

1 ENGROSSED SENATE
2 BILL NO. 1477

By: Treat of the Senate

3 and

4 McCall of the House

5
6 An Act relating to income tax credit; amending 68
7 O.S. 2021, Section 205.2, which relates to claims for
8 deduction of refund; prohibiting claims for deduction
9 from certain tax credit; amending 68 O.S. 2021,
10 Section 2358, as amended by Section 1, Chapter 377,
11 O.S.L. 2022 (68 O.S. Supp. 2023, Section 2358), which
12 relates to adjustments to arrive at taxable income;
13 providing exemption for certain tax credits received;
14 amending Section 2, Chapter 278, O.S.L. 2023 (70 O.S.
15 Supp. 2023, Section 28-101), which relates to
16 parental choice tax credits; modifying definitions;
17 modifying income limitations; allowing certain credit
18 to qualifying students; prohibiting the use of tax
19 credit to offset certain accrued liabilities;
20 modifying annual credit limitations; prescribing
21 enforcement of certain annual limitation; modifying
22 frequency of payment for credits claimed; prescribing
23 application period; requiring credits and payments to
24 be allocated prior to the school year; requiring
certain notification; allowing certain reallocation
of credits; updating statutory reference; updating
statutory language; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 205.2, is
amended to read as follows:

Section 205.2. A. For purposes of this section, a "qualified
entity" shall mean a:

1. State agency;

- 1 2. Municipal court;
- 2 3. District court;
- 3 4. Public housing authority operating pursuant to Section 1062
- 4 of Title 63 of the Oklahoma Statutes;
- 5 5. District attorney seeking to collect unpaid court-ordered
- 6 monetary obligations; or
- 7 6. The designee of an entity described in paragraphs 1 through
- 8 5 of this subsection.

9 B. A qualified entity seeking to collect a debt, unpaid
10 municipal or district court fines and costs or final judgment of at
11 least Fifty Dollars (\$50.00) from an individual who has filed a
12 state income tax return may file a claim with the Oklahoma Tax
13 Commission requesting that the amount owed to the qualified entity
14 be deducted from any state income tax refund due to that individual.
15 The claim shall be filed electronically in a form prescribed by the
16 Tax Commission and shall contain information necessary to identify
17 the person owing the debt, including the full name and Social
18 Security number of the debtor.

19 1. Upon receiving a claim from a qualified entity, the Tax
20 Commission shall deduct the claim amount, plus collection expenses
21 as provided in this section, from the tax refund due to the debtor
22 and transfer the amount to the qualified entity. Provided, the Tax
23 Commission need not report available funds of less than Fifty
24 Dollars (\$50.00).

1 2. The qualified entity shall send notice to the debtor by
2 regular mail at the last-known address of the debtor as shown by the
3 records of the Tax Commission when seeking to collect a debt not
4 reduced to final judgment. The qualified entity shall send notice
5 to the judgment debtor or defendant by first-class mail at the last-
6 known address of the judgment debtor or defendant as shown by the
7 records of the Tax Commission when seeking to collect a final
8 judgment or unpaid court fines and costs. The Tax Commission shall
9 provide in an agreed electronic format to the Department of Human
10 Services the amount withheld by the Tax Commission, the home address
11 and the Social Security number of the taxpayer. The notice shall
12 state:

- 13 a. that a claim has been filed with the Tax Commission
14 for any portion of the tax refund due to the debtor or
15 defendant which would satisfy the debt, unpaid court
16 fines and costs, or final judgment in full or in part,
- 17 b. the basis for the claim,
- 18 c. that the Tax Commission has deducted an amount from
19 the refund and remitted it to such qualified entity,
- 20 d. that the debtor or defendant has the right to contest
21 the claim by sending a written request to the
22 qualified entity for a hearing to protest the claim,
23 and if the debtor or defendant fails to apply for a
24 hearing within sixty (60) days after the date of the

1 mailing of the notice, the debtor or defendant shall
2 be deemed to have waived his or her opportunity to
3 contest the claim. Provided, if the claim was filed
4 by the Department of Human Services, the notice shall
5 state that the debtor must contest the claim by
6 sending a written request to the Department within
7 thirty (30) days after the date of the mailing of the
8 notice, and

9 e. that a collection expense of five percent (5%) of the
10 gross proceeds owed to the qualified entity has been
11 charged to the debtor or defendant and withheld from
12 the refund.

13 3. If the qualified entity determines that a refund is due to
14 the taxpayer, the qualified entity shall reimburse the amount
15 claimed plus the five-percent collection expense to the taxpayer.
16 The qualified entity may request reimbursement of the two-percent
17 collection expense retained by the Tax Commission. Such request
18 must be made within ninety (90) days of reimbursement to the
19 taxpayer. If timely requested, the Tax Commission shall make such
20 reimbursement to the qualified entity within ninety (90) days of the
21 request.

22 4. In the case of a joint return, the notice shall state:
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24

- 1 a. the name of any taxpayer named in the return against
2 whom no debt, no unpaid court fines and costs, or
3 final judgment is claimed,
- 4 b. the fact that a debt, unpaid court fines and costs, or
5 final judgment is not claimed against the taxpayer,
- 6 c. the fact that the taxpayer is entitled to receive a
7 refund if it is due regardless of the debt, court
8 fines and costs, or final judgment asserted against
9 the debtor or defendant,
- 10 d. that in order to obtain the refund due, the taxpayer
11 must apply, in writing, for a hearing with the
12 qualified entity named in the notice within sixty (60)
13 days after the date of the mailing of the notice.
14 Provided, if the claim was filed by the Department of
15 Human Services, the notice shall state that the
16 taxpayer must apply, in writing, for a hearing with
17 the Department within thirty (30) days after the date
18 of the mailing of the notice, and
- 19 e. if the taxpayer against whom no debt, no unpaid court
20 fines and costs, or final judgment is claimed fails to
21 apply in writing for a hearing within sixty (60) days
22 after the mailing of the notice, the taxpayer shall
23 have waived his or her right to a refund. Provided,
24 if the claim was filed by the Department of Human

1 Services, the notice shall state that if the taxpayer
2 fails to apply in writing for a hearing with the
3 Department within thirty (30) days after the date of
4 the mailing of the notice, the taxpayer shall have
5 waived his or her right to a refund.

