

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3347 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Scott Fetgatter

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

PROPOSED COMMITTEE  
SUBSTITUTE  
FOR  
HOUSE BILL NO. 3347

By: Fetgatter

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2021, Section 2358, which relates to computation of Oklahoma taxable income and Oklahoma adjusted gross income; providing for recomputation of federal income taxable income amount using deductions disallowed pursuant to Section 280E of the Internal Revenue Code; providing additional deduction equal to amount of disallowed deduction pursuant to Section 280E of the Internal Revenue Code; specifying taxable years for which recomputations and additional deductions authorized; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 a licensed public warehouse, the principal business of  
2 which is warehousing merchandise for the public;

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

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

Commissioners, or such other form as may be  
prescribed in lieu thereof,

- (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

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

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

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

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

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

1 and trailers, including machinery and equipment  
2 carried thereon, airplanes, salespersons'  
3 automobiles and other similar equipment, in the  
4 proportion that miles traveled in Oklahoma by  
5 such equipment bears to total miles traveled,

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

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

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

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

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

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

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

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

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

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

21 (3) In the case of an airline, truck or bus  
22 enterprise or freight car, tank car, refrigerator  
23 car or other railroad equipment enterprise, the  
24 numerator of the fraction shall include a portion

1 of revenue from interstate transportation in the  
2 proportion that interstate mileage traveled in  
3 Oklahoma bears to total interstate mileage  
4 traveled.

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

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



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

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

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

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

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

11 For purposes of this paragraph:

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

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

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

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

8. In taxable years beginning after December 31, 1995, all qualified wages equal to the federal income tax credit set forth in 26 U.S.C.A., Section 45A, shall be deducted from taxable income.

1 The deduction allowed pursuant to this paragraph shall only be  
2 permitted for the tax years in which the federal tax credit pursuant  
3 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this  
4 paragraph, "qualified wages" means those wages used to calculate the  
5 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

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

22 11. For taxable years beginning on or after January 1, 2019,  
23 there shall be subtracted from Oklahoma taxable income or adjusted  
24 gross income any item of income or gain, and there shall be added to

Oklahoma taxable income or adjusted gross income any item of loss or deduction that in the absence of an election pursuant to the provisions of the Pass-Through Entity Tax Equity Act of 2019 would be allocated to a member or to an indirect member of an electing pass-through entity pursuant to Section 2351 et seq. of this title, if (i) the electing pass-through entity has accounted for such item in computing its Oklahoma net entity income or loss pursuant to the provisions of the Pass-Through Entity Tax Equity Act of 2019, and (ii) the total amount of tax attributable to any resulting Oklahoma net entity income has been paid. The Oklahoma Tax Commission shall promulgate rules for the reporting of such exclusion to direct and indirect members of the electing pass-through entity. As used in this paragraph, "electing pass-through entity", "indirect member", and "member" shall be defined in the same manner as prescribed by Section 2355.1P-2 of this title. Notwithstanding the application of this paragraph, the adjusted tax basis of any ownership interest in a pass-through entity for purposes of Section 2351 et seq. of this title shall be equal to its adjusted tax basis for federal income tax purposes.

12. For taxable years beginning on or after January 1, 2023, there shall be allowed a deduction to recompute the federal taxable income amount for any for-profit business entity licensed pursuant to Oklahoma law to engage in the production, transport, sale, or other licensed activity related to medical marijuana equal to the

amount of any deduction related to the applicable licensed business activity within this state which was disallowed for the same tax year pursuant to the provisions of Section 280E of the Internal Revenue Code of 1986, as amended, and for taxable years beginning on or after January 1, 2023, there shall also be allowed an additional deduction from Oklahoma taxable income equal to the amount of any deduction for business expense incurred in conducting applicable licensed medical marijuana business activity within this state which was disallowed for the same tax year pursuant to the provisions of Section 280E of the Internal Revenue Code of 1986, as amended.

