

1 **SENATE FLOOR VERSION**

2 February 8, 2023

3 **AS AMENDED**

4 SENATE BILL NO. 405

5 By: Rader and Bergstrom

6 **[income tax - adjustments - application -**
7 **notification - effective date]**

8
9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2358, as
11 last amended by Section 1, Chapter 377, O.S.L. 2022 (68 O.S. Supp.
12 2022, Section 2358), is amended to read as follows:

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

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

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

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

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

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

16 b. For carryovers and carrybacks to taxable years
17 beginning after December 31, 1980, the amount of any
18 net operating loss deduction allowed for the taxable
19 year shall be an amount equal to the aggregate of the
20 Oklahoma net operating loss carryovers and carrybacks
21 to such year. Oklahoma net operating losses shall be
22 separately determined by reference to Section 172 of
23 the Internal Revenue Code, 26 U.S.C., Section 172, as
24 modified by the Oklahoma Income Tax Act, Section 2351

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

22 4. Items of the following nature shall be allocated as
23 indicated. Allowable deductions attributable to items separately
24 allocable in subparagraphs a, b, and c of this paragraph, whether or

1 not such items of income were actually received, shall be allocated
2 on the same basis as those items:

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

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

13 (1) where such property has acquired a nonunitary
14 business or commercial situs apart from the
15 domicile of the taxpayer such income shall be
16 allocated in accordance with such business or
17 commercial situs; interest income from
18 investments held to generate working capital for
19 a unitary business enterprise shall be included
20 in apportionable income; a resident trust or
21 resident estate shall be treated as having a
22 separate commercial or business situs insofar as
23 undistributed income is concerned, but shall not
24 be treated as having a separate commercial or

1 business situs insofar as distributed income is
2 concerned,

3 (2) for taxable years beginning after December 31,
4 2003, capital or ordinary gains or losses from
5 the sale of an ownership interest in a publicly
6 traded partnership, as defined by Section 7704(b)
7 of the Internal Revenue Code, shall be allocated
8 to this state in the ratio of the original cost
9 of such partnership's tangible property in this
10 state to the original cost of such partnership's
11 tangible property everywhere, as determined at
12 the time of the sale; if more than fifty percent
13 (50%) of the value of the partnership's assets
14 consists of intangible assets, capital or
15 ordinary gains or losses from the sale of an
16 ownership interest in the partnership shall be
17 allocated to this state in accordance with the
18 sales factor of the partnership for its first
19 full tax period immediately preceding its tax
20 period during which the ownership interest in the
21 partnership was sold; the provisions of this
22 division shall only apply if the capital or
23 ordinary gains or losses from the sale of an
24 ownership interest in a partnership do not

1 constitute qualifying gain receiving capital
2 treatment as defined in subparagraph a of
3 paragraph 2 of subsection F of this section,

4 (3) income from such property which is required to be
5 allocated pursuant to the provisions of paragraph
6 5 of this subsection shall be allocated as herein
7 provided;

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

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

16 (1) sales having a situs without this state, shipped
17 directly to a point from without the state to a
18 purchaser within the state, commonly known as
19 interstate sales,

20 (2) sales of the product stored in public warehouses
21 within the state pursuant to "in transit"
22 tariffs, as prescribed and allowed by the
23 Interstate Commerce Commission, to a purchaser
24 within the state, or

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

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

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

22 (1) except as otherwise provided by division (2) of
23 this subparagraph, taxable income of an insurance
24 company for a taxable year shall be apportioned

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

16 (2) if the principal source of premiums written by an
17 insurance company consists of premiums for
18 reinsurance accepted by it, the taxable income of
19 such company shall be apportioned to this state
20 by multiplying such income by a fraction, the
21 numerator of which is the sum of (a) direct
22 premiums written for insurance on property or
23 risks in this state, plus (b) premiums written
24 for reinsurance accepted in respect of property

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

22 5. The net income or loss remaining after the separate
23 allocation in paragraph 4 of this subsection, being that which is
24 derived from a unitary business enterprise, shall be apportioned to

