

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1350

By: Bergstrom

AS INTRODUCED

An Act relating to income tax; amending Section 2, Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023, Section 28-101), which relates to parental choice tax credits; prohibiting the use of tax credit to offset certain accrued liabilities; updating statutory reference; amending 68 O.S. 2021, Section 2358, as last amended by Section 1, Chapter 377, O.S.L. 2022 (68 O.S. Supp. 2023, Section 2358), which relates to adjustments to arrive at taxable income; providing exemption for certain tax credits received; updating statutory language; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 2, Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023, Section 28-101), is amended to read as follows:

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

1. "Commission" means the Oklahoma Tax Commission;

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

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

2 4. "Education service provider" means a person, business,
3 public school district, public charter school, magnet school, or
4 organization that provides educational goods and/or services to
5 eligible students;

6 5. "Eligible student" means a resident of this state who is
7 eligible to enroll in a public school in this state. Eligible
8 student shall include a student who is enrolled in and attends a
9 private school accredited by the State Board of Education or another
10 accrediting association or a student who is educated pursuant to the
11 other means of education exception provided for in subsection A of
12 Section 10-105 of Title 70 of the Oklahoma Statutes;

13 6. "Qualified expense" for the purpose of claiming the credit
14 authorized by subparagraph a of paragraph 1 of subsection C of this
15 section means tuition and fees at a private school accredited by the
16 State Board of Education or another accrediting association;

17 7. "Qualified expense" for the purpose of claiming the credit
18 authorized by subparagraph b of paragraph 1 of subsection C of this
19 section means the following expenditures:

20 a. tuition and fees for nonpublic online learning
21 programs,

22 b. academic tutoring services provided by an individual
23 or a private academic tutoring facility,
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- c. textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider, and
- d. fees for nationally standardized assessments including, but not limited to, assessments used to determine college admission and advanced placement examinations as well as tuition and fees for tutoring or preparatory courses for the assessments; and

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

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

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

1. If the eligible student attends a private school accredited by the State Board of Education or another accrediting association, the maximum credit amount shall be:

- 1 a. (1) Seven Thousand Five Hundred Dollars (\$7,500.00)
2 or the amount of tuition and fees for the private
3 school, whichever is less, if the eligible
4 student is a member of a household in which the
5 total adjusted gross income during the second
6 preceding tax year does not exceed Seventy-five
7 Thousand Dollars (\$75,000.00),
8 (2) Seven Thousand Dollars (\$7,000.00) or the amount
9 of tuition and fees for the private school,
10 whichever is less, if the eligible student is a
11 member of a household in which the total adjusted
12 gross income during the second preceding tax year
13 is more than Seventy-five Thousand Dollars
14 (\$75,000.00) but does not exceed One Hundred
15 Fifty Thousand Dollars (\$150,000.00),
16 (3) Six Thousand Five Hundred Dollars (\$6,500.00) or
17 the amount of tuition and fees for the private
18 school, whichever is less, if the eligible
19 student is a member of a household in which the
20 total adjusted gross income during the second
21 preceding tax year is more than One Hundred Fifty
22 Thousand Dollars (\$150,000.00) but does not
23 exceed Two Hundred Twenty-five Thousand Dollars
24 (\$225,000.00),
25

1 (4) Six Thousand Dollars (\$6,000.00) or the amount of
2 tuition and fees for the private school,
3 whichever is less, if the eligible student is a
4 member of a household in which the total adjusted
5 gross income during the second preceding tax year
6 is more than Two Hundred Twenty-five Thousand
7 Dollars (\$225,000.00) but does not exceed Two
8 Hundred Fifty Thousand Dollars (\$250,000.00), or

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

16 b. One Thousand Dollars (\$1,000.00) in qualified expenses
17 per eligible student in each tax year if the eligible
18 student is educated pursuant to the other means of
19 education exception provided for in subsection A of
20 Section 10-105 of Title 70 of the Oklahoma Statutes.
21 To claim the credit, the taxpayer shall submit to the
22 Commission receipts for qualified expenses as defined
23 by paragraph 7 of subsection A of this section;
24

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

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

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

9 a. delinquent tax liability,

10 b. accrued penalty or interest from the failure to file a
11 report or return,

12 c. accrued penalty or interest from the failure to pay a
13 state tax within the statutory period allowed for its
14 payment, or

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

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

20 b. For tax year 2025, the total amount of credits
21 authorized by subparagraph a of paragraph 1 of
22 subsection C of this section shall not exceed Two
23 Hundred Million Dollars (\$200,000,000.00).

1 c. For tax year 2026, and subsequent tax years, the total
2 amount of credits authorized by subparagraph a of
3 paragraph 1 of subsection C of this section shall not
4 exceed Two Hundred Fifty Million Dollars
5 (\$250,000,000.00).

6 2. For tax year 2025, and subsequent tax years, the total
7 amount of credits authorized by subparagraph b of paragraph 1 of
8 subsection C of this section shall not exceed Five Million Dollars
9 (\$5,000,000.00).

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

1 tuition and fees to be charged the taxpayer for the applicable
2 school year. In reviewing applications submitted by eligible
3 taxpayers to determine whether they qualify for a credit authorized
4 by subparagraph a of paragraph 1 of subsection C of this section,
5 the Commission shall give first preference in making installments to
6 taxpayers who qualify pursuant to divisions (1) and (2) of
7 subparagraph a of paragraph 1 of subsection C of this section. The
8 Commission shall make the installments based on the expected amount
9 of tuition and fee amounts on the affidavit submitted pursuant to
10 this subsection.