B. 1. The taxable income of any corporation shall be further adjusted to arrive at Oklahoma taxable income, except those corporations electing treatment as provided in subchapter S of the Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section 2365 of this title, deductions pursuant to the provisions of the Accelerated Cost Recovery System as defined and allowed in the Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C., Section 168, for depreciation of assets placed into service after December 31, 1981, shall not be allowed in calculating Oklahoma taxable income. Such corporations shall be allowed a deduction for depreciation of assets placed into service after December 31, 1981, in accordance with provisions of the Internal Revenue Code, 26 U.S.C., Section 1 et seq., in effect immediately prior to the enactment of the Accelerated Cost Recovery System. The Oklahoma tax

1 basis for all such assets placed into service after December 31,  
2 1981, calculated in this section shall be retained and utilized for  
3 all Oklahoma income tax purposes through the final disposition of  
4 such assets.

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

10 For assets placed in service and held by a corporation in which  
11 accelerated cost recovery system was previously disallowed, an  
12 adjustment to taxable income is required in the first taxable year  
13 beginning after December 31, 1982, to reconcile the basis of such  
14 assets to the basis allowed in the Internal Revenue Code. The  
15 purpose of this adjustment is to equalize the basis and allowance  
16 for depreciation accounts between that reported to the Internal  
17 Revenue Service and that reported to Oklahoma.

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

24



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

15 2. For purposes of this subsection:

16 a. "Qualified small business" means an entity, whether  
17 organized as a corporation, partnership, or  
18 proprietorship, organized for profit with its  
19 principal place of business located within this state  
20 and which meets the following criteria:

21 (1) Capitalization of not more than Two Hundred Fifty  
22 Thousand Dollars (\$250,000.00),  
23  
24

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

4           (3) Not a subsidiary or affiliate of the transferor  
5           corporation;

6           b. "Technology" means a proprietary process, formula,  
7           pattern, device or compilation of scientific or  
8           technical information which is not in the public  
9           domain;

10          c. "Transferor corporation" means a corporation which is  
11          the exclusive and undisputed owner of the technology  
12          at the time the transfer is made; and

13          d. "Gross proceeds" means the total amount of  
14          consideration for the transfer of technology, whether  
15          the consideration is in money or otherwise.

16          D. 1. For taxable years beginning after December 31, 2005, the  
17          taxable income of any corporation, estate or trust, shall be further  
18          adjusted for qualifying gains receiving capital treatment. Such  
19          corporations, estates or trusts shall be allowed a deduction from  
20          Oklahoma taxable income for the amount of qualifying gains receiving  
21          capital treatment earned by the corporation, estate or trust during  
22          the taxable year and included in the federal taxable income of such  
23          corporation, estate or trust.

24          2. As used in this subsection:

1           a.    "qualifying gains receiving capital treatment" means  
2                the amount of net capital gains, as defined in Section  
3                1222(11) of the Internal Revenue Code, included in the  
4                federal income tax return of the corporation, estate  
5                or trust that result from:

6                (1)   the sale of real property or tangible personal  
7                      property located within Oklahoma that has been  
8                      directly or indirectly owned by the corporation,  
9                      estate or trust for a holding period of at least  
10                     five (5) years prior to the date of the  
11                     transaction from which such net capital gains  
12                     arise,

13               (2)   the sale of stock or on the sale of an ownership  
14                      interest in an Oklahoma company, limited  
15                      liability company, or partnership where such  
16                      stock or ownership interest has been directly or  
17                      indirectly owned by the corporation, estate or  
18                      trust for a holding period of at least three (3)  
19                      years prior to the date of the transaction from  
20                      which the net capital gains arise, or

21               (3)   the sale of real property, tangible personal  
22                      property or intangible personal property located  
23                      within Oklahoma as part of the sale of all or  
24                      substantially all of the assets of an Oklahoma

1                   company, limited liability company, or  
2                   partnership where such property has been directly  
3                   or indirectly owned by such entity owned by the  
4                   owners of such entity, and used in or derived  
5                   from such entity for a period of at least three  
6                   (3) years prior to the date of the transaction  
7                   from which the net capital gains arise,

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

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

20           d.    "direct" means the taxpayer directly owns the asset,  
21                  and

22           e.    "indirect" means the taxpayer owns an interest in a  
23                  pass-through entity (or chain of pass-through  
24

1 entities) that sells the asset that gives rise to the  
2 qualifying gains receiving capital treatment.

