

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 58th Legislature (2021)

4 HOUSE BILL 1909

                                  By: Fetgatter

7                                   AS INTRODUCED

8                   An Act relating to revenue and taxation; amending 68  
9                   O.S. 2011, Section 2358, as last amended by Section  
10                  5, Chapter 201, O.S.L. 2019 (68 O.S. Supp. 2020,  
11                  Section 2358), which relates to Oklahoma taxable  
12                  income and Oklahoma adjusted gross income; providing  
13                  for inapplicability of designated section of the  
                  Internal Revenue Code of 1986, as amended, with  
                  respect to Oklahoma income tax returns; providing for  
                  deductibility of ordinary and necessary business  
                  expenses for business entities holding certain  
                  licenses; and providing an effective date.

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

17                  SECTION 1.            AMENDATORY            68 O.S. 2011, Section 2358, as  
18                  last amended by Section 5, Chapter 201, O.S.L. 2019 (68 O.S. Supp.  
19                  2020, Section 2358), is amended to read as follows:

20                  Section 2358. For all tax years beginning after December 31,  
21                  1981, taxable income and adjusted gross income shall be adjusted to  
22                  arrive at Oklahoma taxable income and Oklahoma adjusted gross income  
23                  as required by this section.

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

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

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

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

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

24

1           b. For carryovers and carrybacks to taxable years  
2 beginning after December 31, 1980, the amount of any  
3 net operating loss deduction allowed for the taxable  
4 year shall be an amount equal to the aggregate of the  
5 Oklahoma net operating loss carryovers and carrybacks  
6 to such year. Oklahoma net operating losses shall be  
7 separately determined by reference to Section 172 of  
8 the Internal Revenue Code, 26 U.S.C., Section 172, as  
9 modified by the Oklahoma Income Tax Act, Section 2351  
10 et seq. of this title, and shall be allowed without  
11 regard to the existence of a federal net operating  
12 loss. For tax years beginning after December 31,  
13 2000, and ending before January 1, 2008, the years to  
14 which such losses may be carried shall be determined  
15 solely by reference to Section 172 of the Internal  
16 Revenue Code, 26 U.S.C., Section 172, with the  
17 exception that the terms "net operating loss" and  
18 "taxable income" shall be replaced with "Oklahoma net  
19 operating loss" and "Oklahoma taxable income". For  
20 tax years beginning after December 31, 2007, and  
21 ending before January 1, 2009, years to which such  
22 losses may be carried back shall be limited to two (2)  
23 years. For tax years beginning after December 31,  
24 2008, the years to which such losses may be carried

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

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

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

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

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

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

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

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

13 (3) income from such property which is required to be  
14 allocated pursuant to the provisions of paragraph  
15 5 of this subsection shall be allocated as herein  
16 provided;

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

11 For purposes of this paragraph:

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

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

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

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

22 8. In taxable years beginning after December 31, 1995, all  
23 qualified wages equal to the federal income tax credit set forth in  
24 26 U.S.C.A., Section 45A, shall be deducted from taxable income.

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

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

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

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

1 Oklahoma taxable income or adjusted gross income any item of loss or  
2 deduction that in the absence of an election pursuant to the  
3 provisions of the Pass-Through Entity Tax Equity Act of 2019 would  
4 be allocated to a member or to an indirect member of an electing  
5 pass-through entity pursuant to Section 2351 et seq. of this title,  
6 if (i) the electing pass-through entity has accounted for such item  
7 in computing its Oklahoma net entity income or loss pursuant to the  
8 provisions of the Pass-Through Entity Tax Equity Act of 2019, and  
9 (ii) the total amount of tax attributable to any resulting Oklahoma  
10 net entity income has been paid. The Oklahoma Tax Commission shall  
11 promulgate rules for the reporting of such exclusion to direct and  
12 indirect members of the electing pass-through entity. As used in  
13 this paragraph, "electing pass-through entity", "indirect member",  
14 and "member" shall be defined in the same manner as prescribed by  
15 Section ~~2~~ 2355.1P-2 of this ~~act~~ title. Notwithstanding the  
16 application of this paragraph, the adjusted tax basis of any  
17 ownership interest in a pass-through entity for purposes of Section  
18 2351 et seq. of this title shall be equal to its adjusted tax basis  
19 for federal income tax purposes.