6 C. If the qualified entity asserting the claim receives a
7 written request for a hearing from the debtor or taxpayer against
8 whom no debt, no court fines and costs, or final judgment is
9 claimed, the qualified entity shall grant a hearing according to the
10 provisions of the Administrative Procedures Act. It shall be
11 determined at the hearing whether the claimed sum is correct or
12 whether an adjustment to the claim shall be made. Pending final
13 determination at the hearing of the validity of the debt, unpaid
14 court fines and costs, or final judgment asserted by the qualified
15 entity, no action shall be taken in furtherance of the collection of
16 the debt, unpaid court fines and costs, or final judgment. Appeals
17 from actions taken at the hearing shall be in accordance with the
18 provisions of the Administrative Procedures Act.

19 D. Upon final determination at a hearing, as provided for in
20 subsection C of this section, of the amount of the debt, unpaid
21 court fines and costs, or final judgment, or upon failure of the
22 debtor or taxpayer against whom no debt, no unpaid court fines and
23 costs, or final judgment is claimed to request such a hearing, the
24 qualified entity shall apply the amount of the claim to the debt

1 owed. Any amounts held by the qualified entity in excess of the
2 final determination of the debt and collection expense shall be
3 refunded by the qualified entity to the taxpayer. However, if the
4 tax refund due is inadequate to pay the collection expense and debt,
5 unpaid court fines and costs, or final judgment, the balance due the
6 qualified entity shall be a continuing debt or final judgment until
7 paid in full.

8 E. Upon receipt of a claim as provided in subsection A of this
9 section, the Tax Commission shall:

10 1. Deduct from the refund five percent (5%) of the gross
11 proceeds owed to the qualified entity, and distribute it by
12 retaining two percent (2%) and transferring three percent (3%) to
13 the qualified entity, as an expense of collection. The two percent
14 (2%) retained by the Tax Commission shall be deposited in the
15 Oklahoma Tax Commission Fund;

16 2. Transfer the amount of the claimed debt, unpaid court fines
17 and costs, or final judgment or so much thereof as is available to
18 the qualified entity;

19 3. Notify the debtor in writing as to how the refund was
20 applied; and

21 4. Refund to the debtor any balance remaining after deducting
22 the collection expense and debt, unpaid court fines and costs, or
23 final judgment.

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1 F. The Tax Commission shall deduct from any state tax refund
2 due to a taxpayer the amount of delinquent state tax and penalty and
3 interest thereon, which such taxpayer owes pursuant to any state tax
4 law prior to payment of such refund.

5 G. The Tax Commission shall have first priority over all other
6 qualified entities when the Tax Commission is collecting a debt,
7 court fines and costs, or final judgment pursuant to the provisions
8 of this section. Subsequent to the Tax Commission priority, a claim
9 filed by the Department of Human Services for the collection of
10 child support and spousal support shall have priority over all other
11 claims filed pursuant to this section. Priority in multiple claims
12 by other qualified entities pursuant to the provisions of this
13 section shall be in the order in time in which the Tax Commission
14 receives the claim from the qualified entities required by the
15 provisions of subsection B of this section.

16 H. The Tax Commission shall prescribe or approve forms and
17 promulgate rules and regulations for implementing the provisions of
18 this section.

19 I. The information obtained by a qualified entity from the Tax
20 Commission pursuant to the provisions of this section shall be used
21 only to aid in collection of the debt, unpaid court fines and costs,
22 or final judgment owed to the qualified entity. Disclosure of the
23 information for any other purpose shall constitute a misdemeanor.
24 Any employee of a qualified entity or person convicted of violating

1 this provision shall be subject to a fine not exceeding One Thousand
2 Dollars (\$1,000.00) or imprisonment in the county jail for a term
3 not exceeding one (1) year, or both fine and imprisonment and, if
4 still employed by the qualified entity, shall be dismissed from
5 employment.

6 J. The Tax Commission may employ the procedures provided by
7 this section in order to collect a debt owed to the Internal Revenue
8 Service if the Internal Revenue Service requires such procedure as a
9 condition to providing information to the Commission concerning
10 federal income tax.

11 K. The provisions of this section shall not apply to claims
12 filed under the provisions of Section 2906 or Section 5011 of this
13 title or Section 28-101 of Title 70.