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

16 (2) With respect to sales of stock or ownership  
17 interest in or sales of all or substantially all  
18 of the assets of an Oklahoma company, limited  
19 liability company, or partnership, the deduction  
20 described in this subsection shall not apply  
21 unless the pass-through entity that makes the  
22 sale has held the stock or ownership interest or  
23 the assets for not less than three (3)  
24 uninterrupted years prior to the date of the

1 transaction that created the capital gain, and  
2 each pass-through entity included in the chain of  
3 ownership has been a member, partner or  
4 shareholder of the pass-through entity in the  
5 tier immediately below it for an uninterrupted  
6 period of not less than three (3) years.

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

10 1. a. In the case of individuals, there shall be added or  
11 deducted, as the case may be, the difference necessary  
12 to allow personal exemptions of One Thousand Dollars  
13 (\$1,000.00) in lieu of the personal exemptions allowed  
14 by the Internal Revenue Code.

15 b. There shall be allowed an additional exemption of One  
16 Thousand Dollars (\$1,000.00) for each taxpayer or  
17 spouse who is blind at the close of the tax year. For  
18 purposes of this subparagraph, an individual is blind  
19 only if the central visual acuity of the individual  
20 does not exceed 20/200 in the better eye with  
21 correcting lenses, or if the visual acuity of the  
22 individual is greater than 20/200, but is accompanied  
23 by a limitation in the fields of vision such that the  
24

1           widest diameter of the visual field subtends an angle  
2           no greater than twenty (20) degrees.

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

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

19          Provided, for taxable years beginning after December  
20          31, 1999, amounts included in the calculation of  
21          federal adjusted gross income pursuant to the  
22          conversion of a traditional individual retirement  
23          account to a Roth individual retirement account shall  
24          be excluded from federal adjusted gross income for

1 purposes of the income thresholds provided in this  
2 subparagraph.

3 2. a. For taxable years beginning on or before December 31,  
4 2005, in the case of individuals who use the standard  
5 deduction in determining taxable income, there shall  
6 be added or deducted, as the case may be, the  
7 difference necessary to allow a standard deduction in  
8 lieu of the standard deduction allowed by the Internal  
9 Revenue Code, in an amount equal to the larger of  
10 fifteen percent (15%) of the Oklahoma adjusted gross  
11 income or One Thousand Dollars (\$1,000.00), but not to  
12 exceed Two Thousand Dollars (\$2,000.00), except that  
13 in the case of a married individual filing a separate  
14 return such deduction shall be the larger of fifteen  
15 percent (15%) of such Oklahoma adjusted gross income  
16 or Five Hundred Dollars (\$500.00), but not to exceed  
17 the maximum amount of One Thousand Dollars  
18 (\$1,000.00).

19 b. For taxable years beginning on or after January 1,  
20 2006, and before January 1, 2007, in the case of  
21 individuals who use the standard deduction in  
22 determining taxable income, there shall be added or  
23 deducted, as the case may be, the difference necessary  
24 to allow a standard deduction in lieu of the standard



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

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

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

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

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

18 (2) Four Thousand One Hundred Twenty-five Dollars  
19 (\$4,125.00) for a head of household; or

20 (3) Two Thousand Seven Hundred Fifty Dollars  
21 (\$2,750.00), if the filing status is single or  
22 married filing separate.