1 this state on the basis of the arithmetical average of three factors
2 consisting of property, payroll, and sales or gross revenue
3 enumerated as subparagraphs a, b, and c of this paragraph. Net
4 income or loss as used in this paragraph includes that derived from
5 patent or copyright royalties, purchase discounts, and interest on
6 accounts receivable relating to or arising from a business activity,
7 the income from which is apportioned pursuant to this subsection,
8 including the sale or other disposition of such property and any
9 other property used in the unitary enterprise. Deductions used in
10 computing such net income or loss shall not include taxes based on
11 or measured by income. Provided, for corporations whose property
12 for purposes of the tax imposed by Section 2355 of this title has an
13 initial investment cost equaling or exceeding Two Hundred Million
14 Dollars (\$200,000,000.00) and such investment is made on or after
15 July 1, 1997, or for corporations which expand their property or
16 facilities in this state and such expansion has an investment cost
17 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
18 over a period not to exceed three (3) years, and such expansion is
19 commenced on or after January 1, 2000, the three factors shall be
20 apportioned with property and payroll, each comprising twenty-five
21 percent (25%) of the apportionment factor and sales comprising fifty
22 percent (50%) of the apportionment factor. The apportionment
23 factors shall be computed as follows:

24

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

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

20 (2) Property owned by the taxpayer is valued at its
21 original cost. Property rented by the taxpayer
22 is valued at eight times the net annual rental
23 rate. Net annual rental rate is the annual
24 rental rate paid by the taxpayer, less any annual

1 rental rate received by the taxpayer from
2 subrentals,

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

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

19 (1) In the case of a transportation enterprise, the
20 numerator of the fraction shall include a portion
21 of such expenditure in connection with employees
22 operating equipment over a fixed route, such as
23 railroad employees, airline pilots, or bus
24 drivers, in this state only a part of the time,

1 in the proportion that mileage traveled in
2 Oklahoma bears to total mileage traveled by such
3 employees,

4 (2) In any case the numerator of the fraction shall
5 include a portion of such expenditures in
6 connection with itinerant employees, such as
7 traveling salespersons, in this state only a part
8 of the time, in the proportion that time spent in
9 Oklahoma bears to total time spent in furtherance
10 of the enterprise by such employees;

11 c. The sales factor is a fraction, the numerator of which
12 is the total sales or gross revenue of the taxpayer in
13 this state during the tax period, and the denominator
14 of which is the total sales or gross revenue of the
15 taxpayer everywhere during the tax period. "Sales",
16 as used in this subsection does not include sales or
17 gross revenue which are separately allocated in
18 paragraph 4 of this subsection.

19 (1) Sales of tangible personal property have a situs
20 in this state if the property is delivered or
21 shipped to a purchaser other than the United
22 States government, within this state regardless
23 of the FOB point or other conditions of the sale;
24 or the property is shipped from an office, store,

1 warehouse, factory, or other place of storage in
2 this state and (a) the purchaser is the United
3 States government or (b) the taxpayer is not
4 doing business in the state of the destination of
5 the shipment.

6 (2) In the case of a railroad or interurban railway
7 enterprise, the numerator of the fraction shall
8 not be less than the allocation of revenues to
9 this state as shown in its annual report to the
10 Corporation Commission.

11 (3) In the case of an airline, truck, or bus
12 enterprise or freight car, tank car, refrigerator
13 car, or other railroad equipment enterprise, the
14 numerator of the fraction shall include a portion
15 of revenue from interstate transportation in the
16 proportion that interstate mileage traveled in
17 Oklahoma bears to total interstate mileage
18 traveled.

19 (4) In the case of an oil, gasoline or gas pipeline
20 enterprise, the numerator of the fraction shall
21 be either the total of traffic units of the
22 enterprise within Oklahoma or the revenue
23 allocated to Oklahoma based upon miles moved, at
24 the option of the taxpayer, and the denominator

1 of which shall be the total of traffic units of
2 the enterprise or the revenue of the enterprise
3 everywhere as appropriate to the numerator. A
4 "traffic unit" is hereby defined as the
5 transportation for a distance of one (1) mile of
6 one (1) barrel of oil, one (1) gallon of
7 gasoline, or one thousand (1,000) cubic feet of
8 natural or casinghead gas, as the case may be.

