYS: 11

Bennett (J), Caldwell, Casey, Inman, Jordan, Kouplen, Lepak, Ortega, Proctor, Stone, Virgin

CONSTITUTIONAL PRIVILEGE: 0

**OKLAHOMA STATE SENATE  
JOINT  
COMMITTEE REPORT**

February 8, 2018

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

HB 1037

By: Wallace of the House and Thompson of the Senate

Title: Revenue and taxation; income tax; rates; exceptions; deductions; effective date.

Recommendation: **DO PASS AS AMENDED**

Aye: Boggs, Holt, McCortney, Stanislawski, Thompson, Fields, Schulz, Treat

Nay: Pittman, Simpson, Sparks, David

Pass:

Senator Kim David, Chair

Committee Substitute, motion by Senator AUTHOR - Adopted (Request No: 50361)

STATE OF OKLAHOMA

2nd Extraordinary Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE  
FOR

HOUSE BILL NO. 1037

By: Wallace of the House

and

Thompson of the Senate

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2011, Sections 2357.43, as amended by Section 1, Chapter 341, O.S.L. 2016 and 2358, as last amended by Section 1, Chapter 235, O.S.L. 2017 (68 O.S. Supp. 2017, Sections 2357.43 and 2358), which relate to earned income tax credits and adjustments to Oklahoma taxable income and adjusted gross income; providing for refundability of tax credit; modifying standard deduction amounts for certain tax years; providing for standard deduction amounts based on federal adjusted gross income; providing an effective date; and providing for contingent effect based upon enactment of Enrolled House Bill No. 2403 of the 2nd Regular Session of the 56th Oklahoma Legislature.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.43, as amended by Section 1, Chapter 341, O.S.L. 2016 (68 O.S. Supp. 2017, Section 2357.43), is amended to read as follows:

1       Section 2357.43 For tax years beginning after December 31,  
2 2001, there shall be allowed to a resident individual or a part-year  
3 resident individual as a credit against the tax imposed by Section  
4 2355 of this title five percent (5%) of the earned income tax credit  
5 allowed under Section 32 of the Internal Revenue Code of the United  
6 States, 26 U.S.C., Section 32. However, this credit shall not be  
7 paid in advance pursuant to the provisions of Section 3507 of the  
8 Internal Revenue Code. For tax years which begin ~~before~~ on or after  
9 January 1, ~~2016~~ 2018, if the credit exceeds the tax imposed by  
10 Section 2355 of this title, the excess amount shall be refunded to  
11 the taxpayer. The maximum earned income tax credit allowable on the  
12 Oklahoma income tax return shall be prorated on the ratio that  
13 Oklahoma adjusted gross income bears to the federal adjusted gross  
14 income.

15       SECTION 2.       AMENDATORY       68 O.S. 2011, Section 2358, as  
16 last amended by Section 1, Chapter 235, O.S.L. 2017 (68 O.S. Supp.  
17 2017, Section 2358), is amended to read as follows:

18       Section 2358. For all tax years beginning after December 31,  
19 1981, taxable income and adjusted gross income shall be adjusted to  
20 arrive at Oklahoma taxable income and Oklahoma adjusted gross income  
21 as required by this section.

22       A. The taxable income of any taxpayer shall be adjusted to  
23 arrive at Oklahoma taxable income for corporations and Oklahoma  
24 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

(2) if the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the taxable income of such company shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the sum of (a) direct premiums written for insurance on property or risks in this state, plus (b) premiums written for reinsurance accepted in respect of property or risks in this state, and the denominator of which is the sum of (c) direct premiums written for insurance on property or risks everywhere, plus (d) premiums written for reinsurance accepted in respect of property or risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risks in this state, whether or not otherwise determinable, may at the election of the company be determined on the basis of the proportion which premiums written for insurance accepted from companies commercially domiciled in Oklahoma bears to premiums written for reinsurance accepted from 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.  
24

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~~ 2018, 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 if the federal adjusted gross income  
does not exceed Twenty-five Thousand Dollars  
(\$25,000.00),

(2) Twelve Thousand Seven Hundred Dollars  
(\$12,700.00) for married filing jointly or  
qualifying widower with dependent child if the  
federal adjusted gross income does not exceed  
Fifty Thousand Dollars (\$50,000.00), and