14 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2358, as
15 amended by Section 1, Chapter 377, O.S.L. 2022 (68 O.S. Supp. 2023,
16 Section 2358), is amended to read as follows:

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

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

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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

1 Oklahoma net operating loss carryovers and carrybacks
2 to such year. Oklahoma net operating losses shall be
3 separately determined by reference to Section 172 of
4 the Internal Revenue Code, 26 U.S.C., Section 172, as
5 modified by the Oklahoma Income Tax Act, Section 2351
6 et seq. of this title, and shall be allowed without
7 regard to the existence of a federal net operating
8 loss. For tax years beginning after December 31,
9 2000, and ending before January 1, 2008, the years to
10 which such losses may be carried shall be determined
11 solely by reference to Section 172 of the Internal
12 Revenue Code, 26 U.S.C., Section 172, with the
13 exception that the terms "net operating loss" and
14 "taxable income" shall be replaced with "Oklahoma net
15 operating loss" and "Oklahoma taxable income". For
16 tax years beginning after December 31, 2007, and
17 ending before January 1, 2009, years to which such
18 losses may be carried back shall be limited to two (2)
19 years. For tax years beginning after December 31,
20 2008, the years to which such losses may be carried
21 back shall be determined solely by reference to
22 Section 172 of the Internal Revenue Code, 26 U.S.C.,
23 Section 172, with the exception that the terms "net
24 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, shall be allocated
13 to this state in the ratio of the original cost
14 of such partnership's tangible property in this
15 state to the original cost of such partnership's
16 tangible property everywhere, as determined at
17 the time of the sale; if more than fifty percent
18 (50%) of the value of the partnership's assets
19 consists of intangible assets, capital or
20 ordinary gains or losses from the sale of an
21 ownership interest in the partnership shall be
22 allocated to this state in accordance with the
23 sales factor of the partnership for its first
24 full tax period immediately preceding its tax

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 in the weight of such prescribed factors. Provided, however, that
2 any such variance from such prescribed factors which has the effect
3 of increasing the portion of net income attributable to ~~Oklahoma~~
4 this state must not be inherently arbitrary, and application of the
5 recomputed final apportionment to the net income of the enterprise
6 must attribute to ~~Oklahoma~~ this state only a reasonable portion
7 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~~ buildings, structures, fixtures and
12 improvements used or operated primarily for the
13 processing or production of marketable products from
14 agricultural commodities. The term shall also mean a
15 dairy operation that requires a depreciable investment
16 of at least Two Hundred Fifty Thousand Dollars
17 (\$250,000.00) and which produces milk from dairy cows.
18 The term does not include a facility that provides
19 only, and nothing more than, storage, cleaning, drying
20 or transportation 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 by Section 1231 of the American
19 Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

20 11. For taxable years beginning on or after January 1, 2019,
21 there shall be subtracted from Oklahoma taxable income or adjusted
22 gross income any item of income or gain, and there shall be added to
23 Oklahoma taxable income or adjusted gross income any item of loss or
24 deduction that in the absence of an election pursuant to the

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

18 B. 1. The taxable income of any corporation shall be further
19 adjusted to arrive at Oklahoma taxable income, except those
20 corporations electing treatment as provided in subchapter S of the
21 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
22 2365 of this title, deductions pursuant to the provisions of the
23 Accelerated Cost Recovery System as defined and allowed in the
24 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,

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

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

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

1 that reported to the Internal Revenue Service and that reported to
2 ~~Oklahoma~~ this state.

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~~ this state. Such
13 transferor corporation shall be allowed an exemption from taxable
14 income of an amount equal to the amount of royalty payment received
15 as a result of such transfer; provided, however, such amount shall
16 not exceed ten percent (10%) of the amount of gross proceeds
17 received by such transferor corporation as a result of the
18 technology transfer. Such exemption shall be allowed for a period
19 not to exceed ten (10) years from the date of receipt of the first
20 royalty payment accruing from such transfer. No exemption may be
21 claimed for transfers of technology to qualified small businesses
22 made prior to January 1, 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~~ this
10 state at the 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~~ this state that
15 has been directly or indirectly owned by the
16 corporation, estate or trust for a holding period
17 of at least five (5) years prior to the date of
18 the 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~~ this state as part of the sale of
7 all or substantially all of the assets of an
8 Oklahoma 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~~ this state
24 for at least three (3) uninterrupted years prior to

1 the date of the transaction from which the net capital
2 gains 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~~ this state, the deduction described in
12 this 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, based
22 upon the amount and filing status prescribed by such
23 Code for purposes of filing federal individual income
24 tax returns.

1 g. For taxable years beginning on or after January 1,
2 2017, in the case of individuals who use the standard
3 deduction in determining taxable income, there shall
4 be added or deducted, as the case may be, the
5 difference necessary to allow a standard deduction in
6 lieu of the standard deduction allowed by the Internal
7 Revenue Code, as follows:

8 (1) Six Thousand Three Hundred Fifty Dollars
9 (\$6,350.00) for single or married filing
10 separately,

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

14 (3) Nine Thousand Three Hundred Fifty Dollars
15 (\$9,350.00) for head of household.

16 3. a. In the case of resident and part-year resident
17 individuals having adjusted gross income from sources
18 both within and without the state, the itemized or
19 standard deductions and personal exemptions shall be
20 reduced to an amount which is the same portion of the
21 total thereof as Oklahoma adjusted gross income is of
22 adjusted gross income. To the extent itemized
23 deductions include allowable moving expense, proration
24 of moving expense shall not be required or permitted

1 but allowable moving expense shall be fully deductible
2 for those taxpayers moving within or into ~~Oklahoma~~
3 this state and no part of moving expense shall be
4 deductible for those taxpayers moving without or out
5 of ~~Oklahoma~~ this state. All other itemized or
6 standard deductions and personal exemptions shall be
7 subject to proration as provided by law.

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

18 4. A resident individual with a physical disability
19 constituting a substantial handicap to employment may deduct from
20 Oklahoma adjusted gross income such expenditures to modify a motor
21 vehicle, home or workplace as are necessary to compensate for his or
22 her handicap. A veteran certified by the Department of Veterans
23 Affairs of the federal government as having a service-connected
24 disability shall be conclusively presumed to be an individual with a

1 physical disability constituting a substantial handicap to
2 employment. The Tax Commission shall promulgate rules containing a
3 list of combinations of common disabilities and modifications which
4 may be presumed to qualify for this deduction. The Tax Commission
5 shall prescribe necessary requirements for verification.