11 F. Taxpayers claiming the credit shall:

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

15 2. Ensure no other person is claiming a credit for the eligible
16 student;

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

20 4. Comply with rules and requirements established by the
21 Commission for administration of the Oklahoma Parental Choice Tax
22 Credit Program.

23 G. Eligible students may accept a scholarship from the Lindsey
24 Nicole Henry Scholarships for Students with Disabilities Program

1 created by Section 13-101.2 of Title 70 of the Oklahoma Statutes
2 while participating in the Oklahoma Parental Choice Tax Credit
3 Program.

4 H. 1. The Commission shall have the authority to conduct an
5 audit or contract for the auditing of receipts for qualified
6 expenses submitted pursuant to subparagraph b of paragraph 1 of
7 subsection C of this section.

8 2. The Commission shall be authorized to recapture the credits
9 otherwise authorized by the provisions of ~~this act~~ the Oklahoma
10 Parental Choice Tax Credit Act on a prorated basis if an audit
11 conducted pursuant to this subsection shows that the credit was
12 claimed for expenditures that were not qualified expenses or it
13 finds that the taxpayer has claimed an eligible student who no
14 longer attends a private school or has enrolled in a public school
15 in the state.

16 I. In the event of a failure of revenue pursuant to the
17 Oklahoma State Finance Act, the tax credits otherwise authorized in
18 subsection C of this section shall be reduced proportionately to the
19 reduction in the amount of money appropriated to the State Board of
20 Education for the financial support of public schools for the fiscal
21 year in which the failure of revenue occurs.

22 J. The Commission shall make available on its website the
23 amount of credits claimed each tax year pursuant to subparagraphs a
24 and b of paragraph 1 of subsection C of this section.

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

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

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

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

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

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

a. For carryovers and carrybacks to taxable years beginning before January 1, 1981, the amount of any net operating loss deduction allowed to a taxpayer for

1 federal income tax purposes shall be reduced to an
2 amount which is the same portion thereof as the loss
3 from sources within this state, as determined pursuant
4 to this section and Section 2362 of this title, for
5 the taxable year in which such loss is sustained is of
6 the total loss for such year;

- 7 b. For carryovers and carrybacks to taxable years
8 beginning after December 31, 1980, the amount of any
9 net operating loss deduction allowed for the taxable
10 year shall be an amount equal to the aggregate of the
11 Oklahoma net operating loss carryovers and carrybacks
12 to such year. Oklahoma net operating losses shall be
13 separately determined by reference to Section 172 of
14 the Internal Revenue Code, 26 U.S.C., Section 172, as
15 modified by the Oklahoma Income Tax Act, Section 2351
16 et seq. of this title, and shall be allowed without
17 regard to the existence of a federal net operating
18 loss. For tax years beginning after December 31,
19 2000, and ending before January 1, 2008, the years to
20 which such losses may be carried shall be determined
21 solely by reference to Section 172 of the Internal
22 Revenue Code, 26 U.S.C., Section 172, with the
23 exception that the terms "net operating loss" and
24 "taxable income" shall be replaced with "Oklahoma net

1 operating loss" and "Oklahoma taxable income". For
2 tax years beginning after December 31, 2007, and
3 ending before January 1, 2009, years to which such
4 losses may be carried back shall be limited to two (2)
5 years. For tax years beginning after December 31,
6 2008, the years to which such losses may be carried
7 back shall be determined solely by reference to
8 Section 172 of the Internal Revenue Code, 26 U.S.C.,
9 Section 172, with the exception that the terms "net
10 operating loss" and "taxable income" shall be replaced
11 with "Oklahoma net operating loss" and "Oklahoma
12 taxable income".

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

18 a. Income from real and tangible personal property, such
19 as rents, oil and mining production or royalties, and
20 gains or losses from sales of such property, shall be
21 allocated in accordance with the situs of such
22 property;

23 b. Income from intangible personal property, such as
24 interest, dividends, patent or copyright royalties,

1 and gains or losses from sales of such property, shall
2 be allocated in accordance with the domiciliary situs
3 of the taxpayer, except that:

4 (1) where such property has acquired a nonunitary
5 business or commercial situs apart from the
6 domicile of the taxpayer such income shall be
7 allocated in accordance with such business or
8 commercial situs; interest income from
9 investments held to generate working capital for
10 a unitary business enterprise shall be included
11 in apportionable income; a resident trust or
12 resident estate shall be treated as having a
13 separate commercial or business situs insofar as
14 undistributed income is concerned, but shall not
15 be treated as having a separate commercial or
16 business situs insofar as distributed income is
17 concerned,

18 (2) for taxable years beginning after December 31,
19 2003, capital or ordinary gains or losses from
20 the sale of an ownership interest in a publicly
21 traded partnership, as defined by Section 7704(b)
22 of the Internal Revenue Code, shall be allocated
23 to this state in the ratio of the original cost
24 of such partnership's tangible property in this
25

1 state to the original cost of such partnership's
2 tangible property everywhere, as determined at
3 the time of the sale; if more than fifty percent
4 (50%) of the value of the partnership's assets
5 consists of intangible assets, capital or
6 ordinary gains or losses from the sale of an
7 ownership interest in the partnership shall be
8 allocated to this state in accordance with the
9 sales factor of the partnership for its first
10 full tax period immediately preceding its tax
11 period during which the ownership interest in the
12 partnership was sold; the provisions of this
13 division shall only apply if the capital or
14 ordinary gains or losses from the sale of an
15 ownership interest in a partnership do not
16 constitute qualifying gain receiving capital
17 treatment as defined in subparagraph a of
18 paragraph 2 of subsection F of this section,