9 (5) In the case of a telephone or telegraph or other
10 communication enterprise, the numerator of the
11 fraction shall include that portion of the
12 interstate revenue as is allocated pursuant to
13 the accounting procedures prescribed by the
14 Federal Communications Commission; provided that
15 in respect to each corporation or business entity
16 required by the Federal Communications Commission
17 to keep its books and records in accordance with
18 a uniform system of accounts prescribed by such
19 Commission, the intrastate net income shall be
20 determined separately in the manner provided by
21 such uniform system of accounts and only the
22 interstate income shall be subject to allocation
23 pursuant to the provisions of this subsection.
24 Provided further, that the gross revenue factors

1 shall be those as are determined pursuant to the
2 accounting procedures prescribed by the Federal
3 Communications Commission.

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

1 6. For calendar years 1997 and 1998, the owner of a new or
2 expanded agricultural commodity processing facility in this state
3 may exclude from Oklahoma taxable income, or in the case of an
4 individual, the Oklahoma adjusted gross income, fifteen percent
5 (15%) of the investment by the owner in the new or expanded
6 agricultural commodity processing facility. For calendar year 1999,
7 and all subsequent years, the percentage, not to exceed fifteen
8 percent (15%), available to the owner of a new or expanded
9 agricultural commodity processing facility in this state claiming
10 the exemption shall be adjusted annually so that the total estimated
11 reduction in tax liability does not exceed One Million Dollars
12 (\$1,000,000.00) annually. The Tax Commission shall promulgate rules
13 for determining the percentage of the investment which each eligible
14 taxpayer may exclude. The exclusion provided by this paragraph
15 shall be taken in the taxable year when the investment is made. In
16 the event the total reduction in tax liability authorized by this
17 paragraph exceeds One Million Dollars (\$1,000,000.00) in any
18 calendar year, the Tax Commission shall permit any excess over One
19 Million Dollars (\$1,000,000.00) and shall factor such excess into
20 the percentage for subsequent years. Any amount of the exemption
21 permitted to be excluded pursuant to the provisions of this
22 paragraph but not used in any year may be carried forward as an
23 exemption from income pursuant to the provisions of this paragraph

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1 for a period not exceeding six (6) years following the year in which
2 the investment was originally made.

3 For purposes of this paragraph:

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

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

18 (1) the processing of agricultural commodities,
19 including receiving or storing agricultural
20 commodities, or the production of milk at a dairy
21 operation,

22 (2) transporting the agricultural commodities or
23 product before, during, or after the processing,
24 or

1 (3) packaging or otherwise preparing the product for
2 sale or shipment.

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

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

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

15 8. In taxable years beginning after December 31, 1995, all
16 qualified wages equal to the federal income tax credit set forth in
17 26 U.S.C.A., Section 45A, shall be deducted from taxable income.
18 The deduction allowed pursuant to this paragraph shall only be
19 permitted for the tax years in which the federal tax credit pursuant
20 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
21 paragraph, "qualified wages" means those wages used to calculate the
22 federal credit pursuant to 26 U.S.C.A., Section 45A.

23 9. In taxable years beginning after December 31, 2005, an
24 employer that is eligible for and utilizes the Safety Pays OSHA

1 Consultation Service provided by the ~~Oklahoma~~ Department of Labor
2 shall receive an exemption from taxable income in the amount of One
3 Thousand Dollars (\$1,000.00) for the tax year that the service is
4 utilized.

