

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1477

By: Treat

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; modifying definition; allowing certain credit to qualifying students; prohibiting the use of tax credit to offset certain accrued liabilities; modifying frequency of payment for credits claimed; requiring credits and payments to be allocated prior to the school year; requiring certain notification; allowing certain reallocation of credits; 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;

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

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

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

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

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

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

- 23 a. tuition and fees for nonpublic ~~online~~ learning
24 programs, online or in person,

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

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

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

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

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

4 a. (1) Seven Thousand Five Hundred Dollars (\$7,500.00)
5 or the amount of tuition and fees for the private
6 school, whichever is less, if the eligible
7 student is a member of a household in which the
8 total adjusted gross income during the second
9 preceding tax year does not exceed Seventy-five
10 Thousand Dollars (\$75,000.00),

11 (2) Seven Thousand Dollars (\$7,000.00) or the amount
12 of tuition and fees for the private school,
13 whichever is less, if the eligible student is a
14 member of a household in which the total adjusted
15 gross income during the second preceding tax year
16 is more than Seventy-five Thousand Dollars
17 (\$75,000.00) but does not exceed One Hundred
18 Fifty Thousand Dollars (\$150,000.00),

19 (3) Six Thousand Five Hundred Dollars (\$6,500.00) or
20 the amount of tuition and fees for the private
21 school, whichever is less, if the eligible
22 student is a member of a household in which the
23 total adjusted gross income during the second
24 preceding tax year is more than One Hundred Fifty
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1 Thousand Dollars (\$150,000.00) but does not
2 exceed Two Hundred Twenty-five Thousand Dollars
3 (\$225,000.00),

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

12 (5) Five Thousand Dollars (\$5,000.00) or the amount
13 of tuition and fees for the private school,
14 whichever is less, if the eligible student is a
15 member of a household in which the total adjusted
16 gross income during the second preceding tax year
17 is more than Two Hundred Fifty Thousand Dollars
18 (\$250,000.00), and

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

1 Commission receipts for qualified expenses as defined
2 by paragraph 7 of subsection A of this section;

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

9 ~~2.~~ 3. The taxpayer shall retain all receipts of qualified
10 expenses as proof of the amounts paid each tax year the credit is
11 claimed and shall submit them to the Commission upon request; ~~and~~

12 ~~3.~~ 4. If the credit exceeds the tax imposed by Section 2355 of
13 Title 68 of the Oklahoma Statutes, the excess amount shall be
14 refunded to the taxpayer; and

15 5. Credits claimed by a taxpayer pursuant to the provisions of
16 this section shall not be used to offset or pay the following:

17 a. delinquent tax liability,

18 b. accrued penalty or interest from the failure to file a
19 report or return,

20 c. accrued penalty or interest from the failure to pay a
21 state tax within the statutory period allowed for its
22 payment, or

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

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

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

14 2. For tax year 2025, and subsequent tax years, the total
15 amount of credits authorized by subparagraph b of paragraph 1 of
16 subsection C of this section shall not exceed Five Million Dollars
17 (\$5,000,000.00).

18 E. The Commission shall prescribe applications for the purposes
19 of claiming the credits authorized by the Oklahoma Parental Choice
20 Tax Credit Act and a deadline by which applications shall be
21 submitted. A taxpayer claiming the credit authorized by
22 subparagraph a of paragraph 1 of subsection C of this section shall
23 submit an application prescribed by the Commission to receive the
24 credit ~~in two installments, each of which shall be half of~~ equal to

1 the expected amount of tuition and fees for the private school year
2 based on the ~~affidavit~~ enrollment verification form submitted
3 pursuant to this subsection, but in no event shall ~~an installment~~
4 the payment exceed ~~half~~ the amount of the credit authorized by
5 subparagraph a of paragraph 1 of subsection C of this section. A
6 taxpayer claiming the credit authorized by subparagraph a of
7 paragraph 1 of subsection C of this section shall submit to the
8 Commission an ~~affidavit~~ enrollment verification form from the
9 private school in which the eligible student is enrolled or is
10 expected to enroll with the tuition and fees to be charged the
11 taxpayer for the applicable school year. In reviewing applications
12 submitted by eligible taxpayers to determine whether they qualify
13 for a credit authorized by subparagraph a of paragraph 1 of
14 subsection C of this section, the Commission shall give first
15 preference in making installments to taxpayers who qualify pursuant
16 to divisions (1) and (2) of subparagraph a of paragraph 1 of
17 subsection C of this section. The Commission shall make the
18 ~~installments~~ payment based on the expected amount of tuition and fee
19 amounts on the ~~affidavit~~ enrollment verification form submitted
20 pursuant to this subsection. Tax credits allowed and payments shall
21 be allocated at the beginning of the school year.