20 B. 1. The taxable income of any corporation shall be further  
21 adjusted to arrive at Oklahoma taxable income, except those  
22 corporations electing treatment as provided in subchapter S of the  
23 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section  
24 2365 of this title, deductions pursuant to the provisions of the

1 Accelerated Cost Recovery System as defined and allowed in the  
2 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,  
3 Section 168, for depreciation of assets placed into service after  
4 December 31, 1981, shall not be allowed in calculating Oklahoma  
5 taxable income. Such corporations shall be allowed a deduction for  
6 depreciation of assets placed into service after December 31, 1981,  
7 in accordance with provisions of the Internal Revenue Code, 26  
8 U.S.C., Section 1 et seq., in effect immediately prior to the  
9 enactment of the Accelerated Cost Recovery System. The Oklahoma tax  
10 basis for all such assets placed into service after December 31,  
11 1981, calculated in this section shall be retained and utilized for  
12 all Oklahoma income tax purposes through the final disposition of  
13 such assets.

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

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

1 for depreciation accounts between that reported to the Internal  
2 Revenue Service and that reported to Oklahoma.

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

9 C. 1. For taxable years beginning after December 31, 1987, the  
10 taxable income of any corporation shall be further adjusted to  
11 arrive at Oklahoma taxable income for transfers of technology to  
12 qualified small businesses located in Oklahoma. Such transferor  
13 corporation shall be allowed an exemption from taxable income of an  
14 amount equal to the amount of royalty payment received as a result  
15 of such transfer; provided, however, such amount shall not exceed  
16 ten percent (10%) of the amount of gross proceeds received by such  
17 transferor corporation as a result of the technology transfer. Such  
18 exemption shall be allowed for a period not to exceed ten (10) years  
19 from the date of receipt of the first royalty payment accruing from  
20 such transfer. No exemption may be claimed for transfers of  
21 technology to qualified small businesses made prior to January 1,  
22 1988.

23 2. For purposes of this subsection:  
24

1 a. "Qualified small business" means an entity, whether  
2 organized as a corporation, partnership, or  
3 proprietorship, organized for profit with its  
4 principal place of business located within this state  
5 and which meets the following criteria:

6 (1) Capitalization of not more than Two Hundred Fifty  
7 Thousand Dollars (\$250,000.00),

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

11 (3) Not a subsidiary or affiliate of the transferor  
12 corporation;

13 b. "Technology" means a proprietary process, formula,  
14 pattern, device or compilation of scientific or  
15 technical information which is not in the public  
16 domain;

17 c. "Transferor corporation" means a corporation which is  
18 the exclusive and undisputed owner of the technology  
19 at the time the transfer is made; and

20 d. "Gross proceeds" means the total amount of  
21 consideration for the transfer of technology, whether  
22 the consideration is in money or otherwise.

23 D. 1. For taxable years beginning after December 31, 2005, the  
24 taxable income of any corporation, estate or trust, shall be further



1 adjusted for qualifying gains receiving capital treatment. Such  
2 corporations, estates or trusts shall be allowed a deduction from  
3 Oklahoma taxable income for the amount of qualifying gains receiving  
4 capital treatment earned by the corporation, estate or trust during  
5 the taxable year and included in the federal taxable income of such  
6 corporation, estate or trust.

