

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 3388

By: McCall of the House

and

Treat of the Senate

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7
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9 COMMITTEE SUBSTITUTE

10 An Act relating to income tax credit; amending 68
11 O.S. 2021, Section 205.2, which relates to claims for
12 deduction of refund; prohibiting claims for deduction
13 from certain tax credit; amending 68 O.S. 2021,
14 Section 2358, as amended by Section 1, Chapter 377,
15 O.S.L. 2022 (68 O.S. Supp. 2023, Section 2358), which
16 relates to adjustments to arrive at taxable income;
17 providing exemption for certain tax credits received;
18 amending Section 2, Chapter 278, O.S.L. 2023 (70 O.S.
19 Supp. 2023, Section 28-101), which relates to
20 parental choice tax credits; modifying definitions;
21 modifying income limitations; allowing certain credit
22 to qualifying students; establishing credit amount
23 for private schools serving certain student
24 populations; prohibiting the use of tax credit to
offset certain accrued liabilities; modifying annual
credit limitations; prescribing enforcement of
certain annual liability; prescribing application
period; requiring credits and payments to be
allocated prior to the school year; exempting certain
eligible taxpayers from providing additional income
verification; providing deadline to receive priority
consideration; providing for prorated credit;
requiring certain notification; allowing certain
reallocation of credits; updating statutory
references; updating statutory language; and
declaring an emergency.

1
2 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

7 1. State agency;

8 2. Municipal court;

9 3. District court;

10 4. Public housing authority operating pursuant to Section 1062
11 of Title 63 of the Oklahoma Statutes;

12 5. District attorney seeking to collect unpaid court-ordered
13 monetary obligations; or

14 6. The designee of an entity described in paragraphs 1 through
15 5 of this subsection.

16 B. A qualified entity seeking to collect a debt, unpaid
17 municipal or district court fines and costs or final judgment of at
18 least Fifty Dollars (\$50.00) from an individual who has filed a
19 state income tax return may file a claim with the Oklahoma Tax
20 Commission requesting that the amount owed to the qualified entity
21 be deducted from any state income tax refund due to that individual.
22 The claim shall be filed electronically in a form prescribed by the
23 Tax Commission and shall contain information necessary to identify

24

1 the person owing the debt, including the full name and Social
2 Security number of the debtor.

3 1. Upon receiving a claim from a qualified entity, the Tax
4 Commission shall deduct the claim amount, plus collection expenses
5 as provided in this section, from the tax refund due to the debtor
6 and transfer the amount to the qualified entity. Provided, the Tax
7 Commission need not report available funds of less than Fifty
8 Dollars (\$50.00).

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

21 a. that a claim has been filed with the Tax Commission
22 for any portion of the tax refund due to the debtor or
23 defendant which would satisfy the debt, unpaid court
24 fines and costs, or final judgment in full or in part,

- 1 b. the basis for the claim,
- 2 c. that the Tax Commission has deducted an amount from
- 3 the refund and remitted it to such qualified entity,
- 4 d. that the debtor or defendant has the right to contest
- 5 the claim by sending a written request to the
- 6 qualified entity for a hearing to protest the claim,
- 7 and if the debtor or defendant fails to apply for a
- 8 hearing within sixty (60) days after the date of the
- 9 mailing of the notice, the debtor or defendant shall
- 10 be deemed to have waived his or her opportunity to
- 11 contest the claim. Provided, if the claim was filed
- 12 by the Department of Human Services, the notice shall
- 13 state that the debtor must contest the claim by
- 14 sending a written request to the Department within
- 15 thirty (30) days after the date of the mailing of the
- 16 notice, and
- 17 e. that a collection expense of five percent (5%) of the
- 18 gross proceeds owed to the qualified entity has been
- 19 charged to the debtor or defendant and withheld from
- 20 the refund.

21 3. If the qualified entity determines that a refund is due to

22 the taxpayer, the qualified entity shall reimburse the amount

23 claimed plus the five-percent collection expense to the taxpayer.

24 The qualified entity may request reimbursement of the two-percent

1 collection expense retained by the Tax Commission. Such request
2 must be made within ninety (90) days of reimbursement to the
3 taxpayer. If timely requested, the Tax Commission shall make such
4 reimbursement to the qualified entity within ninety (90) days of the
5 request.

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

7 a. the name of any taxpayer named in the return against
8 whom no debt, no unpaid court fines and costs, or
9 final judgment is claimed,

10 b. the fact that a debt, unpaid court fines and costs, or
11 final judgment is not claimed against the taxpayer,

12 c. the fact that the taxpayer is entitled to receive a
13 refund if it is due regardless of the debt, court
14 fines and costs, or final judgment asserted against
15 the debtor or defendant,

16 d. that in order to obtain the refund due, the taxpayer
17 must apply, in writing, for a hearing with the
18 qualified entity named in the notice within sixty (60)
19 days after the date of the mailing of the notice.

20 Provided, if the claim was filed by the Department of
21 Human Services, the notice shall state that the
22 taxpayer must apply, in writing, for a hearing with
23 the Department within thirty (30) days after the date
24 of the mailing of the notice, and

1 e. if the taxpayer against whom no debt, no unpaid court
2 fines and costs, or final judgment is claimed fails to
3 apply in writing for a hearing within sixty (60) days
4 after the mailing of the notice, the taxpayer shall
5 have waived his or her right to a refund. Provided,
6 if the claim was filed by the Department of Human
7 Services, the notice shall state that if the taxpayer
8 fails to apply in writing for a hearing with the
9 Department within thirty (30) days after the date of
10 the mailing of the notice, the taxpayer shall have
11 waived his or her right to a refund.