22 F. Taxpayers claiming the credit shall:
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1 1. Only claim the credit for qualified expenses as defined in
2 paragraphs 6 and 7 of subsection A of this section to provide an
3 education for an eligible student;

4 2. Ensure no other person is claiming a credit for the eligible
5 student;

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

9 4. Comply with rules and requirements established by the
10 Commission for administration of the Oklahoma Parental Choice Tax
11 Credit Program; and

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

14 a. enrolls in a public school, including an open-
15 enrollment charter school,

16 b. graduates from high school, or

17 c. is no longer participating in the program for any
18 reason.

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

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

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

13 3. The Commission shall be authorized to reallocate credits to
14 the next eligible taxpayer in line when a taxpayer, on behalf of an
15 eligible student in the program, chooses not to participate, is no
16 longer eligible to participate, or chooses to forgo participation in
17 the program for any reason.

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

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

4 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2358, as
5 last amended by Section 1, Chapter 377, O.S.L. 2022 (68 O.S. Supp.
6 2023, Section 2358), is amended to read as follows:

7 Section 2358. For all tax years beginning after December 31,
8 1981, taxable income and adjusted gross income shall be adjusted to
9 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
10 as required by this section.

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

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

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

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

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

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

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

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

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

3 b. Income from intangible personal property, such as
4 interest, dividends, patent or copyright royalties,
5 and gains or losses from sales of such property, shall
6 be allocated in accordance with the domiciliary situs
7 of the taxpayer, except that:

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

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

23 (3) income from such property which is required to be
24 allocated pursuant to the provisions of paragraph
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1 5 of this subsection shall be allocated as herein
2 provided;

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

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

11 (1) sales having a situs without this state, shipped
12 directly to a point from without the state to a
13 purchaser within the state, commonly known as
14 interstate sales,

15 (2) sales of the product stored in public warehouses
16 within the state pursuant to "in transit"
17 tariffs, as prescribed and allowed by the
18 Interstate Commerce Commission, to a purchaser
19 within the state,

20 (3) sales of the product stored in public warehouses
21 within the state where the shipment to such
22 warehouses is not covered by "in transit"
23 tariffs, as prescribed and allowed by the

1 Interstate Commerce Commission, to a purchaser
2 within or without the state,
3 the Oklahoma net income shall, at the option of the
4 taxpayer, be that portion of the total net income of
5 the taxpayer for federal income tax purposes derived
6 from the manufacture and/or processing and sales
7 everywhere as determined by the ratio of the sales
8 defined in this section made to the purchaser within
9 the state to the total sales everywhere. The term
10 "public warehouse" as used in this subparagraph means
11 a licensed public warehouse, the principal business of
12 which is warehousing merchandise for the public;

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

18 (1) except as otherwise provided by division (2) of
19 this subparagraph, taxable income of an insurance
20 company for a taxable year shall be apportioned
21 to this state by multiplying such income by a
22 fraction, the numerator of which is the direct
23 premiums written for insurance on property or
24 risks in this state, and the denominator of which

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

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

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

18 5. The net income or loss remaining after the separate
19 allocation in paragraph 4 of this subsection, being that which is
20 derived from a unitary business enterprise, shall be apportioned to
21 this state on the basis of the arithmetical average of three factors
22 consisting of property, payroll and sales or gross revenue
23 enumerated as subparagraphs a, b and c of this paragraph. Net
24 income or loss as used in this paragraph includes that derived from

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

- 20 a. The property factor is a fraction, the numerator of
21 which is the average value of the taxpayer's real and
22 tangible personal property owned or rented and used in
23 this state during the tax period and the denominator
24 of which is the average value of all the taxpayer's

1 real and tangible personal property everywhere owned
2 or rented and used during the tax period.

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

16 (2) Property owned by the taxpayer is valued at its
17 original cost. Property rented by the taxpayer
18 is valued at eight times the net annual rental
19 rate. Net annual rental rate is the annual
20 rental rate paid by the taxpayer, less any annual
21 rental rate received by the taxpayer from
22 subrentals,

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

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

15 (1) In the case of a transportation enterprise, the
16 numerator of the fraction shall include a portion
17 of such expenditure in connection with employees
18 operating equipment over a fixed route, such as
19 railroad employees, airline pilots, or bus
20 drivers, in this state only a part of the time,
21 in the proportion that mileage traveled in
22 ~~Oklahoma~~ this state bears to total mileage
23 traveled by such employees,
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1 (2) In any case the numerator of the fraction shall
2 include a portion of such expenditures in
3 connection with itinerant employees, such as
4 traveling salespersons, in this state only a part
5 of the time, in the proportion that time spent in
6 ~~Oklahoma~~ this state bears to total time spent in
7 furtherance of the enterprise by such employees;

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

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

1 doing business in the state of the destination of
2 the shipment.