(3) Nine Thousand Three Hundred Fifty Dollars  
(\$9,350.00) for head of household if the federal  
adjusted gross income does not exceed Thirty-  
seven Thousand Five Hundred Dollars (\$37,500.00),

(4) Five Thousand Two Hundred Fifty Dollars  
(\$5,250.00) for single or married filing  
separately if the federal adjusted gross income

1                   is greater than Twenty-five Thousand Dollars  
2                   (\$25,000.00),

3           (5) Ten Thousand Five Hundred Dollars (\$10,500.00)  
4           for married filing jointly or qualifying widower  
5           with dependent child if the federal adjusted  
6           gross income is greater than Fifty Thousand  
7           Dollars (\$50,000.00), and

8           (6) Seven Thousand Seven Hundred Dollars (\$7,700.00)  
9           for head of household if the federal adjusted  
10           gross income is greater than Thirty-seven  
11           Thousand Five Hundred Dollars (\$37,500.00).

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

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

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

19             b.     On or after July 1, 2010, one hundred percent (100%)  
20               of the income received by any person from the United  
21               States as salary or compensation in any form, other  
22               than retirement benefits, as a member of any component  
23               of the Armed Forces of the United States shall be  
24               deducted from taxable income.

1 c. Whenever the filing of a timely income tax return by a  
2 member of the Armed Forces of the United States is  
3 made impracticable or impossible of accomplishment by  
4 reason of:

5 (1) absence from the United States, which term  
6 includes only the states and the District of  
7 Columbia;

8 (2) absence from the State of Oklahoma while on  
9 active duty; or

10 (3) confinement in a hospital within the United  
11 States for treatment of wounds, injuries or  
12 disease,

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

17 (a) Such individual shall return to the United  
18 States if the extension is granted pursuant  
19 to subparagraph a of this paragraph, return  
20 to the State of Oklahoma if the extension is  
21 granted pursuant to subparagraph b of this  
22 paragraph or be discharged from such  
23 hospital if the extension is granted  
24

1                   pursuant to subparagraph c of this  
2                   paragraph; or

3                   (b) An executor, administrator, or conservator  
4                   of the estate of the taxpayer is appointed,  
5                   whichever event occurs the earliest.

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

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

22           7.    a.    An individual taxpayer, whether resident or  
23                   nonresident, may deduct an amount equal to the federal  
24

1 income taxes paid by the taxpayer during the taxable  
2 year.

3 b. Federal taxes as described in subparagraph a of this  
4 paragraph shall be deductible by any individual  
5 taxpayer, whether resident or nonresident, only to the  
6 extent they relate to income subject to taxation  
7 pursuant to the provisions of the Oklahoma Income Tax  
8 Act. The maximum amount allowable in the preceding  
9 paragraph shall be prorated on the ratio of the  
10 Oklahoma adjusted gross income to federal adjusted  
11 gross income.

12 c. For the purpose of this paragraph, "federal income  
13 taxes paid" shall mean federal income taxes, surtaxes  
14 imposed on incomes or excess profits taxes, as though  
15 the taxpayer was on the accrual basis. In determining  
16 the amount of deduction for federal income taxes for  
17 tax year 2001, the amount of the deduction shall not  
18 be adjusted by the amount of any accelerated ten  
19 percent (10%) tax rate bracket credit or advanced  
20 refund of the credit received during the tax year  
21 provided pursuant to the federal Economic Growth and  
22 Tax Relief Reconciliation Act of 2001, P.L. No. 107-  
23 16, and the advanced refund of such credit shall not  
24 be subject to taxation.

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

8. Retirement benefits not to exceed 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, which are received by an individual from the civil service of the United States, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the employee retirement systems created by counties pursuant to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the Uniform Retirement System for Justices and Judges, the Oklahoma Wildlife Conservation Department Retirement Fund, the Oklahoma Employment Security Commission Retirement Plan, or the employee retirement systems created by municipalities pursuant to Section 48-101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt from taxable income.