23 d. For the taxable year beginning on January 1, 2008, and  
24 ending December 31, 2008, in the case of individuals

1           who use the standard deduction in determining taxable  
2           income, there shall be added or deducted, as the case  
3           may be, the difference necessary to allow a standard  
4           deduction in lieu of the standard deduction allowed by  
5           the Internal Revenue Code, in an amount equal to:

- 6           (1)   Six Thousand Five Hundred Dollars (\$6,500.00), if  
7                   the filing status is married filing joint or  
8                   qualifying widow, or  
9           (2)   Four Thousand Eight Hundred Seventy-five Dollars  
10                   (\$4,875.00) for a head of household, or  
11           (3)   Three Thousand Two Hundred Fifty Dollars  
12                   (\$3,250.00), if the filing status is single or  
13                   married filing separate.

14       e.   For the taxable year beginning on January 1, 2009, and  
15           ending December 31, 2009, 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)   Eight Thousand Five Hundred Dollars (\$8,500.00),  
22                   if the filing status is married filing joint or  
23                   qualifying widow, or  
24

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

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

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

9 f. For taxable years beginning on or after January 1,  
10 2010, and ending on December 31, 2016, in the case of  
11 individuals who use the standard deduction in  
12 determining taxable income, there shall be added or  
13 deducted, as the case may be, the difference necessary  
14 to allow a standard deduction equal to the standard  
15 deduction allowed by the Internal Revenue Code, based  
16 upon the amount and filing status prescribed by such  
17 Code for purposes of filing federal individual income  
18 tax returns.

19 g. For taxable years beginning on or after January 1,  
20 2017, in the case of individuals who use the standard  
21 deduction in determining taxable income, there shall  
22 be added or deducted, as the case may be, the  
23 difference necessary to allow a standard deduction in  
24

1           lieu of the standard deduction allowed by the Internal  
2           Revenue Code, as follows:

- 3           (1)   Six Thousand Three Hundred Fifty Dollars  
4               (\$6,350.00) for single or married filing  
5               separately,  
6           (2)   Twelve Thousand Seven Hundred Dollars  
7               (\$12,700.00) for married filing jointly or  
8               qualifying widower with dependent child, and  
9           (3)   Nine Thousand Three Hundred Fifty Dollars  
10               (\$9,350.00) for head of household.

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

1 exemptions shall be subject to proration as provided  
2 by law.

3 b. For taxable years beginning on or after January 1,  
4 2018, the net amount of itemized deductions allowable  
5 on an Oklahoma income tax return, subject to the  
6 provisions of paragraph 24 of this subsection, shall  
7 not exceed Seventeen Thousand Dollars (\$17,000.00).  
8 For purposes of this subparagraph, charitable  
9 contributions and medical expenses deductible for  
10 federal income tax purposes shall be excluded from the  
11 amount of Seventeen Thousand Dollars (\$17,000.00) as  
12 specified by this subparagraph.

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

- 1        5.    a.    Before July 1, 2010, the first One Thousand Five  
2                    Hundred Dollars (\$1,500.00) received by any person  
3                    from the United States as salary or compensation in  
4                    any form, other than retirement benefits, as a member  
5                    of any component of the Armed Forces of the United  
6                    States shall be deducted from taxable income.
- 7                    b.    On or after July 1, 2010, one hundred percent (100%)  
8                    of the income received by any person from the United  
9                    States as salary or compensation in any form, other  
10                    than retirement benefits, as a member of any component  
11                    of the Armed Forces of the United States shall be  
12                    deducted from taxable income.
- 13                    c.    Whenever the filing of a timely income tax return by a  
14                    member of the Armed Forces of the United States is  
15                    made impracticable or impossible of accomplishment by  
16                    reason of:
- 17                    (1)    absence from the United States, which term  
18                    includes only the states and the District of  
19                    Columbia;
- 20                    (2)    absence from the State of Oklahoma while on  
21                    active duty; or
- 22                    (3)    confinement in a hospital within the United  
23                    States for treatment of wounds, injuries or  
24                    disease,

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

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

14 (b) An executor, administrator, or conservator  
15 of the estate of the taxpayer is appointed,  
16 whichever event occurs the earliest.