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

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

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

1 the numerator. A "traffic unit" is hereby
2 defined as the transportation for a distance of
3 one (1) mile of one (1) barrel of oil, one (1)
4 gallon of gasoline or one thousand (1,000) cubic
5 feet of natural or casinghead gas, as the case
6 may be.

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

3 In any case where the apportionment of the three factors
4 prescribed in this paragraph attributes to ~~Oklahoma~~ this state a
5 portion of net income of the enterprise out of all appropriate
6 proportion to the property owned and/or business transacted within
7 this state, because of the fact that one or more of the factors so
8 prescribed are not employed to any appreciable extent in furtherance
9 of the enterprise; or because one or more factors not so prescribed
10 are employed to a considerable extent in furtherance of the
11 enterprise; or because of other reasons, the Tax Commission is
12 empowered to permit, after a showing by taxpayer that an excessive
13 portion of net income has been attributed to ~~Oklahoma~~ this state, or
14 require, when in its judgment an insufficient portion of net income
15 has been attributed to ~~Oklahoma~~ this state, the elimination,
16 substitution, or use of additional factors, or reduction or increase
17 in the weight of such prescribed factors. Provided, however, that
18 any such variance from such prescribed factors which has the effect
19 of increasing the portion of net income attributable to ~~Oklahoma~~
20 this state must not be inherently arbitrary, and application of the
21 recomputed final apportionment to the net income of the enterprise
22 must attribute to ~~Oklahoma~~ this state only a reasonable portion
23 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
24

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, drying
14 or transportation of agricultural commodities, and

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

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

21 (2) transporting the agricultural commodities or
22 product before, during or after the processing,
23 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
25

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~~ the Accelerated Cost Recovery
14 System was previously disallowed, an adjustment to taxable income is
15 required in the first taxable year beginning after December 31,
16 1982, to reconcile the basis of such assets to the basis allowed in
17 the Internal Revenue Code. The purpose of this adjustment is to
18 equalize the basis and allowance for depreciation accounts between
19 that reported to the Internal Revenue Service and that reported to
20 ~~Oklahoma~~ this state.

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

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~~ this state. Such
7 transferor corporation shall be allowed an exemption from taxable
8 income of an amount equal to the amount of royalty payment received
9 as a result of such transfer; provided, however, such amount shall
10 not exceed ten percent (10%) of the amount of gross proceeds
11 received by such transferor corporation as a result of the
12 technology transfer. Such exemption shall be allowed for a period
13 not to exceed ten (10) years from the date of receipt of the first
14 royalty payment accruing from such 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 purposes of this subsection:

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

23 (1) Capitalization of not more than Two Hundred Fifty
24 Thousand Dollars (\$250,000.00),
25

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

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

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

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

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

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

24 2. As used in this subsection:
25

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

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

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

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

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

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

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

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

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

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

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

16 (2) With respect to sales of stock or ownership
17 interest in or sales of all or substantially all
18 of the assets of an Oklahoma company, limited
19 liability company, or partnership, the deduction
20 described in this subsection shall not apply
21 unless the pass-through entity that makes the
22 sale has held the stock or ownership interest or
23 the assets for not less than three (3)
24 uninterrupted years prior to the date of the
25

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

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

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

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

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

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

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

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

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

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

19 b. For taxable years beginning on or after January 1,
20 2006, and before January 1, 2007, in the case of
21 individuals who use the standard deduction in
22 determining taxable income, there shall be added or
23 deducted, as the case may be, the difference necessary
24 to allow a standard deduction in lieu of the standard
25

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

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

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

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

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

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

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

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

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

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

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

- 21 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),
22 if the filing status is married filing joint or
23 qualifying widow, or
24

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

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

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

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

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

3 (1) Six Thousand Three Hundred Fifty Dollars
4 (\$6,350.00) for single or married filing
5 separately,

6 (2) Twelve Thousand Seven Hundred Dollars
7 (\$12,700.00) for married filing jointly or
8 qualifying widower with dependent child, and

9 (3) Nine Thousand Three Hundred Fifty Dollars
10 (\$9,350.00) for head of household.

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

1 standard deductions and personal exemptions shall be
2 subject to proration as provided by law.

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

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

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

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

13 c. Whenever the filing of a timely income tax return by a
14 member of the Armed Forces of the United States is
15 made impracticable or impossible of accomplishment by
16 reason of:

17 (1) absence from the United States, which term
18 includes only the states and the District of
19 Columbia;

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

22 (3) confinement in a hospital within the United
23 States for treatment of wounds, injuries or
24 disease,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (4) an employee annuity subject to the provisions of
23 Section 403(a) or (b) of the Internal Revenue
24 Code, 26 U.S.C., Section 403(a) or (b),
25

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

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,
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
25

1 ~~"captive real estate investment trust"~~ captive
2 real estate investment trust, or

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

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

23 (4) any ~~Qualified Foreign Entity~~ qualified foreign
24 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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