19 (3) income from such property which is required to be
20 allocated pursuant to the provisions of paragraph
21 5 of this subsection shall be allocated as herein
22 provided;

23 c. Net income or loss from a business activity which is
24 not a part of business carried on within or without

1 the state of a unitary character shall be separately
2 allocated to the state in which such activity is
3 conducted;

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

7 (1) sales having a situs without this state, shipped
8 directly to a point from without the state to a
9 purchaser within the state, commonly known as
10 interstate sales,

11 (2) sales of the product stored in public warehouses
12 within the state pursuant to "in transit"
13 tariffs, as prescribed and allowed by the
14 Interstate Commerce Commission, to a purchaser
15 within the state,

16 (3) sales of the product stored in public warehouses
17 within the state where the shipment to such
18 warehouses is not covered by "in transit"
19 tariffs, as prescribed and allowed by the
20 Interstate Commerce Commission, to a purchaser
21 within or without the state,

22 the Oklahoma net income shall, at the option of the
23 taxpayer, be that portion of the total net income of
24 the taxpayer for federal income tax purposes derived
25

1 from the manufacture and/or processing and sales
2 everywhere as determined by the ratio of the sales
3 defined in this section made to the purchaser within
4 the state to the total sales everywhere. The term
5 "public warehouse" as used in this subparagraph means
6 a licensed public warehouse, the principal business of
7 which is warehousing merchandise for the public;

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

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

1 considerations as reported for the taxable year
2 on the annual statement filed by the company with
3 the Insurance Commissioner in the form approved
4 by the National Association of Insurance
5 Commissioners, or such other form as may be
6 prescribed in lieu thereof,

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

1 election of the company be determined on the
2 basis of the proportion which premiums written
3 for insurance accepted from companies
4 commercially domiciled in ~~Oklahoma~~ this state
5 bears to premiums written for reinsurance
6 accepted from all sources, or alternatively in
7 the proportion which the sum of the direct
8 premiums written for insurance on property or
9 risks in this state by each ceding company from
10 which reinsurance is accepted bears to the sum of
11 the total direct premiums written by each such
12 ceding company for the taxable year.

13 5. The net income or loss remaining after the separate
14 allocation in paragraph 4 of this subsection, being that which is
15 derived from a unitary business enterprise, shall be apportioned to
16 this state on the basis of the arithmetical average of three factors
17 consisting of property, payroll and sales or gross revenue
18 enumerated as subparagraphs a, b and c of this paragraph. Net
19 income or loss as used in this paragraph includes that derived from
20 patent or copyright royalties, purchase discounts, and interest on
21 accounts receivable relating to or arising from a business activity,
22 the income from which is apportioned pursuant to this subsection,
23 including the sale or other disposition of such property and any
24 other property used in the unitary enterprise. Deductions used in

1 computing such net income or loss shall not include taxes based on
2 or measured by income. Provided, for corporations whose property
3 for purposes of the tax imposed by Section 2355 of this title has an
4 initial investment cost equaling or exceeding Two Hundred Million
5 Dollars (\$200,000,000.00) and such investment is made on or after
6 July 1, 1997, or for corporations which expand their property or
7 facilities in this state and such expansion has an investment cost
8 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
9 over a period not to exceed three (3) years, and such expansion is
10 commenced on or after January 1, 2000, the three factors shall be
11 apportioned with property and payroll, each comprising twenty-five
12 percent (25%) of the apportionment factor and sales comprising fifty
13 percent (50%) of the apportionment factor. The apportionment
14 factors shall be computed as follows:

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

22 (1) Property, the income from which is separately
23 allocated in paragraph 4 of this subsection,
24 shall not be included in determining this

1 fraction. The numerator of the fraction shall
2 include a portion of the investment in
3 transportation and other equipment having no
4 fixed situs, such as rolling stock, buses, trucks
5 and trailers, including machinery and equipment
6 carried thereon, airplanes, salespersons'
7 automobiles and other similar equipment, in the
8 proportion that miles traveled in ~~Oklahoma~~ this
9 state by such equipment bears to total miles
10 traveled,

11 (2) Property owned by the taxpayer is valued at its
12 original cost. Property rented by the taxpayer
13 is valued at eight times the net annual rental
14 rate. Net annual rental rate is the annual
15 rental rate paid by the taxpayer, less any annual
16 rental rate received by the taxpayer from
17 subrentals,

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

1 b. The payroll factor is a fraction, the numerator of
2 which is the total compensation for services rendered
3 in the state during the tax period, and the
4 denominator of which is the total compensation for
5 services rendered everywhere during the tax period.
6 "Compensation", as used in this subsection, means
7 those paid-for services to the extent related to the
8 unitary business but does not include officers'
9 salaries, wages and other compensation.

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

19 (2) In any case the numerator of the fraction shall
20 include a portion of such expenditures in
21 connection with itinerant employees, such as
22 traveling salespersons, in this state only a part
23 of the time, in the proportion that time spent in
24

1 ~~Oklahoma~~ this state bears to total time spent in
2 furtherance of the enterprise by such employees;

3 c. The sales factor is a fraction, the numerator of which
4 is the total sales or gross revenue of the taxpayer in
5 this state during the tax period, and the denominator
6 of which is the total sales or gross revenue of the
7 taxpayer everywhere during the tax period. "Sales",
8 as used in this subsection, does not include sales or
9 gross revenue which are separately allocated in
10 paragraph 4 of this subsection.

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

22 (2) In the case of a railroad or interurban railway
23 enterprise, the numerator of the fraction shall
24 not be less than the allocation of revenues to
25

1 this state as shown in its annual report to the
2 Corporation Commission.