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

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

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

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

22       c. For the purpose of this paragraph, "federal income  
23 taxes paid" shall mean federal income taxes, surtaxes  
24 imposed on incomes or excess profits taxes, as though



1 the taxpayer was on the accrual basis. In determining  
2 the amount of deduction for federal income taxes for  
3 tax year 2001, the amount of the deduction shall not  
4 be adjusted by the amount of any accelerated ten  
5 percent (10%) tax rate bracket credit or advanced  
6 refund of the credit received during the tax year  
7 provided pursuant to the federal Economic Growth and  
8 Tax Relief Reconciliation Act of 2001, P.L. No. 107-  
9 16, and the advanced refund of such credit shall not  
10 be subject to taxation.

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

14 8. Retirement benefits not to exceed Five Thousand Five Hundred  
15 Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five  
16 Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand  
17 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax  
18 years, which are received by an individual from the civil service of  
19 the United States, the Oklahoma Public Employees Retirement System,  
20 the Teachers' Retirement System of Oklahoma, the Oklahoma Law  
21 Enforcement Retirement System, the Oklahoma Firefighters Pension and  
22 Retirement System, the Oklahoma Police Pension and Retirement  
23 System, the employee retirement systems created by counties pursuant  
24 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the

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

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

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

1 individual retirement accounts within the meaning of Section 408 of  
2 the Internal Revenue Code.

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

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

19 13. a. In taxable years beginning after December 31, 2002,  
20 nonrecurring adoption expenses paid by a resident  
21 individual taxpayer in connection with:  
22 (1) the adoption of a minor, or  
23 (2) a proposed adoption of a minor which did not  
24 result in a decreed adoption,

1           may be deducted from the Oklahoma adjusted gross  
2           income.

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

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

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

1 costs associated with physical remodeling, renovation  
2 and alteration of the adoptive parents' home or  
3 property, except for a special needs child as  
4 authorized by the court.

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

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

23 (1) in taxable years beginning after December 31,  
24 2004, and prior to January 1, 2007, the

1                   qualifying amount shall be Thirty-seven Thousand  
2                   Five Hundred Dollars (\$37,500.00) or less if the  
3                   filing status is single, head of household, or  
4                   married filing separate, or Seventy-five Thousand  
5                   Dollars (\$75,000.00) or less if the filing status  
6                   is married filing jointly or qualifying widow,

7                   (2) in the taxable year beginning January 1, 2007,  
8                   the qualifying amount shall be Fifty Thousand  
9                   Dollars (\$50,000.00) or less if the filing status  
10                  is single, head of household, or married filing  
11                  separate, or One Hundred Thousand Dollars  
12                  (\$100,000.00) or less if the filing status is  
13                  married filing jointly or qualifying widow,

14                  (3) in the taxable year beginning January 1, 2008,  
15                  the qualifying amount shall be Sixty-two Thousand  
16                  Five Hundred Dollars (\$62,500.00) or less if the  
17                  filing status is single, head of household, or  
18                  married filing separate, or One Hundred Twenty-  
19                  five Thousand Dollars (\$125,000.00) or less if  
20                  the filing status is married filing jointly or  
21                  qualifying widow,

22                  (4) in the taxable year beginning January 1, 2009,  
23                  the qualifying amount shall be One Hundred  
24                  Thousand Dollars (\$100,000.00) or less if the

1 filing status is single, head of household, or  
2 married filing separate, or Two Hundred Thousand  
3 Dollars (\$200,000.00) or less if the filing  
4 status is married filing jointly or qualifying  
5 widow, and

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

9 c. For purposes of this paragraph, "retirement benefits"  
10 means the total distributions or withdrawals from the  
11 following:

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

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

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

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

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

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



1 Schedule F form with the taxpayer's federal income tax return for  
2 such taxable year, there shall be excluded from taxable income any  
3 amount which was included as federal taxable income or federal  
4 adjusted gross income and which consists of the discharge of an  
5 obligation by a creditor of the taxpayer incurred to finance the  
6 production of agricultural products.