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

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

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

22 (1) absence from the United States, which term
23 includes only the states and the District of
24 Columbia;

1 (2) absence from ~~the State of Oklahoma~~ this state
2 while on active duty; or

3 (3) confinement in a hospital within the United
4 States for treatment of wounds, injuries or
5 disease,

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

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

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

22 Provided, that the Tax Commission may, in its discretion, grant
23 any member of the Armed Forces of the United States an extension of
24 time for filing of income tax returns and payment of income tax

1 without incurring liabilities for interest or penalties. Such
2 extension may be granted only when in the judgment of the Tax
3 Commission a good cause exists therefor and may be for a period in
4 excess of six (6) months. A record of every such extension granted,
5 and the reason therefor, shall be kept.

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

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

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

1 Oklahoma adjusted gross income to federal adjusted
2 gross income.

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

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

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

1 the Teachers' Retirement System of Oklahoma, the Oklahoma Law
2 Enforcement Retirement System, the Oklahoma Firefighters Pension and
3 Retirement System, the Oklahoma Police Pension and Retirement
4 System, the employee retirement systems created by counties pursuant
5 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the
6 Uniform Retirement System for Justices and Judges, the Oklahoma
7 Wildlife Conservation Department Retirement Fund, the Oklahoma
8 Employment Security Commission Retirement Plan, or the employee
9 retirement systems created by municipalities pursuant to Section 48-
10 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
11 from taxable income.

12 9. In taxable years beginning after December 31, 1984, Social
13 Security benefits received by an individual shall be exempt from
14 taxable income, to the extent such benefits are included in the
15 federal adjusted gross income pursuant to the provisions of Section
16 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

1 within the meaning of Section 408 of the Internal Revenue Code, 26
2 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage
3 account, including any earnings thereon, shall be included in
4 taxable income when withdrawn in the same manner as withdrawals from
5 individual retirement accounts within the meaning of Section 408 of
6 the Internal Revenue Code.

7 11. In taxable years beginning after December 31, 1995,
8 contributions made to and interest received from a medical savings
9 account established pursuant to Sections 2621 through 2623 of Title
10 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

23

24

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

4 (1) the adoption of a minor, or

5 (2) a proposed adoption of a minor which did not
6 result in a decreed adoption,

7 may be deducted from the Oklahoma adjusted gross
8 income.

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

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

18 d. "Nonrecurring adoption expenses" means adoption fees,
19 court costs, medical expenses, attorney fees and
20 expenses which are directly related to the legal
21 process of adoption of a child including, but not
22 limited to, costs relating to the adoption study,
23 health and psychological examinations, transportation
24 and reasonable costs of lodging and food for the child

1 or adoptive parents which are incurred to complete the
2 adoption process and are not reimbursed by other
3 sources. The term ~~"nonrecurring adoption expenses"~~
4 nonrecurring adoption expenses shall not include
5 attorney fees incurred for the purpose of litigating a
6 contested adoption, from and after the point of the
7 initiation of the contest, costs associated with
8 physical remodeling, renovation and alteration of the
9 adoptive parents' home or property, except for a
10 special needs child as authorized by the court.

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

1 less than the qualifying amount specified in this
2 paragraph, shall be exempt from taxable income.

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

5 (1) in taxable years beginning after December 31,
6 2004, and prior to January 1, 2007, the
7 qualifying amount shall be Thirty-seven Thousand
8 Five Hundred Dollars (\$37,500.00) or less if the
9 filing status is single, head of household, or
10 married filing separate, or Seventy-five Thousand
11 Dollars (\$75,000.00) or less if the filing status
12 is married filing jointly or qualifying widow,

13 (2) in the taxable year beginning January 1, 2007,
14 the qualifying amount shall be Fifty Thousand
15 Dollars (\$50,000.00) or less if the filing status
16 is single, head of household, or married filing
17 separate, or One Hundred Thousand Dollars
18 (\$100,000.00) or less if the filing status is
19 married filing jointly or qualifying widow,

20 (3) in the taxable year beginning January 1, 2008,
21 the qualifying amount shall be Sixty-two Thousand
22 Five Hundred Dollars (\$62,500.00) or less if the
23 filing status is single, head of household, or
24 married filing separate, or One Hundred Twenty-

1 five Thousand Dollars (\$125,000.00) or less if
2 the filing status is married filing jointly or
3 qualifying widow,

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

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

15 c. For purposes of this paragraph, "retirement benefits"
16 means the total distributions or withdrawals from the
17 following:

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

21 (2) an eligible deferred compensation plan that
22 satisfies the requirements of Section 457 of the
23 Internal Revenue Code, 26 U.S.C., Section 457,
24

- 1 (3) an individual retirement account, annuity or
2 trust or simplified employee pension that
3 satisfies the requirements of Section 408 of the
4 Internal Revenue Code, 26 U.S.C., Section 408,
5 (4) an employee annuity subject to the provisions of
6 Section 403(a) or (b) of the Internal Revenue
7 Code, 26 U.S.C., Section 403(a) or (b),
8 (5) United States Retirement Bonds which satisfy the
9 requirements of Section 86 of the Internal
10 Revenue Code, 26 U.S.C., Section 86, or
11 (6) lump-sum distributions from a retirement plan
12 which satisfies the requirements of Section
13 402(e) of the Internal Revenue Code, 26 U.S.C.,
14 Section 402(e).