3 (3) In the case of an airline, truck or bus
4 enterprise or freight car, tank car, refrigerator
5 car or other railroad equipment enterprise, the
6 numerator of the fraction shall include a portion
7 of revenue from interstate transportation in the
8 proportion that interstate mileage traveled in
9 ~~Oklahoma~~ this state bears to total interstate
10 mileage traveled.

11 (4) In the case of an oil, gasoline or gas pipeline
12 enterprise, the numerator of the fraction shall
13 be either the total of traffic units of the
14 enterprise within ~~Oklahoma~~ this state or the
15 revenue allocated to ~~Oklahoma~~ this state based
16 upon miles moved, at the option of the taxpayer,
17 and the denominator of which shall be the total
18 of traffic units of the enterprise or the revenue
19 of the enterprise everywhere as appropriate to
20 the numerator. A "traffic unit" is hereby
21 defined as the transportation for a distance of
22 one (1) mile of one (1) barrel of oil, one (1)
23 gallon of gasoline or one thousand (1,000) cubic
24

1 feet of natural or casinghead gas, as the case
2 may be.

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

22 In any case where the apportionment of the three factors
23 prescribed in this paragraph attributes to ~~Oklahoma~~ this state a
24 portion of net income of the enterprise out of all appropriate

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

19 6. For calendar years 1997 and 1998, the owner of a new or
20 expanded agricultural commodity processing facility in this state
21 may exclude from Oklahoma taxable income, or in the case of an
22 individual, the Oklahoma adjusted gross income, fifteen percent
23 (15%) of the investment by the owner in the new or expanded
24 agricultural commodity processing facility. For calendar year 1999,

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

20 For purposes of this paragraph:

- 21 a. "Agricultural commodity processing facility" means
22 ~~building~~ buildings, structures, fixtures and
23 improvements used or operated primarily for the
24 processing or production of marketable products from
25

1 agricultural commodities. The term shall also mean a
2 dairy operation that requires a depreciable investment
3 of at least Two Hundred Fifty Thousand Dollars
4 (\$250,000.00) and which produces milk from dairy cows.
5 The term does not include a facility that provides
6 only, and nothing more than, storage, cleaning, drying
7 or transportation of agricultural commodities, and
8 b. "Facility" means each part of the facility which is
9 used in a process primarily for:
10 (1) the processing of agricultural commodities,
11 including receiving or storing agricultural
12 commodities, or the production of milk at a dairy
13 operation,
14 (2) transporting the agricultural commodities or
15 product before, during or after the processing,
16 or
17 (3) packaging or otherwise preparing the product for
18 sale or shipment.

19 7. Despite any provision to the contrary in paragraph 3 of this
20 subsection, for taxable years beginning after December 31, 1999, in
21 the case of a taxpayer which has a farming loss, such farming loss
22 shall be considered a net operating loss carryback in accordance
23 with and to the extent of the Internal Revenue Code, 26 U.S.C.,
24

1 Section 172(b)(G). However, the amount of the net operating loss
2 carryback shall not exceed the lesser of:

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

8 8. In taxable years beginning after December 31, 1995, all
9 qualified wages equal to the federal income tax credit set forth in
10 26 U.S.C.A., Section 45A, shall be deducted from taxable income.
11 The deduction allowed pursuant to this paragraph shall only be
12 permitted for the tax years in which the federal tax credit pursuant
13 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
14 paragraph, "qualified wages" means those wages used to calculate the
15 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

22 10. For taxable years beginning on or after January 1, 2010,
23 there shall be added to Oklahoma taxable income an amount equal to
24 the amount of deferred income not included in such taxable income
25

1 pursuant to Section 108(i)(1) of the Internal Revenue Code of 1986
2 as amended by Section 1231 of the American Recovery and Reinvestment
3 Act of 2009 (P.L. No. 111-5). There shall be subtracted from
4 Oklahoma taxable income an amount equal to the amount of deferred
5 income included in such taxable income pursuant to Section 108(i)(1)
6 of the Internal Revenue Code by Section 1231 of the American
7 Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

8 11. For taxable years beginning on or after January 1, 2019,
9 there shall be subtracted from Oklahoma taxable income or adjusted
10 gross income any item of income or gain, and there shall be added to
11 Oklahoma taxable income or adjusted gross income any item of loss or
12 deduction that in the absence of an election pursuant to the
13 provisions of the Pass-Through Entity Tax Equity Act of 2019 would
14 be allocated to a member or to an indirect member of an electing
15 pass-through entity pursuant to Section 2351 et seq. of this title,
16 if (i) the electing pass-through entity has accounted for such item
17 in computing its Oklahoma net entity income or loss pursuant to the
18 provisions of the Pass-Through Entity Tax Equity Act of 2019, and
19 (ii) the total amount of tax attributable to any resulting Oklahoma
20 net entity income has been paid. The Oklahoma Tax Commission shall
21 promulgate rules for the reporting of such exclusion to direct and
22 indirect members of the electing pass-through entity. As used in
23 this paragraph, "electing pass-through entity", "indirect member",
24 and "member" shall be defined in the same manner as prescribed by

1 Section 2355.1P-2 of this title. Notwithstanding the application of
2 this paragraph, the adjusted tax basis of any ownership interest in
3 a pass-through entity for purposes of Section 2351 et seq. of this
4 title shall be equal to its adjusted tax basis for federal income
5 tax purposes.