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

15 11. For taxable years beginning on or after January 1, 2019,
16 there shall be subtracted from Oklahoma taxable income or adjusted
17 gross income any item of income or gain, and there shall be added to
18 Oklahoma taxable income or adjusted gross income any item of loss or
19 deduction that in the absence of an election pursuant to the
20 provisions of the Pass-Through Entity Tax Equity Act of 2019 would
21 be allocated to a member or to an indirect member of an electing
22 pass-through entity pursuant to Section 2351 et seq. of this title,
23 if (i) the electing pass-through entity has accounted for such item
24 in computing its Oklahoma net entity income or loss pursuant to the

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

13 B. 1. The taxable income of any corporation shall be further
14 adjusted to arrive at Oklahoma taxable income, except those
15 corporations electing treatment as provided in subchapter S of the
16 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
17 2365 of this title, deductions pursuant to the provisions of the
18 Accelerated Cost Recovery System as defined and allowed in the
19 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
20 Section 168, for depreciation of assets placed into service after
21 December 31, 1981, shall not be allowed in calculating Oklahoma
22 taxable income. Such corporations shall be allowed a deduction for
23 depreciation of assets placed into service after December 31, 1981,
24 in accordance with provisions of the Internal Revenue Code, 26

1 U.S.C., Section 1 et seq., in effect immediately prior to the
2 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
3 basis for all such assets placed into service after December 31,
4 1981, calculated in this section shall be retained and utilized for
5 all Oklahoma income tax purposes through the final disposition of
6 such assets.

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

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

20 2. For tax years beginning on or after January 1, 2009, and
21 ending on or before December 31, 2009, there shall be added to
22 Oklahoma taxable income any amount in excess of One Hundred Seventy-
23 five Thousand Dollars (\$175,000.00) which has been deducted as a
24

1 small business expense under Internal Revenue Code, Section 179 as
2 provided in the American Recovery and Reinvestment Act of 2009.

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

17 2. For tax year 2024 and subsequent tax years, to be eligible
18 for the exemption provided in this subsection, corporations shall
19 annually apply to the Oklahoma Department of Commerce on a form
20 prescribed by the Department. The form prescribed shall require
21 information from the corporation including:

22 a. gross proceeds generated from assets and employees in
23 this state for the previous tax year,

- 1 b. employment levels and total annual payroll in this
2 state for the previous tax year,
- 3 c. for corporations applying to receive a first tax year
4 exemption pursuant to this subsection, an estimated
5 amount of exemption that will be claimed, and
- 6 d. for corporations applying to receive subsequent tax
7 year exemptions pursuant to this subsection, the
8 amount of exemption claimed in the previous tax year.

9 The Department shall determine if the corporation has provided the
10 required information in the application and is therefore eligible to
11 claim the exemption provided in this subsection. The Department
12 shall, upon an affirmative determination, notify the Tax Commission
13 that the corporation has met the application requirements of this
14 paragraph. The Department shall notify the Commission of all
15 eligible applicants by the end of the tax year. The Department
16 shall establish an annual application deadline that provides the
17 Department sufficient time to determine an applicant's eligibility
18 and provide the required notification.

19 3. For purposes of this subsection:

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

- 1 (1) ~~Capitalization~~ capitalization of not more than
2 Two Hundred Fifty Thousand Dollars (\$250,000.00),
3 (2) ~~Having~~ having at least fifty percent (50%) of its
4 employees and assets located in ~~Oklahoma~~ this
5 state at the time of the transfer, and
6 (3) ~~Not~~ not a subsidiary or affiliate of the
7 transferor corporation;

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

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

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

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

1 trust during the taxable year and included in the federal taxable
2 income of such corporation, estate, or trust.

3 2. As used in this subsection:

4 a. "qualifying gains receiving capital treatment" means
5 the amount of net capital gains, as defined in Section
6 1222(11) of the Internal Revenue Code, included in the
7 federal income tax return of the corporation, estate,
8 or trust that result from:

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

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

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

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

18 c. "Oklahoma company", "limited liability company", or
19 "partnership" means an entity whose primary
20 headquarters have been located in Oklahoma for at
21 least three (3) uninterrupted years prior to the date
22 of the transaction from which the net capital gains
23 arise,
24