7 2. As used in this subsection:

8 a. "qualifying gains receiving capital treatment" means  
9 the amount of net capital gains, as defined in Section  
10 1222(11) of the Internal Revenue Code, included in the  
11 federal income tax return of the corporation, estate  
12 or trust that result from:

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

20 (2) the sale of stock or on the sale of an ownership  
21 interest in an Oklahoma company, limited  
22 liability company, or partnership where such  
23 stock or ownership interest has been directly or  
24 indirectly owned by the corporation, estate or

1 trust for a holding period of at least three (3)  
2 years prior to the date of the transaction from  
3 which the net capital gains arise, or

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

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

21 c. "Oklahoma company", "limited liability company", or  
22 "partnership" means an entity whose primary  
23 headquarters have been located in Oklahoma for at  
24 least three (3) uninterrupted years prior to the date

1 of the transaction from which the net capital gains  
2 arise,

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

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

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

22 (2) With respect to sales of stock or ownership  
23 interest in or sales of all or substantially all  
24 of the assets of an Oklahoma company, limited

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

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

16 1. a. In the case of individuals, there shall be added or  
17 deducted, as the case may be, the difference necessary  
18 to allow personal exemptions of One Thousand Dollars  
19 (\$1,000.00) in lieu of the personal exemptions allowed  
20 by the Internal Revenue Code.

21 b. There shall be allowed an additional exemption of One  
22 Thousand Dollars (\$1,000.00) for each taxpayer or  
23 spouse who is blind at the close of the tax year. For  
24 purposes of this subparagraph, an individual is blind

1           only if the central visual acuity of the individual  
2           does not exceed 20/200 in the better eye with  
3           correcting lenses, or if the visual acuity of the  
4           individual is greater than 20/200, but is accompanied  
5           by a limitation in the fields of vision such that the  
6           widest diameter of the visual field subtends an angle  
7           no greater than twenty (20) degrees.

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

- 16           (1)   Twenty-five Thousand Dollars (\$25,000.00) if  
17           married and filing jointly;
- 18           (2)   Twelve Thousand Five Hundred Dollars (\$12,500.00)  
19           if married and filing separately;
- 20           (3)   Fifteen Thousand Dollars (\$15,000.00) if single;  
21           and
- 22           (4)   Nineteen Thousand Dollars (\$19,000.00) if a  
23           qualifying head of household.
- 24

1            Provided, for taxable years beginning after December  
2            31, 1999, amounts included in the calculation of  
3            federal adjusted gross income pursuant to the  
4            conversion of a traditional individual retirement  
5            account to a Roth individual retirement account shall  
6            be excluded from federal adjusted gross income for  
7            purposes of the income thresholds provided in this  
8            subparagraph.

- 9            2.    a.    For taxable years beginning on or before December 31,  
10            2005, in the case of individuals who use the standard  
11            deduction in determining taxable income, there shall  
12            be added or deducted, as the case may be, the  
13            difference necessary to allow a standard deduction in  
14            lieu of the standard deduction allowed by the Internal  
15            Revenue Code, in an amount equal to the larger of  
16            fifteen percent (15%) of the Oklahoma adjusted gross  
17            income or One Thousand Dollars (\$1,000.00), but not to  
18            exceed Two Thousand Dollars (\$2,000.00), except that  
19            in the case of a married individual filing a separate  
20            return such deduction shall be the larger of fifteen  
21            percent (15%) of such Oklahoma adjusted gross income  
22            or Five Hundred Dollars (\$500.00), but not to exceed  
23            the maximum amount of One Thousand Dollars  
24            (\$1,000.00).

1           b. For taxable years beginning on or after January 1,  
2           2006, and before January 1, 2007, in the case of  
3           individuals who use the standard deduction in  
4           determining taxable income, there shall be added or  
5           deducted, as the case may be, the difference necessary  
6           to allow a standard deduction in lieu of the standard  
7           deduction allowed by the Internal Revenue Code, in an  
8           amount equal to:

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

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

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

21           (1) Five Thousand Five Hundred Dollars (\$5,500.00),  
22           if the filing status is married filing joint or  
23           qualifying widow; or

24

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

3 (3) Two Thousand Seven Hundred Fifty Dollars  
4 (\$2,750.00), if the filing status is single or  
5 married filing separate.