6 B. 1. The taxable income of any corporation shall be further
7 adjusted to arrive at Oklahoma taxable income, except those
8 corporations electing treatment as provided in subchapter S of the
9 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
10 2365 of this title, deductions pursuant to the provisions of the
11 Accelerated Cost Recovery System as defined and allowed in the
12 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
13 Section 168, for depreciation of assets placed into service after
14 December 31, 1981, shall not be allowed in calculating Oklahoma
15 taxable income. Such corporations shall be allowed a deduction for
16 depreciation of assets placed into service after December 31, 1981,
17 in accordance with provisions of the Internal Revenue Code, 26
18 U.S.C., Section 1 et seq., in effect immediately prior to the
19 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
20 basis for all such assets placed into service after December 31,
21 1981, calculated in this section shall be retained and utilized for
22 all Oklahoma income tax purposes through the final disposition of
23 such assets.
24

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

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

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

21 C. 1. For taxable years beginning after December 31, 1987, the
22 taxable income of any corporation shall be further adjusted to
23 arrive at Oklahoma taxable income for transfers of technology to
24 qualified small businesses located in ~~Oklahoma~~ this state. Such

1 transferor corporation shall be allowed an exemption from taxable
2 income of an amount equal to the amount of royalty payment received
3 as a result of such transfer; provided, however, such amount shall
4 not exceed ten percent (10%) of the amount of gross proceeds
5 received by such transferor corporation as a result of the
6 technology transfer. Such exemption shall be allowed for a period
7 not to exceed ten (10) years from the date of receipt of the first
8 royalty payment accruing from such transfer. No exemption may be
9 claimed for transfers of technology to qualified small businesses
10 made prior to January 1, 1988.

11 2. For purposes of this subsection:

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

- 17 (1) Capitalization of not more than Two Hundred Fifty
18 Thousand Dollars (\$250,000.00),
19 (2) Having at least fifty percent (50%) of its
20 employees and assets located in ~~Oklahoma~~ this
21 state at the time of the transfer, and
22 (3) Not a subsidiary or affiliate of the transferor
23 corporation;
24

- 1 b. "Technology" means a proprietary process, formula,
2 pattern, device or compilation of scientific or
3 technical information which is not in the public
4 domain;
- 5 c. "Transferor corporation" means a corporation which is
6 the exclusive and undisputed owner of the technology
7 at the time the transfer is made; and
- 8 d. "Gross proceeds" means the total amount of
9 consideration for the transfer of technology, whether
10 the consideration is in money or otherwise.

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

19 2. As used in this subsection:

- 20 a. "qualifying gains receiving capital treatment" means
21 the amount of net capital gains, as defined in Section
22 1222(11) of the Internal Revenue Code, included in the
23 federal income tax return of the corporation, estate
24 or trust that result from:

- (1) the sale of real property or tangible personal property located within ~~Oklahoma~~ this state that has been directly or indirectly owned by the corporation, estate or trust for a holding period of at least five (5) years prior to the date of the transaction from which such net capital gains arise,
- (2) the sale of stock or on the sale of an ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been directly or indirectly owned by the corporation, estate or trust for a holding period of at least three (3) years prior to the date of the transaction from which the net capital gains arise, or
- (3) the sale of real property, tangible personal property or intangible personal property located within ~~Oklahoma~~ this state as part of the sale of all or substantially all of the assets of an Oklahoma company, limited liability company, or partnership where such property has been directly or indirectly owned by such entity owned by the owners of such entity, and used in or derived from such entity for a period of at least three

(3) years prior to the date of the transaction
from which the net capital gains arise,

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

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

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

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

(1) With respect to sales of real property or
tangible personal property located within
~~Oklahoma~~ this state, the deduction described in
this subsection shall not apply unless the pass-

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

- 10 (2) With respect to sales of stock or ownership
11 interest in or sales of all or substantially all
12 of the assets of an Oklahoma company, limited
13 liability company, or partnership, the deduction
14 described in this subsection shall not apply
15 unless the pass-through entity that makes the
16 sale has held the stock or ownership interest or
17 the assets for not less than three (3)
18 uninterrupted years prior to the date of the
19 transaction that created the capital gain, and
20 each pass-through entity included in the chain of
21 ownership has been a member, partner or
22 shareholder of the pass-through entity in the
23 tier immediately below it for an uninterrupted
24 period of not less than three (3) years.

1 E. The Oklahoma adjusted gross income of any individual
2 taxpayer shall be further adjusted as follows to arrive at Oklahoma
3 taxable income:

4 1. a. In the case of individuals, there shall be added or
5 deducted, as the case may be, the difference necessary
6 to allow personal exemptions of One Thousand Dollars
7 (\$1,000.00) in lieu of the personal exemptions allowed
8 by the Internal Revenue Code.

9 b. There shall be allowed an additional exemption of One
10 Thousand Dollars (\$1,000.00) for each taxpayer or
11 spouse who is blind at the close of the tax year. For
12 purposes of this subparagraph, an individual is blind
13 only if the central visual acuity of the individual
14 does not exceed 20/200 in the better eye with
15 correcting lenses, or if the visual acuity of the
16 individual is greater than 20/200, but is accompanied
17 by a limitation in the fields of vision such that the
18 widest diameter of the visual field subtends an angle
19 no greater than twenty (20) degrees.

20 c. There shall be allowed an additional exemption of One
21 Thousand Dollars (\$1,000.00) for each taxpayer or
22 spouse who is sixty-five (65) years of age or older at
23 the close of the tax year based upon the filing status
24 and federal adjusted gross income of the taxpayer.