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

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

21 b. In taxable years beginning after December 31, 2004,  
22 each taxpayer shall be allowed a deduction for  
23 contributions to accounts established pursuant to the  
24 Oklahoma College Savings Plan Act. The maximum annual

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

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

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

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

16 d. If a taxpayer elects to take a rollover on a  
17 contribution for which a deduction has been taken  
18 pursuant to subparagraph b of this paragraph within  
19 one (1) year of the date of contribution, the amount  
20 of such rollover shall be included in the adjusted  
21 gross income of the taxpayer in the taxable year of  
22 the rollover.

23 e. If a taxpayer makes a nonqualified withdrawal of  
24 contributions for which a deduction was taken pursuant

1 to subparagraph b of this paragraph, such nonqualified  
2 withdrawal and any earnings thereon shall be included  
3 in the adjusted gross income of the taxpayer in the  
4 taxable year of the nonqualified withdrawal.

5 f. As used in this paragraph:

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

9 (a) a qualified withdrawal,

10 (b) a withdrawal made as a result of the death  
11 or disability of the designated beneficiary  
12 of an account,

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

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

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

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

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

- 18           a. in the taxable year beginning January 1, 2007, twenty  
19           percent (20%) of such benefits shall be exempt,  
20           b. in the taxable year beginning January 1, 2008, forty  
21           percent (40%) of such benefits shall be exempt,  
22           c. in the taxable year beginning January 1, 2009, sixty  
23           percent (60%) of such benefits shall be exempt,  
24

- 1           d.    in the taxable year beginning January 1, 2010, eighty  
2               percent (80%) of such benefits shall be exempt, and  
3           e.    in the taxable year beginning January 1, 2011, and  
4               subsequent taxable years, one hundred percent (100%)  
5               of such benefits shall be exempt.

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

18           b.   An individual may claim this deduction only once, and  
19               the deduction may be claimed only for unreimbursed  
20               expenses that are incurred by the individual and  
21               related to the organ donation of the individual.

22           c.   The Oklahoma Tax Commission shall promulgate rules to  
23               implement the provisions of this paragraph which shall  
24               contain a specific list of expenses which may be

1               presumed to qualify for the deduction. The Tax  
2               Commission shall prescribe necessary requirements for  
3               verification.

4           21. For taxable years beginning after December 31, 2009, there  
5 shall be exempt from taxable income any amount received by the  
6 beneficiary of the death benefit for an emergency medical technician  
7 or a registered emergency medical responder provided by Section 1-  
8 2505.1 of Title 63 of the Oklahoma Statutes.

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

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

21           24. For taxable years beginning on or after January 1, 2016,  
22 taxable income shall be increased by any amount of state and local  
23 sales or income taxes deducted under 26 U.S.C., Section 164 of the  
24 Internal Revenue Code. If the amount of state and local taxes

1 deducted on the federal return is limited, taxable income on the  
2 state return shall be increased only by the amount actually deducted  
3 after any such limitations are applied.

4 25. For taxable years beginning after December 31, 2020, each  
5 taxpayer shall be allowed a deduction for contributions to accounts  
6 established pursuant to the Achieving a Better Life Experience  
7 (ABLE) Program as established in Section 4001.1 et seq. of Title 56  
8 of the Oklahoma Statutes. For any tax year, the deduction provided  
9 for in this paragraph shall not exceed Ten Thousand Dollars  
10 (\$10,000.00) for an individual taxpayer or Twenty Thousand Dollars  
11 (\$20,000.00) for taxpayers filing a joint return. Any amount of  
12 contribution not deducted by the taxpayer in the tax year for which  
13 the contribution is made may be carried forward as a deduction from  
14 income for up to five (5) tax years. Deductions may be taken for  
15 contributions made during the tax year and through April 15 of the  
16 succeeding tax year, or through the due date of a taxpayer's state  
17 income tax return excluding extensions, whichever is later.  
18 Provided, a deduction for the same contribution may not be taken in  
19 more than one (1) tax year.