1 d. "direct" means the taxpayer directly owns the asset,
2 and

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

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

20 (2) With respect to sales of stock or ownership
21 interest in or sales of all or substantially all
22 of the assets of an Oklahoma company, limited
23 liability company, or partnership, the deduction
24 described in this subsection shall not apply

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

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

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

19 b. There shall be allowed an additional exemption of One
20 Thousand Dollars (\$1,000.00) for each taxpayer or
21 spouse who is blind at the close of the tax year. For
22 purposes of this subparagraph, an individual is blind
23 only if the central visual acuity of the individual
24 does not exceed 20/200 in the better eye with

1 correcting lenses, or if the visual acuity of the
2 individual is greater than 20/200, but is accompanied
3 by a limitation in the fields of vision such that the
4 widest diameter of the visual field subtends an angle
5 no greater than twenty (20) degrees.

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

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

22 Provided, for taxable years beginning after December
23 31, 1999, amounts included in the calculation of
24 federal adjusted gross income pursuant to the

1 conversion of a traditional individual retirement
2 account to a Roth individual retirement account shall
3 be excluded from federal adjusted gross income for
4 purposes of the income thresholds provided in this
5 subparagraph.

6 2. a. For taxable years beginning on or before December 31,
7 2005, in the case of individuals who use the standard
8 deduction in determining taxable income, there shall
9 be added or deducted, as the case may be, the
10 difference necessary to allow a standard deduction in
11 lieu of the standard deduction allowed by the Internal
12 Revenue Code, in an amount equal to the larger of
13 fifteen percent (15%) of the Oklahoma adjusted gross
14 income or One Thousand Dollars (\$1,000.00), but not to
15 exceed Two Thousand Dollars (\$2,000.00), except that
16 in the case of a married individual filing a separate
17 return such deduction shall be the larger of fifteen
18 percent (15%) of such Oklahoma adjusted gross income
19 or Five Hundred Dollars (\$500.00), but not to exceed
20 the maximum amount of One Thousand Dollars
21 (\$1,000.00).

22 b. For taxable years beginning on or after January 1,
23 2006, and before January 1, 2007, in the case of
24 individuals who use the standard deduction in

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

6 (1) Three Thousand Dollars (\$3,000.00), if the filing
7 status is married filing joint, head of
8 household, or qualifying widow~~+~~+ or

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

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

18 (1) Five Thousand Five Hundred Dollars (\$5,500.00),
19 if the filing status is married filing joint or
20 qualifying widow~~+~~+

21 (2) Four Thousand One Hundred Twenty-five Dollars
22 (\$4,125.00) for a head of household~~+~~+ or
23
24

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

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

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

14 (2) Four Thousand Eight Hundred Seventy-five Dollars
15 (\$4,875.00) for a head of household, or

16 (3) Three Thousand Two Hundred Fifty Dollars
17 (\$3,250.00), if the filing status is single or
18 married filing separate.

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

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

- 3 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),
4 if the filing status is married filing joint or
5 qualifying widow, ~~or~~
6 (2) Six Thousand Three Hundred Seventy-five Dollars
7 (\$6,375.00) for a head of household, or
8 (3) Four Thousand Two Hundred Fifty Dollars
9 (\$4,250.00), if the filing status is single or
10 married filing separate.

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

- 14 f. For taxable years beginning on or after January 1,
15 2010, and ending on December 31, 2016, in the case of
16 individuals who use the standard deduction in
17 determining taxable income, there shall be added or
18 deducted, as the case may be, the difference necessary
19 to allow a standard deduction equal to the standard
20 deduction allowed by the Internal Revenue Code, based
21 upon the amount and filing status prescribed by such
22 Code for purposes of filing federal individual income
23 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 and
3 no part of moving expense shall be deductible for
4 those taxpayers moving without or out of Oklahoma.
5 All other itemized or standard deductions and personal
6 exemptions shall be subject to proration as provided
7 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
22 or 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~~7~~L

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

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

23 Provided, that the Tax Commission may, in its discretion, grant
24 any member of the Armed Forces of the United States an extension of

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

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

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

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

1 paragraph shall be prorated on the ratio of the
2 Oklahoma adjusted gross income to federal adjusted
3 gross income.