1 Taxpayers with the following filing status may claim
2 this exemption if the federal adjusted gross income
3 does not exceed:

- 4 (1) Twenty-five Thousand Dollars (\$25,000.00) if
5 married and filing jointly;
6 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)
7 if married and filing separately;
8 (3) Fifteen Thousand Dollars (\$15,000.00) if single;
9 and
10 (4) Nineteen Thousand Dollars (\$19,000.00) if a
11 qualifying head of household.

12 Provided, for taxable years beginning after December
13 31, 1999, amounts included in the calculation of
14 federal adjusted gross income pursuant to the
15 conversion of a traditional individual retirement
16 account to a Roth individual retirement account shall
17 be excluded from federal adjusted gross income for
18 purposes of the income thresholds provided in this
19 subparagraph.

- 20 2. a. For taxable years beginning on or before December 31,
21 2005, in the case of individuals who use the standard
22 deduction in determining taxable income, there shall
23 be added or deducted, as the case may be, the
24 difference necessary to allow a standard deduction in
25

1 lieu of the standard deduction allowed by the Internal
2 Revenue Code, in an amount equal to the larger of
3 fifteen percent (15%) of the Oklahoma adjusted gross
4 income or One Thousand Dollars (\$1,000.00), but not to
5 exceed Two Thousand Dollars (\$2,000.00), except that
6 in the case of a married individual filing a separate
7 return such deduction shall be the larger of fifteen
8 percent (15%) of such Oklahoma adjusted gross income
9 or Five Hundred Dollars (\$500.00), but not to exceed
10 the maximum amount of One Thousand Dollars
11 (\$1,000.00).

12 b. For taxable years beginning on or after January 1,
13 2006, and before January 1, 2007, in the case of
14 individuals who use the standard deduction in
15 determining taxable income, there shall be added or
16 deducted, as the case may be, the difference necessary
17 to allow a standard deduction in lieu of the standard
18 deduction allowed by the Internal Revenue Code, in an
19 amount equal to:

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

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

1 c. For the taxable year beginning on January 1, 2007, and
2 ending December 31, 2007, in the case of individuals
3 who use the standard deduction in determining taxable
4 income, there shall be added or deducted, as the case
5 may be, the difference necessary to allow a standard
6 deduction in lieu of the standard deduction allowed by
7 the Internal Revenue Code, in an amount equal to:

8 (1) Five Thousand Five Hundred Dollars (\$5,500.00),
9 if the filing status is married filing joint or
10 qualifying widow; or

11 (2) Four Thousand One Hundred Twenty-five Dollars
12 (\$4,125.00) for a head of household; or

13 (3) Two Thousand Seven Hundred Fifty Dollars
14 (\$2,750.00), if the filing status is single or
15 married filing separate.

16 d. For the taxable year beginning on January 1, 2008, and
17 ending December 31, 2008, in the case of individuals
18 who use the standard deduction in determining taxable
19 income, there shall be added or deducted, as the case
20 may be, the difference necessary to allow a standard
21 deduction in lieu of the standard deduction allowed by
22 the Internal Revenue Code, in an amount equal to:

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

e. For the taxable year beginning on January 1, 2009, and ending December 31, 2009, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:

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

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

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

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

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

(2) Twelve Thousand Seven Hundred Dollars
(\$12,700.00) for married filing jointly or
qualifying widower with dependent child, and
(3) Nine Thousand Three Hundred Fifty Dollars
(\$9,350.00) for head of household.

3. a. In the case of resident and part-year resident individuals having adjusted gross income from sources both within and without the state, the itemized or standard deductions and personal exemptions shall be reduced to an amount which is the same portion of the total thereof as Oklahoma adjusted gross income is of adjusted gross income. To the extent itemized deductions include allowable moving expense, proration of moving expense shall not be required or permitted but allowable moving expense shall be fully deductible for those taxpayers moving within or into ~~Oklahoma~~ this state and no part of moving expense shall be deductible for those taxpayers moving without or out of ~~Oklahoma~~ this state. All other itemized or standard deductions and personal exemptions shall be subject to proration as provided by law.
- b. For taxable years beginning on or after January 1, 2018, the net amount of itemized deductions allowable on an Oklahoma income tax return, subject to the

1 provisions of paragraph 24 of this subsection, shall
2 not exceed Seventeen Thousand Dollars (\$17,000.00).
3 For purposes of this subparagraph, charitable
4 contributions and medical expenses deductible for
5 federal income tax purposes shall be excluded from the
6 amount of Seventeen Thousand Dollars (\$17,000.00) as
7 specified by this subparagraph.

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

20 5. a. Before July 1, 2010, the first One Thousand Five
21 Hundred Dollars (\$1,500.00) received by any person
22 from the United States as salary or compensation in
23 any form, other than retirement benefits, as a member
24

1 of any component of the Armed Forces of the United
2 States shall be deducted from taxable income.

3 b. On or after July 1, 2010, one hundred percent (100%)
4 of the income received by any person from the United
5 States as salary or compensation in any form, other
6 than retirement benefits, as a member of any component
7 of the Armed Forces of the United States shall be
8 deducted from taxable income.

9 c. Whenever the filing of a timely income tax return by a
10 member of the Armed Forces of the United States is
11 made impracticable or impossible of accomplishment by
12 reason of:

13 (1) absence from the United States, which term
14 includes only the states and the District of
15 Columbia;

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

18 (3) confinement in a hospital within the United
19 States for treatment of wounds, injuries or
20 disease,

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

- 1 (a) Such individual shall return to the United
2 States if the extension is granted pursuant
3 to subparagraph a of this paragraph, return
4 to ~~the State of Oklahoma~~ this state if the
5 extension is granted pursuant to
6 subparagraph b of this paragraph or be
7 discharged from such hospital if the
8 extension is granted pursuant to
9 subparagraph c of this paragraph; or
10 (b) An executor, administrator, or conservator
11 of the estate of the taxpayer is appointed,
12 whichever event occurs the earliest.