15 d. The amount of the exemption provided by this paragraph
16 shall be limited to Five Thousand Five Hundred Dollars
17 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
18 Hundred Dollars (\$7,500.00) for the 2005 tax year and
19 Ten Thousand Dollars (\$10,000.00) for the tax year
20 2006 and for all subsequent tax years. Any individual
21 who claims the exemption provided for in paragraph 8
22 of this subsection shall not be permitted to claim a
23 combined total exemption pursuant to this paragraph
24 and paragraph 8 of this subsection in an amount

1 exceeding Five Thousand Five Hundred Dollars
2 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
3 Hundred Dollars (\$7,500.00) for the 2005 tax year and
4 Ten Thousand Dollars (\$10,000.00) for the 2006 tax
5 year and all subsequent tax years.

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

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

19 17. a. In taxable years beginning after December 31, 2001,
20 and before January 1, 2005, there shall be allowed a
21 deduction in the amount of contributions to accounts
22 established pursuant to the Oklahoma College Savings
23 Plan Act. The deduction shall equal the amount of
24 contributions to accounts, but in no event shall the

1 deduction for each contributor exceed Two Thousand
2 Five Hundred Dollars (\$2,500.00) each taxable year for
3 each account.

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

1 Provided, a deduction for the same contribution may
2 not be taken for two (2) different taxable years.

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

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

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

22 d. If a taxpayer elects to take a rollover on a
23 contribution for which a deduction has been taken
24 pursuant to subparagraph b of this paragraph within

1 one (1) year of the date of contribution, the amount
2 of such rollover shall be included in the adjusted
3 gross income of the taxpayer in the taxable year of
4 the rollover.

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

11 f. As used in this paragraph:

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

15 (a) a qualified withdrawal,

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

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

1 amount of the scholarship, allowance, or
2 payment, or

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

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

10 18. For tax years 2006 through 2021, retirement benefits
11 received by an individual from any component of the Armed Forces of
12 the United States in an amount not to exceed the greater of seventy-
13 five percent (75%) of such benefits or Ten Thousand Dollars
14 (\$10,000.00) shall be exempt from taxable income but in no case less
15 than the amount of the exemption provided by paragraph 14 of this
16 subsection. For tax year 2022 and subsequent tax years, retirement
17 benefits received by an individual from any component of the Armed
18 Forces of the United States shall be exempt from taxable income.

19 19. For taxable years beginning after December 31, 2006,
20 retirement benefits received by federal civil service retirees,
21 including survivor annuities, paid in lieu of Social Security
22 benefits shall be exempt from taxable income to the extent such
23 benefits are included in the federal adjusted gross income pursuant
24

1 to the provisions of Section 86 of the Internal Revenue Code, 26
2 U.S.C., Section 86, according to the following schedule:

- 3 a. in the taxable year beginning January 1, 2007, twenty
4 percent (20%) of such benefits shall be exempt,
- 5 b. in the taxable year beginning January 1, 2008, forty
6 percent (40%) of such benefits shall be exempt,
- 7 c. in the taxable year beginning January 1, 2009, sixty
8 percent (60%) of such benefits shall be exempt,
- 9 d. in the taxable year beginning January 1, 2010, eighty
10 percent (80%) of such benefits shall be exempt, and
- 11 e. in the taxable year beginning January 1, 2011, and
12 subsequent taxable years, one hundred percent (100%)
13 of such benefits shall be exempt.

14 20. a. For taxable years beginning after December 31, 2007, a
15 resident individual may deduct up to Ten Thousand
16 Dollars (\$10,000.00) from Oklahoma adjusted gross
17 income if the individual, or the dependent of the
18 individual, while living, donates one or more human
19 organs of the individual to another human being for
20 human organ transplantation. As used in this
21 paragraph, "human organ" means all or part of a liver,
22 pancreas, kidney, intestine, lung, or bone marrow. A
23 deduction that is claimed under this paragraph may be
24

1 claimed in the taxable year in which the human organ
2 transplantation occurs.

3 b. An individual may claim this deduction only once, and
4 the deduction may be claimed only for unreimbursed
5 expenses that are incurred by the individual and
6 related to the organ donation of the individual.

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

13 21. For taxable years beginning after December 31, 2009, there
14 shall be exempt from taxable income any amount received by the
15 beneficiary of the death benefit for an emergency medical technician
16 or a registered emergency medical responder provided by Section 1-
17 2505.1 of Title 63 of the Oklahoma Statutes.

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

22 23. For taxable years beginning after December 31, 2008, there
23 shall be exempt from taxable income any payment in an amount less
24 than Six Hundred Dollars (\$600.00) received by a person as an award

1 for participation in a competitive livestock show event. For
2 purposes of this paragraph, the payment shall be treated as a
3 scholarship amount paid by the entity sponsoring the event and the
4 sponsoring entity shall cause the payment to be categorized as a
5 scholarship in its books and records.

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

13 25. For taxable years beginning after December 31, 2020, each
14 taxpayer shall be allowed a deduction for contributions to accounts
15 established pursuant to the Achieving a Better Life Experience
16 (ABLE) Program as established in Section 4001.1 et seq. of Title 56
17 of the Oklahoma Statutes. For any tax year, the deduction provided
18 for in this paragraph shall not exceed Ten Thousand Dollars
19 (\$10,000.00) for an individual taxpayer or Twenty Thousand Dollars
20 (\$20,000.00) for taxpayers filing a joint return. Any amount of
21 contribution not deducted by the taxpayer in the tax year for which
22 the contribution is made may be carried forward as a deduction from
23 income for up to five (5) tax years. Deductions may be taken for
24 contributions made during the tax year and through April 15 of the

1 succeeding tax year, or through the due date of a taxpayer's state
2 income tax return excluding extensions, whichever is later.

3 Provided, a deduction for the same contribution may not be taken in
4 more than one (1) tax year.

5 26. For tax year 2024 and subsequent tax years, tax credits
6 received pursuant to the Oklahoma Parental Choice Tax Credit Act in
7 Section 28-101 of Title 70 of the Oklahoma Statutes shall be exempt
8 from taxable income.