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

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

16 (2) Four Thousand Eight Hundred Seventy-five Dollars  
17 (\$4,875.00) for a head of household, or

18 (3) Three Thousand Two Hundred Fifty Dollars  
19 (\$3,250.00), if the filing status is single or  
20 married filing separate.

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



1 may be, the difference necessary to allow a standard  
2 deduction in lieu of the standard deduction allowed by  
3 the Internal Revenue Code, in an amount equal to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

23  
24

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

4            (1) the adoption of a minor, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

11 f. As used in this paragraph:

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

15 (a) a qualified withdrawal,

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

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

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

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

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

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

17 19. For taxable years beginning after December 31, 2006,  
18 retirement benefits received by federal civil service retirees,  
19 including survivor annuities, paid in lieu of Social Security  
20 benefits shall be exempt from taxable income to the extent such  
21 benefits are included in the federal adjusted gross income pursuant  
22 to the provisions of Section 86 of the Internal Revenue Code, 26  
23 U.S.C., Section 86, according to the following schedule:  
24

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

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

24

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

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

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

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

20          23. For taxable years beginning after December 31, 2008, there  
21          shall be exempt from taxable income any payment in an amount less  
22          than Six Hundred Dollars (\$600.00) received by a person as an award  
23          for participation in a competitive livestock show event. For  
24          purposes of this paragraph, the payment shall be treated as a

1 scholarship amount paid by the entity sponsoring the event and the  
2 sponsoring entity shall cause the payment to be categorized as a  
3 scholarship in its books and records.

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

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

16 2. As used in this subsection:

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

22 (1) the sale of real property or tangible personal  
23 property located within Oklahoma that has been  
24 directly or indirectly owned by the individual

1 taxpayer for a holding period of at least five  
2 (5) years prior to the date of the transaction  
3 from which such net capital gains arise,

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

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

1                   the transaction from which the net capital gains  
2                   arise,

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

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

15           d.    "direct" means the individual taxpayer directly owns  
16                  the asset,

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

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



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

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

1 (2) years. For purposes of this division,  
2 uninterrupted ownership prior to July 1, 2007,  
3 shall be included in the determination of the  
4 required holding period prescribed by this  
5 division, and

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

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

21 2. For purposes of computing its Oklahoma taxable income under  
22 this section, a taxpayer shall add back otherwise deductible rents  
23 and interest expenses paid to a captive real estate investment trust  
24

1 that is not subject to the provisions of paragraph 1 of this  
2 subsection. As used in this subsection:

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

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

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

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

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

3 (1) any real estate investment trust as defined in  
4 paragraph a of this subsection other than a  
5 "captive real estate investment trust", or

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

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

23 (4) any Qualified Foreign Entity, meaning a  
24 corporation, trust, association or partnership

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

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

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

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

22 (d) not more than ten percent (10%) of the  
23 voting power or value in such entity is held  
24 directly or indirectly or constructively by

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

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

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

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

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

3 H. For purposes of computing Oklahoma taxable income pursuant  
4 to the provisions of this section, any limitations imposed pursuant  
5 to Section 280E of the Internal Revenue Code of 1986, as amended,  
6 shall not apply to entities holding a valid business license or  
7 licenses in the categories provided pursuant to Section 427.14 of  
8 Title 63 of the Oklahoma Statutes and any business expense  
9 disallowed because of the restrictions of Section 280E that would  
10 otherwise be deductible by other provisions of the Internal Revenue  
11 Code of 1986, as amended, as ordinary and necessary business  
12 expenses shall be fully deductible for purposes of the Oklahoma  
13 income tax return.

14 SECTION 2. This act shall become effective November 1, 2021.

15  
16 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED  
17 SUBSTANCES, dated 02/22/2021 - DO PASS.

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