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

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

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

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

13 9. In taxable years beginning after December 31, 1984, Social
14 Security benefits received by an individual shall be exempt from
15 taxable income, to the extent such benefits are included in the
16 federal adjusted gross income pursuant to the provisions of Section
17 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

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

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

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

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 shall not include attorney fees incurred for the
5 purpose of litigating a contested adoption, from and
6 after the point of the initiation of the contest,
7 costs associated with physical remodeling, renovation
8 and alteration of the adoptive parents' home or
9 property, except for a special needs child as
10 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 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 F. 1. For taxable years beginning after December 31, 2004, a
6 deduction from the Oklahoma adjusted gross income of any individual
7 taxpayer shall be allowed for qualifying gains receiving capital
8 treatment that are included in the federal adjusted gross income of
9 such individual taxpayer during the taxable year.

10 2. As used in this subsection:

11 a. "qualifying gains receiving capital treatment" means
12 the amount of net capital gains, as defined in Section
13 1222(11) of the Internal Revenue Code, included in an
14 individual taxpayer's federal income tax return that
15 result from:

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

22 (2) the sale of stock or the sale of a direct or
23 indirect ownership interest in an Oklahoma
24 company, limited liability company, or

1 partnership where such stock or ownership
2 interest has been directly or indirectly owned by
3 the individual taxpayer for a holding period of
4 at least two (2) years prior to the date of the
5 transaction from which the net capital gains
6 arise, ~~or~~

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

20 b. "holding period" means an uninterrupted period of
21 time. The holding period shall include any additional
22 period when the property was held by another
23 individual or entity, if such additional period is
24

1 included in the taxpayer's holding period for the
2 asset pursuant to the Internal Revenue Code,

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

9 d. "direct" means the individual taxpayer directly owns
10 the asset,

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

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

1 pass-through entity in the tier immediately below
2 it for an uninterrupted period of not less than
3 five (5) years.

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

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

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

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

21 a. the term "real estate investment trust" or "REIT"
22 means the meaning ascribed to such term in Section 856
23 of the Internal Revenue Code,
24

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

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

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

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

- 22 (1) any real estate investment trust as defined in
23 paragraph a of this subsection other than a
24 "captive real estate investment trust", ~~or~~

1 (2) any qualified real estate investment trust
2 subsidiary under Section 856(i) of the Internal
3 Revenue Code, other than a qualified REIT
4 subsidiary of a ~~"captive~~ captive real estate
5 investment ~~trust", or trust,~~

6 (3) any Listed Australian Property Trust (meaning an
7 Australian unit trust registered as a "Managed
8 Investment Scheme" under the Australian
9 Corporations Act in which the principal class of
10 units is listed on a recognized stock exchange in
11 Australia and is regularly traded on an
12 established securities market), or an entity
13 organized as a trust, provided that a Listed
14 Australian Property Trust owns or controls,
15 directly or indirectly, seventy-five percent
16 (75%) or more of the voting power or value of the
17 beneficial interests or shares of such trust, or

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

22 (a) at least seventy-five percent (75%) of the
23 entity's total asset value at the close of
24 its taxable year is represented by real

1 estate assets, as defined in Section
2 856(c)(5)(B) of the Internal Revenue Code,
3 thereby including shares or certificates of
4 beneficial interest in any real estate
5 investment trust, cash and cash equivalents,
6 and U.S. Government securities,

7 (b) the entity receives a dividend-paid
8 deduction comparable to Section 561 of the
9 Internal Revenue Code, or is exempt from
10 entity level tax,

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

17 (d) not more than ten percent (10%) of the
18 voting power or value in such entity is held
19 directly or indirectly or constructively by
20 a single entity or individual, or the shares
21 or beneficial interests of such entity are
22 regularly traded on an established
23 securities market, and
24

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

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

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

22 SECTION 2. This act shall become effective November 1, 2023.

23 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
24 February 8, 2023 - DO PASS AS AMENDED