9. In taxable years beginning after December 31, 1984, Social Security benefits received by an individual shall be exempt from taxable income, to the extent such benefits are included in the

1 federal adjusted gross income pursuant to the provisions of Section  
2 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

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

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

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

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

12 (1) the adoption of a minor, or

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

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

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

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

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).  
24

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

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

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

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

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

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

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

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

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

1 liability company, partnership or Oklahoma  
2 proprietorship business enterprise, the deduction  
3 described in this subsection shall not apply  
4 unless the pass-through entity that makes the  
5 sale has held the stock or ownership interest for  
6 not less than two (2) uninterrupted years prior  
7 to the date of the transaction that created the  
8 capital gain, and each pass-through entity  
9 included in the chain of ownership has been a  
10 member, partner or shareholder of the pass-  
11 through entity in the tier immediately below it  
12 for an uninterrupted period of not less than two  
13 (2) years. For purposes of this division,  
14 uninterrupted ownership prior to July 1, 2007,  
15 shall be included in the determination of the  
16 required holding period prescribed by this  
17 division, and

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

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

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

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

a. the term "real estate investment trust" or "REIT" means the meaning ascribed to such term in Section 856 of the Internal Revenue Code of 1986, as amended,

b. the term "captive real estate investment trust" means a real estate investment trust, the shares or beneficial interests of which are not regularly traded on an established securities market and more than fifty percent (50%) of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly or indirectly, or constructively, by a single entity that is:

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

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

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

- 15 (1) any real estate investment trust as defined in  
16 ~~paragraph~~ subparagraph a of this ~~subsection~~  
17 paragraph other than a "captive real estate  
18 investment trust", or  
19 (2) any qualified real estate investment trust  
20 subsidiary under Section 856(i) of the Internal  
21 Revenue Code of 1986, as amended, other than a  
22 qualified REIT subsidiary of a "captive real  
23 estate investment trust", or  
24

- 1           (3) any Listed Australian Property Trust (meaning an  
2           Australian unit trust registered as a "Managed  
3           Investment Scheme" under the Australian  
4           Corporations Act in which the principal class of  
5           units is listed on a recognized stock exchange in  
6           Australia and is regularly traded on an  
7           established securities market), or an entity  
8           organized as a trust, provided that a Listed  
9           Australian Property Trust owns or controls,  
10          directly or indirectly, seventy-five percent  
11          (75%) or more of the voting power or value of the  
12          beneficial interests or shares of such trust, or  
13          (4) any Qualified Foreign Entity, meaning a  
14          corporation, trust, association or partnership  
15          organized outside the laws of the United States  
16          and which satisfies the following criteria:  
17          (a) at least seventy-five percent (75%) of the  
18              entity's total asset value at the close of  
19              its taxable year is represented by real  
20              estate assets, as defined in Section  
21              856(c) (5) (B) of the Internal Revenue Code of  
22              1986, as amended, thereby including shares  
23              or certificates of beneficial interest in  
24              any real estate investment trust, cash and

1 cash equivalents, and U.S. Government  
2 securities,

3 (b) the entity receives a dividend-paid  
4 deduction comparable to Section 561 of the  
5 Internal Revenue Code of 1986, as amended,  
6 or is exempt from entity level tax,

7 (c) the entity is required to distribute at  
8 least eighty-five percent (85%) of its  
9 taxable income, as computed in the  
10 jurisdiction in which it is organized, to  
11 the holders of its shares or certificates of  
12 beneficial interest on an annual basis,

13 (d) not more than ten percent (10%) of the  
14 voting power or value in such entity is held  
15 directly or indirectly or constructively by  
16 a single entity or individual, or the shares  
17 or beneficial interests of such entity are  
18 regularly traded on an established  
19 securities market, and

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

22 3. For purposes of this subsection, the constructive ownership  
23 rules of Section 318(a) of the Internal Revenue Code of 1986, as  
24 amended, as modified by Section 856(d)(5) of the Internal Revenue

1 Code of 1986, as amended, shall apply in determining the ownership  
2 of stock, assets, or net profits of any person.

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

17 SECTION 3. This act shall become effective January 1, 2018.

18 SECTION 4. The provisions of this act shall be contingent upon  
19 the enactment of the provisions of Enrolled House Bill No. 2403 in  
20 the 2nd Regular Session of the 56th Oklahoma Legislature and shall  
21 not become operative as law otherwise.

22  
23 56-2EX-50367 MAH 02/08/18  
24