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

21 6. Before July 1, 2010, the salary or any other form of
22 compensation, received from the United States by a member of any
23 component of the Armed Forces of the United States, shall be
24 deducted from taxable income during the time in which the person is

1 detained by the enemy in a conflict, is a prisoner of war or is
2 missing in action and not deceased; provided, after July 1, 2010,
3 all such salary or compensation shall be subject to the deduction as
4 provided pursuant to paragraph 5 of this subsection.

5 7. a. An individual taxpayer, whether resident or
6 nonresident, may deduct an amount equal to the federal
7 income taxes paid by the taxpayer during the taxable
8 year.

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

18 c. For the purpose of this paragraph, "federal income
19 taxes paid" shall mean federal income taxes, surtaxes
20 imposed on incomes or excess profits taxes, as though
21 the taxpayer was on the accrual basis. In determining
22 the amount of deduction for federal income taxes for
23 tax year 2001, the amount of the deduction shall not
24 be adjusted by the amount of any accelerated ten

1 percent (10%) tax rate bracket credit or advanced
2 refund of the credit received during the tax year
3 provided pursuant to the federal Economic Growth and
4 Tax Relief Reconciliation Act of 2001, P.L. No. 107-
5 16, and the advanced refund of such credit shall not
6 be subject to taxation.

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

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

1 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
2 from taxable income.

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

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

22 11. In taxable years beginning after December 31, 1995,
23 contributions made to and interest received from a medical savings
24

1 account established pursuant to Sections 2621 through 2623 of Title
2 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

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

- 18 (1) the adoption of a minor, or
19 (2) a proposed adoption of a minor which did not
20 result in a decreed adoption,
21 may be deducted from the Oklahoma adjusted gross
22 income.

- 1 b. The deductions for adoptions and proposed adoptions
2 authorized by this paragraph shall not exceed Twenty
3 Thousand Dollars (\$20,000.00) per calendar year.
- 4 c. The Tax Commission shall promulgate rules to implement
5 the provisions of this paragraph which shall contain a
6 specific list of nonrecurring adoption expenses which
7 may be presumed to qualify for the deduction. The Tax
8 Commission shall prescribe necessary requirements for
9 verification.
- 10 d. "Nonrecurring adoption expenses" means adoption fees,
11 court costs, medical expenses, attorney fees and
12 expenses which are directly related to the legal
13 process of adoption of a child including, but not
14 limited to, costs relating to the adoption study,
15 health and psychological examinations, transportation
16 and reasonable costs of lodging and food for the child
17 or adoptive parents which are incurred to complete the
18 adoption process and are not reimbursed by other
19 sources. The term ~~"nonrecurring adoption expenses"~~
20 nonrecurring adoption expenses shall not include
21 attorney fees incurred for the purpose of litigating a
22 contested adoption, from and after the point of the
23 initiation of the contest, costs associated with
24 physical remodeling, renovation and alteration of the

1 adoptive parents' home or property, except for a
2 special needs child as authorized by the court.

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

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

21 (1) in taxable years beginning after December 31,
22 2004, and prior to January 1, 2007, the
23 qualifying amount shall be Thirty-seven Thousand
24 Five Hundred Dollars (\$37,500.00) or less if the
25

- 1 filing status is single, head of household, or
2 married filing separate, or Seventy-five Thousand
3 Dollars (\$75,000.00) or less if the filing status
4 is married filing jointly or qualifying widow,
5 (2) in the taxable year beginning January 1, 2007,
6 the qualifying amount shall be Fifty Thousand
7 Dollars (\$50,000.00) or less if the filing status
8 is single, head of household, or married filing
9 separate, or One Hundred Thousand Dollars
10 (\$100,000.00) or less if the filing status is
11 married filing jointly or qualifying widow,
12 (3) in the taxable year beginning January 1, 2008,
13 the qualifying amount shall be Sixty-two Thousand
14 Five Hundred Dollars (\$62,500.00) or less if the
15 filing status is single, head of household, or
16 married filing separate, or One Hundred Twenty-
17 five Thousand Dollars (\$125,000.00) or less if
18 the filing status is married filing jointly or
19 qualifying widow,
20 (4) in the taxable year beginning January 1, 2009,
21 the qualifying amount shall be One Hundred
22 Thousand Dollars (\$100,000.00) or less if the
23 filing status is single, head of household, or
24 married filing separate, or Two Hundred Thousand
25

Dollars (\$200,000.00) or less if the filing status is married filing jointly or qualifying widow, and

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

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

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

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

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

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

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

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

8 d. The amount of the exemption provided by this paragraph
9 shall be limited to Five Thousand Five Hundred Dollars
10 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
11 Hundred Dollars (\$7,500.00) for the 2005 tax year and
12 Ten Thousand Dollars (\$10,000.00) for the tax year
13 2006 and for all subsequent tax years. Any individual
14 who claims the exemption provided for in paragraph 8
15 of this subsection shall not be permitted to claim a
16 combined total exemption pursuant to this paragraph
17 and paragraph 8 of this subsection in an amount
18 exceeding Five Thousand Five Hundred Dollars
19 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
20 Hundred Dollars (\$7,500.00) for the 2005 tax year and
21 Ten Thousand Dollars (\$10,000.00) for the 2006 tax
22 year and all subsequent tax years.