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

14 2. As used in this subsection:

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

20 (1) the sale of real property or tangible personal
21 property located within ~~Oklahoma~~ this state that
22 has been directly or indirectly owned by the
23 individual taxpayer for a holding period of at
24 least five (5) years prior to the date of the

1 transaction from which such net capital gains
2 arise,

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

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

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

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

13 d. "direct" means the individual taxpayer directly owns
14 the asset,

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

19 (1) With respect to sales of real property or
20 tangible personal property located within
21 ~~Oklahoma~~ this state, the deduction described in
22 this subsection shall not apply unless the pass-
23 through entity that makes the sale has held the
24 property for not less than five (5) uninterrupted

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

8 (2) With respect to sales of stock or ownership
9 interest in or sales of all or substantially all
10 of the assets of an Oklahoma company, limited
11 liability company, partnership or Oklahoma
12 proprietorship business enterprise, the deduction
13 described in this subsection shall not apply
14 unless the pass-through entity that makes the
15 sale has held the stock or ownership interest for
16 not less than two (2) uninterrupted years prior
17 to the date of the transaction that created the
18 capital gain, and each pass-through entity
19 included in the chain of ownership has been a
20 member, partner or shareholder of the pass-
21 through entity in the tier immediately below it
22 for an uninterrupted period of not less than two
23 (2) years. For purposes of this division,
24 uninterrupted ownership prior to July 1, 2007,

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

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

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

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

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

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

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

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

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

- 1 (1) any real estate investment trust as defined in
2 paragraph a of this subsection other than a
3 ~~"captive real estate investment trust"~~ captive
4 real estate investment trust, or
- 5 (2) any qualified real estate investment trust
6 subsidiary under Section 856(i) of the Internal
7 Revenue Code, other than a qualified REIT
8 subsidiary of a ~~"captive real estate investment~~
9 ~~trust"~~ captive real estate investment trust, or
- 10 (3) any ~~Listed Australian Property Trust~~ listed
11 Australian property trust (meaning an Australian
12 unit trust registered as a ~~"Managed Investment~~
13 ~~Scheme"~~ "managed investment scheme" under the
14 Australian Corporations Act 2001 in which the
15 principal class of units is listed on a
16 recognized stock exchange in Australia and is
17 regularly traded on an established securities
18 market), or an entity organized as a trust,
19 provided that a ~~Listed Australian Property Trust~~
20 listed Australian property trust owns or
21 controls, directly or indirectly, seventy-five
22 percent (75%) or more of the voting power or
23 value of the beneficial interests or shares of
24 such trust, or

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

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

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

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

1 (d) not more than ten percent (10%) of the
2 voting power or value in such entity is held
3 directly or indirectly or constructively by
4 a single entity or individual, or the shares
5 or beneficial interests of such entity are
6 regularly traded on an established
7 securities market, and

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

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

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

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

5 SECTION 3. AMENDATORY Section 2, Chapter 278, O.S.L.
6 2023 (70 O.S. Supp. 2023, Section 28-101), is amended to read as
7 follows:

8 Section 28-101. A. As used in the Oklahoma Parental Choice Tax
9 Credit Act:

10 1. "Commission" means the Oklahoma Tax Commission;

11 2. "Curriculum" means a complete course of study for a
12 particular content area or grade level;

13 3. "Department" means the State Department of Education;

14 4. "Education service provider" means a person, business,
15 public school district, public charter school, magnet school, or
16 organization that provides educational goods and/or services to
17 eligible students in this state;

18 5. "Eligible student" means a resident of this state who is
19 eligible to enroll in a public school in this state. Eligible
20 student shall include a student who is enrolled in and attends or is
21 expected to enroll in a private school in this state accredited by
22 the State Board of Education or another accrediting association or a
23 student who is educated pursuant to the other means of education
24

1 exception provided for in subsection A of Section 10-105 of Title 70
2 of the Oklahoma Statutes;

3 6. "Qualified expense" for the purpose of claiming the credit
4 authorized by ~~subparagraph a of paragraph 1 of subsection C of this~~
5 section means tuition and fees at a private school in this state
6 accredited by the State Board of Education or another accrediting
7 association. Provided, the amount of tuition and fees considered a
8 qualified expense pursuant to this paragraph shall not include
9 tuition and fees paid with any scholarship or tuition and fees
10 discounted or otherwise reduced by the school;

11 7. "Qualified expense" for the purpose of claiming the credit
12 authorized by ~~subparagraph b of paragraph 1~~ paragraph 3 of
13 subsection C of this section means the following expenditures:

- 14 a. tuition and fees for nonpublic ~~online~~ learning
15 programs, online or in person,
- 16 b. academic tutoring services provided by an individual
17 or a private academic tutoring facility,
- 18 c. textbooks, curriculum, or other instructional
19 materials including, but not limited to, supplemental
20 materials or associated online instruction required by
21 an education service provider, and
- 22 d. fees for nationally standardized assessments
23 including, but not limited to, assessments used to
24 determine college admission and advanced placement

1 examinations as well as tuition and fees for tutoring
2 or preparatory courses for the assessments; and

3 8. "Taxpayer" means a biological or adoptive parent,
4 grandparent, aunt, uncle, legal guardian, custodian, or other person
5 with legal authority to act on behalf of an eligible student.

6 B. There is hereby created the Oklahoma Parental Choice Tax
7 Credit Program to provide an income tax credit to a taxpayer for
8 qualified expenses to support the education of eligible students in
9 this state.