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



1       2. As used in this subsection:

2           a. "qualifying gains receiving capital treatment" means  
3           the amount of net capital gains, as defined in Section  
4           1222(11) of the Internal Revenue Code, included in an  
5           individual taxpayer's federal income tax return that  
6           result from:

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

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

22          (3) the sale of real property, tangible personal  
23          property or intangible personal property located  
24          within Oklahoma as part of the sale of all or

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

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

17 c. "Oklahoma company," "limited liability company," or  
18 "partnership" means an entity whose primary  
19 headquarters have been located in Oklahoma for at  
20 least three (3) uninterrupted years prior to the date  
21 of the transaction from which the net capital gains  
22 arise,

23 d. "direct" means the individual taxpayer directly owns  
24 the asset,

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

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

18 (2) With respect to sales of stock or ownership  
19 interest in or sales of all or substantially all  
20 of the assets of an Oklahoma company, limited  
21 liability company, partnership or Oklahoma  
22 proprietorship business enterprise, the deduction  
23 described in this subsection shall not apply  
24 unless the pass-through entity that makes the

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

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

23 G. 1. For purposes of computing its Oklahoma taxable income  
24 under this section, the dividends-paid deduction otherwise allowed

1 by federal law in computing net income of a real estate investment  
2 trust that is subject to federal income tax shall be added back in  
3 computing the tax imposed by this state under this title if the real  
4 estate investment trust is a captive real estate investment trust.

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

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

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

21 (1) treated as an association taxable as a  
22 corporation under the Internal Revenue Code, and  
23  
24

1 (2) not exempt from federal income tax pursuant to  
2 the provisions of Section 501(a) of the Internal  
3 Revenue Code.

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

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

12 (1) any real estate investment trust as defined in  
13 paragraph a of this subsection other than a  
14 "captive real estate investment trust", or

15 (2) any qualified real estate investment trust  
16 subsidiary under Section 856(i) of the Internal  
17 Revenue Code, other than a qualified REIT  
18 subsidiary of a "captive real estate investment  
19 trust", or

20 (3) any Listed Australian Property Trust (meaning an  
21 Australian unit trust registered as a "Managed  
22 Investment Scheme" under the Australian  
23 Corporations Act in which the principal class of  
24 units is listed on a recognized stock exchange in

1 Australia and is regularly traded on an  
2 established securities market), or an entity  
3 organized as a trust, provided that a Listed  
4 Australian Property Trust owns or controls,  
5 directly or indirectly, seventy-five percent  
6 (75%) or more of the voting power or value of the  
7 beneficial interests or shares of such trust, or  
8 (4) any Qualified Foreign Entity, meaning a  
9 corporation, trust, association or partnership  
10 organized outside the laws of the United States  
11 and which satisfies the following criteria:  
12 (a) at least seventy-five percent (75%) of the  
13 entity's total asset value at the close of  
14 its taxable year is represented by real  
15 estate assets, as defined in Section  
16 856(c) (5) (B) of the Internal Revenue Code,  
17 thereby including shares or certificates of  
18 beneficial interest in any real estate  
19 investment trust, cash and cash equivalents,  
20 and U.S. Government securities,  
21 (b) the entity receives a dividend-paid  
22 deduction comparable to Section 561 of the  
23 Internal Revenue Code, or is exempt from  
24 entity level tax,

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

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

21 4. A real estate investment trust that does not become  
22 regularly traded on an established securities market within one (1)  
23 year of the date on which it first becomes a real estate investment  
24 trust shall be deemed not to have been regularly traded on an



1 established securities market, retroactive to the date it first  
2 became a real estate investment trust, and shall file an amended  
3 return reflecting such retroactive designation for any tax year or  
4 part year occurring during its initial year of status as a real  
5 estate investment trust. For purposes of this subsection, a real  
6 estate investment trust becomes a real estate investment trust on  
7 the first day it has both met the requirements of Section 856 of the  
8 Internal Revenue Code and has elected to be treated as a real estate  
9 investment trust pursuant to Section 856(c)(1) of the Internal  
10 Revenue Code.

11 SECTION 2. This act shall become effective January 1, 2023.

12

13 58-2-10306 MAH 02/01/22

14

15

16

17

18

19

20

21

22

23

24