23 15. In taxable years beginning after December 31, 1999, for an
24 individual engaged in production agriculture who has filed a

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

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

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

21 b. In taxable years beginning after December 31, 2004,
22 each taxpayer shall be allowed a deduction for
23 contributions to accounts established pursuant to the
24 Oklahoma College Savings Plan Act. The maximum annual
25

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

- 20 c. In taxable years beginning after December 31, 2006,
21 deductions for contributions made pursuant to
22 subparagraph b of this paragraph shall be limited as
23 follows:
24

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

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

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

23 e. If a taxpayer makes a nonqualified withdrawal of
24 contributions for which a deduction was taken pursuant
25

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

5 f. As used in this paragraph:

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

9 (a) a qualified withdrawal,

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

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

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

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

4 18. For tax years 2006 through 2021, retirement benefits
5 received by an individual from any component of the Armed Forces of
6 the United States in an amount not to exceed the greater of seventy-
7 five percent (75%) of such benefits or Ten Thousand Dollars
8 (\$10,000.00) shall be exempt from taxable income but in no case less
9 than the amount of the exemption provided by paragraph 14 of this
10 subsection. For tax year 2022 and subsequent tax years, retirement
11 benefits received by an individual from any component of the Armed
12 Forces of the United States shall be exempt from taxable income.

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

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

- 1 c. in the taxable year beginning January 1, 2009, sixty
2 percent (60%) of such benefits shall be exempt,
3 d. in the taxable year beginning January 1, 2010, eighty
4 percent (80%) of such benefits shall be exempt, and
5 e. in the taxable year beginning January 1, 2011, and
6 subsequent taxable years, one hundred percent (100%)
7 of such benefits shall be exempt.

- 8 20. a. For taxable years beginning after December 31, 2007, a
9 resident individual may deduct up to Ten Thousand
10 Dollars (\$10,000.00) from Oklahoma adjusted gross
11 income if the individual, or the dependent of the
12 individual, while living, donates one or more human
13 organs of the individual to another human being for
14 human organ transplantation. As used in this
15 paragraph, "human organ" means all or part of a liver,
16 pancreas, kidney, intestine, lung, or bone marrow. A
17 deduction that is claimed under this paragraph may be
18 claimed in the taxable year in which the human organ
19 transplantation occurs.
20 b. An individual may claim this deduction only once, and
21 the deduction may be claimed only for unreimbursed
22 expenses that are incurred by the individual and
23 related to the organ donation of the individual.
24

1 c. The Oklahoma Tax Commission shall promulgate rules to
2 implement the provisions of this paragraph which shall
3 contain a specific list of expenses which may be
4 presumed to qualify for the deduction. The Tax
5 Commission shall prescribe necessary requirements for
6 verification.

7 21. For taxable years beginning after December 31, 2009, there
8 shall be exempt from taxable income any amount received by the
9 beneficiary of the death benefit for an emergency medical technician
10 or a registered emergency medical responder provided by Section 1-
11 2505.1 of Title 63 of the Oklahoma Statutes.

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

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

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

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

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

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~~ this state that
18 has been directly or indirectly owned by the
19 individual taxpayer for a holding period of at
20 least five (5) years prior to the date of the
21 transaction from which such net capital gains
22 arise,

23 (2) the sale of stock or the sale of a direct or
24 indirect ownership interest in an Oklahoma
25

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

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

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

- 1 included in the taxpayer's holding period for the
2 asset pursuant to the Internal Revenue Code,
- 3 c. "Oklahoma company," "limited liability company," or
4 "partnership" means an entity whose primary
5 headquarters have been located in ~~Oklahoma~~ this state
6 for at least three (3) uninterrupted years prior to
7 the date of the transaction from which the net capital
8 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~~ this state, the deduction described in
18 this 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~~ this state 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,

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"~~ captive real estate investment trust, or

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

(3) any ~~Listed Australian Property Trust~~ listed Australian property trust (meaning an Australian unit trust registered as a ~~"Managed Investment Scheme"~~ "managed investment scheme" under the Australian Corporations Act 2001 in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market), or an entity organized as a trust, provided that a ~~Listed Australian Property Trust~~ listed Australian property trust owns or controls, directly or indirectly, seventy-five percent (75%) or more of the voting power or value of the beneficial interests or shares of such trust, or

(4) any ~~Qualified Foreign Entity~~ qualified foreign entity, meaning a corporation, trust, association

1 or partnership organized outside the laws of the
2 United States and which satisfies the following
3 criteria:

- 4 (a) at least seventy-five percent (75%) of the
5 entity's total asset value at the close of
6 its taxable year is represented by real
7 estate assets, as defined in Section
8 856(c)(5)(B) of the Internal Revenue Code,
9 thereby including shares or certificates of
10 beneficial interest in any real estate
11 investment trust, cash and cash equivalents,
12 and U.S. Government securities,
- 13 (b) the entity receives a dividend-paid
14 deduction comparable to Section 561 of the
15 Internal Revenue Code, or is exempt from
16 entity level tax,
- 17 (c) the entity is required to distribute at
18 least eighty-five percent (85%) of its
19 taxable income, as computed in the
20 jurisdiction in which it is organized, to
21 the holders of its shares or certificates of
22 beneficial interest on an annual basis,
- 23 (d) not more than ten percent (10%) of the
24 voting power or value in such entity is held

1 directly or indirectly or constructively by
2 a single entity or individual, or the shares
3 or beneficial interests of such entity are
4 regularly traded on an established
5 securities market, and

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

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

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

1 investment trust pursuant to Section 856(c)(1) of the Internal
2 Revenue Code.

3 SECTION 3. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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