10 C. For the tax year 2024 and subsequent tax years, and fiscal
11 year 2026, and subsequent fiscal years, there shall be allowed
12 against the tax imposed by Section 2355 of Title 68 of the Oklahoma
13 Statutes a credit for any Oklahoma taxpayer who incurs a qualified
14 expense on behalf of an eligible student, to be administered subject
15 to the following amounts ~~for each tax year~~:

16 1. If the eligible student attends a private school in this
17 state accredited by the State Board of Education or another
18 accrediting association, the annual maximum credit amount for tax
19 year 2024, fiscal year 2026, and each subsequent fiscal year shall
20 be:

21 a. ~~(1)~~ Seven Thousand Five Hundred Dollars (\$7,500.00)
22 or the amount of tuition and fees for the private
23 school, whichever is less, if the combined adjusted
24 gross income of the parents or legal guardians of the

1 eligible student ~~is a member of a household in which~~
2 ~~the total adjusted gross income~~ during the second
3 preceding tax year does not exceed Seventy-five
4 Thousand Dollars (\$75,000.00),

5 ~~(2)~~ b. Seven Thousand Dollars (\$7,000.00) or the amount
6 of tuition and fees for the private school, whichever
7 is less, if the combined adjusted gross income of the
8 parents or legal guardians of the eligible student ~~is~~
9 ~~a member of a household in which the total adjusted~~
10 ~~gross income~~ during the second preceding tax year is
11 more than Seventy-five Thousand Dollars (\$75,000.00)
12 but does not exceed One Hundred Fifty Thousand Dollars
13 (\$150,000.00),

14 ~~(3)~~ c. Six Thousand Five Hundred Dollars (\$6,500.00) or
15 the amount of tuition and fees for the private school,
16 whichever is less, if the combined adjusted gross
17 income of the parents or legal guardians of the
18 eligible student ~~is a member of a household in which~~
19 ~~the total adjusted gross income~~ during the second
20 preceding tax year is more than One Hundred Fifty
21 Thousand Dollars (\$150,000.00) but does not exceed Two
22 Hundred Twenty-five Thousand Dollars (\$225,000.00),

23 ~~(4)~~ d. Six Thousand Dollars (\$6,000.00) or the amount
24 of tuition and fees for the private school, whichever

1 is less, if the combined adjusted gross income of the
2 parents or legal guardians of the eligible student is
3 ~~a member of a household in which the total adjusted~~
4 ~~gross income~~ during the second preceding tax year is
5 more than Two Hundred Twenty-five Thousand Dollars
6 (\$225,000.00) but does not exceed Two Hundred Fifty
7 Thousand Dollars (\$250,000.00), or

8 ~~(5) e.~~ Five Thousand Dollars (\$5,000.00) or the amount
9 of tuition and fees for the private school, whichever
10 is less, if the combined adjusted gross income of the
11 parents or legal guardians of the eligible student is
12 ~~a member of a household in which the total adjusted~~
13 ~~gross income~~ during the second preceding tax year is
14 more than Two Hundred Fifty Thousand Dollars
15 (\$250,000.00), ~~and;~~

16 2. For tax year 2025, in addition to the amount of credits
17 authorized by paragraph 1 of this subsection, a credit in the amount
18 of fifty percent (50%) of the amounts set forth in paragraph 1 of
19 this subsection, or the amount of tuition and fees for the spring
20 semester of the 2024-2025 school year, whichever is less;

21 ~~b.~~ 3. For tax year 2024 and subsequent tax years, the maximum
22 credit amount shall be One Thousand Dollars (\$1,000.00) in qualified
23 expenses per eligible student in each tax year if the eligible
24 student is educated pursuant to the other means of education

1 exception provided for in subsection A of Section 10-105 of Title 70
2 of the Oklahoma Statutes. To claim the credit, the taxpayer shall
3 submit to the Commission receipts for qualified expenses as defined
4 by paragraph 7 of subsection A of this section;

5 4. If the eligible student attends a private school, accredited
6 by the State Board of Education or another accrediting association,
7 that exclusively serves students experiencing homelessness, the
8 credit amount shall be Seven Thousand Five Hundred Dollars
9 (\$7,500.00) or the amount of the cost to educate the eligible
10 student at the private school, whichever is less;

11 ~~2.~~ 5. The taxpayer shall retain all receipts of qualified
12 expenses as proof of the amounts paid each tax year the credit is
13 claimed and shall submit them to the Commission upon request; ~~and~~

14 ~~3.~~ 6. If the credit exceeds the tax imposed by Section 2355 of
15 Title 68 of the Oklahoma Statutes, the excess amount shall be
16 refunded to the taxpayer; and

17 7. Credits claimed by a taxpayer pursuant to the provisions of
18 this section shall not be used to offset or pay the following:

- 19 a. delinquent tax liability,
- 20 b. accrued penalty or interest from the failure to file a
21 report or return,
- 22 c. accrued penalty or interest from the failure to pay a
23 state tax within the statutory period allowed for its
24 payment, or

1 d. tax liability of the taxpayer from any prior tax year.

2 D. 1. a. For tax year 2024, the total amount of credits
3 authorized by ~~subparagraph a~~ of paragraph 1 of
4 subsection C of this section shall not exceed One
5 Hundred Fifty Million Dollars (\$150,000,000.00).

6 b. For ~~tax year 2025~~ the period of January 1, 2025,
7 through June 30, 2025, the total amount of credits
8 authorized by ~~subparagraph a~~ of paragraph 1 of
9 subsection C of this section shall not exceed ~~Two~~
10 ~~Hundred Million Dollars (\$200,000,000.00)~~ One Hundred
11 Million Dollars (\$100,000,000.00).

12 c. For ~~tax year 2026, and subsequent tax years~~ fiscal
13 year 2026 and subsequent fiscal years, the total
14 amount of credits authorized by ~~subparagraph a~~ of
15 paragraph 1 of subsection C of this section shall not
16 exceed Two Hundred Fifty Million Dollars
17 (\$250,000,000.00).

18 2. For tax year 2025~~7~~ and subsequent tax years, the total
19 amount of credits authorized by ~~subparagraph b~~ of ~~paragraph 1~~
20 paragraph 3 of subsection C of this section shall not exceed Five
21 Million Dollars (\$5,000,000.00). For tax year 2025 and subsequent
22 tax years, the Tax Commission shall annually calculate and publish a
23 percentage by which the credits authorized by this section shall be
24 reduced so the total amount of credits claimed does not exceed Five

1 Million Dollars (\$5,000,000.00) per year. The formula to be used
2 for the percentage adjustment shall be Five Million Dollars
3 (\$5,000,000.00) divided by the credits claimed in the second
4 preceding year.

5 E. The Commission shall prescribe applications for the purposes
6 of claiming the credits authorized by the Oklahoma Parental Choice
7 Tax Credit Act and a deadline by which applications shall be
8 submitted. A taxpayer claiming the credit authorized by
9 ~~subparagraph a of~~ paragraph 1 of subsection C of this section shall
10 submit an application prescribed by the Commission to receive the
11 credit ~~in two installments, each of which shall be half of~~ equal to
12 the expected amount of tuition and fees for the private school based
13 on the ~~affidavit~~ enrollment verification form submitted pursuant to
14 this subsection, but in no event shall ~~an installment~~ the payment
15 exceed ~~half~~ the amount of the credit authorized by ~~subparagraph a of~~
16 paragraph 1 of subsection C of this section. A taxpayer claiming
17 the credit authorized by ~~subparagraph a of~~ paragraph 1 of subsection
18 C of this section shall submit to the Commission an ~~affidavit~~
19 enrollment verification form from the private school in which the
20 eligible student is enrolled or is expected to enroll with the
21 tuition and fees to be charged the taxpayer for the applicable
22 school year. In reviewing applications submitted by eligible
23 taxpayers to determine whether they qualify for a credit authorized
24 by ~~subparagraph a of~~ paragraph 1 of subsection C of this section,

1 the Commission shall give first preference in making ~~installments~~
2 the payment to taxpayers who qualify pursuant to ~~divisions (1) and~~
3 ~~(2) of subparagraph a~~ subparagraphs a and b of paragraph 1 of
4 subsection C of this section. The Commission shall make the
5 ~~installments~~ payment based on the expected amount of tuition and fee
6 amounts on the ~~affidavit~~ enrollment verification form submitted
7 pursuant to this subsection. For credits issued in fiscal year 2026
8 and subsequent fiscal years, the application period shall open on
9 March 1 and close July 1 preceding the school year for which the
10 application is made. Priority applications shall be considered for
11 the first sixty (60) days of the application period. The Commission
12 shall begin issuing disbursements at the beginning of August prior
13 to the beginning of the school year.

14 F. Taxpayers claiming the credit shall:

15 1. Only claim the credit for qualified expenses as defined in
16 paragraphs 6 and 7 of subsection A of this section to provide an
17 education for an eligible student;

18 2. Ensure no other person is claiming a credit for the eligible
19 student;

20 3. Not claim the credit for an eligible student who enrolls as
21 a full-time student in a public school district, public charter
22 school, public virtual charter school, or magnet school; ~~and~~

23

24

1 4. Comply with rules and requirements established by the
2 Commission for administration of the Oklahoma Parental Choice Tax
3 Credit Program; and

4 5. Notify the Commission not later than thirty (30) days after
5 the date on which the eligible student:

6 a. enrolls in a public school, including an open-
7 enrollment charter school,

8 b. graduates from high school, or

9 c. is no longer participating in the program for any
10 reason.

11 G. Eligible students may accept a scholarship from the Lindsey
12 Nicole Henry Scholarships for Students with Disabilities Program
13 created by Section 13-101.2 of Title 70 of the Oklahoma Statutes
14 while participating in the Oklahoma Parental Choice Tax Credit
15 Program.

16 H. 1. The Commission shall have the authority to conduct an
17 audit or contract for the auditing of receipts for qualified
18 expenses submitted pursuant to ~~subparagraph b of paragraph 1~~
19 paragraph 3 of subsection C of this section.

20 2. The Commission shall be authorized to recapture the credits
21 otherwise authorized by the provisions of ~~this act~~ the Oklahoma
22 Parental Choice Tax Credit Act on a prorated basis if an audit
23 conducted pursuant to this subsection shows that the credit was
24 claimed for expenditures that were not qualified expenses or it

1 finds that the taxpayer has claimed an eligible student who no
2 longer attends a private school or has enrolled in a public school
3 in the state.

4 3. The Commission shall be authorized to reallocate credits to
5 the next eligible taxpayer in line when a taxpayer, on behalf of an
6 eligible student in the program, chooses not to participate, is no
7 longer eligible to participate, or chooses to forgo participation in
8 the program for any reason.

9 I. In the event of a failure of revenue pursuant to the
10 Oklahoma State Finance Act, the tax credits otherwise authorized in
11 subsection C of this section shall be reduced proportionately to the
12 reduction in the amount of money appropriated to the State Board of
13 Education for the financial support of public schools for the fiscal
14 year in which the failure of revenue occurs.

15 J. The Commission shall make available on its website the
16 amount of credits claimed each tax year pursuant to ~~subparagraphs a~~
17 ~~and b of paragraph 1~~ paragraphs 1 through 4 of subsection C of this
18 section.

19 SECTION 4. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

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Passed the Senate the 14th day of March, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2024.

Presiding Officer of the House
of Representatives