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

1 D. Upon final determination at a hearing, as provided for in
2 subsection C of this section, of the amount of the debt, unpaid
3 court fines and costs, or final judgment, or upon failure of the
4 debtor or taxpayer against whom no debt, no unpaid court fines and
5 costs, or final judgment is claimed to request such a hearing, the
6 qualified entity shall apply the amount of the claim to the debt
7 owed. Any amounts held by the qualified entity in excess of the
8 final determination of the debt and collection expense shall be
9 refunded by the qualified entity to the taxpayer. However, if the
10 tax refund due is inadequate to pay the collection expense and debt,
11 unpaid court fines and costs, or final judgment, the balance due the
12 qualified entity shall be a continuing debt or final judgment until
13 paid in full.

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

16 1. Deduct from the refund five percent (5%) of the gross
17 proceeds owed to the qualified entity, and distribute it by
18 retaining two percent (2%) and transferring three percent (3%) to
19 the qualified entity, as an expense of collection. The two percent
20 (2%) retained by the Tax Commission shall be deposited in the
21 Oklahoma Tax Commission Fund;

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

1 3. Notify the debtor in writing as to how the refund was
2 applied; and

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

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

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

21 H. The Tax Commission shall prescribe or approve forms and
22 promulgate rules and regulations for implementing the provisions of
23 this section.

24

1 I. The information obtained by a qualified entity from the Tax
2 Commission pursuant to the provisions of this section shall be used
3 only to aid in collection of the debt, unpaid court fines and costs,
4 or final judgment owed to the qualified entity. Disclosure of the
5 information for any other purpose shall constitute a misdemeanor.
6 Any employee of a qualified entity or person convicted of violating
7 this provision shall be subject to a fine not exceeding One Thousand
8 Dollars (\$1,000.00) or imprisonment in the county jail for a term
9 not exceeding one (1) year, or both fine and imprisonment and, if
10 still employed by the qualified entity, shall be dismissed from
11 employment.

12 J. The Tax Commission may employ the procedures provided by
13 this section in order to collect a debt owed to the Internal Revenue
14 Service if the Internal Revenue Service requires such procedure as a
15 condition to providing information to the Commission concerning
16 federal income tax.

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

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

23 Section 2358. For all tax years beginning after December 31,
24 1981, taxable income and adjusted gross income shall be adjusted to

1 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
2 as required by this section.

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

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

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

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

17 a. For carryovers and carrybacks to taxable years
18 beginning before January 1, 1981, the amount of any
19 net operating loss deduction allowed to a taxpayer for
20 federal income tax purposes shall be reduced to an
21 amount which is the same portion thereof as the loss
22 from sources within this state, as determined pursuant
23 to this section and Section 2362 of this title, for
24

1 the taxable year in which such loss is sustained is of
2 the total loss for such year;

3 b. For carryovers and carrybacks to taxable years

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

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

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

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

19 b. Income from intangible personal property, such as
20 interest, dividends, patent or copyright royalties,
21 and gains or losses from sales of such property, shall
22 be allocated in accordance with the domiciliary situs
23 of the taxpayer, except that:
24

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

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

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

16 (3) income from such property which is required to be
17 allocated pursuant to the provisions of paragraph
18 5 of this subsection shall be allocated as herein
19 provided;

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

1 d. In the case of a manufacturing or processing
2 enterprise the business of which in ~~Oklahoma~~ this
3 state consists solely of marketing its products by:
4 (1) sales having a situs without this state, shipped
5 directly to a point from without the state to a
6 purchaser within the state, commonly known as
7 interstate sales,
8 (2) sales of the product stored in public warehouses
9 within the state pursuant to "in transit"
10 tariffs, as prescribed and allowed by the
11 Interstate Commerce Commission, to a purchaser
12 within the state,
13 (3) sales of the product stored in public warehouses
14 within the state where the shipment to such
15 warehouses is not covered by "in transit"
16 tariffs, as prescribed and allowed by the
17 Interstate Commerce Commission, to a purchaser
18 within or without the state,
19 the Oklahoma net income shall, at the option of the
20 taxpayer, be that portion of the total net income of
21 the taxpayer for federal income tax purposes derived
22 from the manufacture and/or processing and sales
23 everywhere as determined by the ratio of the sales
24 defined in this section made to the purchaser within

1 the state to the total sales everywhere. The term
2 "public warehouse" as used in this subparagraph means
3 a licensed public warehouse, the principal business of
4 which is warehousing merchandise for the public;

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

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

1 by the National Association of Insurance
2 Commissioners, or such other form as may be
3 prescribed in lieu thereof,

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

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

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

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

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

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

1 fixed situs, such as rolling stock, buses, trucks
2 and trailers, including machinery and equipment
3 carried thereon, airplanes, salespersons'
4 automobiles and other similar equipment, in the
5 proportion that miles traveled in ~~Oklahoma~~ this
6 state by such equipment bears to total miles
7 traveled,

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

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

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

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

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

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

23 c. The sales factor is a fraction, the numerator of which
24 is the total sales or gross revenue of the taxpayer in

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

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

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

23 (3) In the case of an airline, truck or bus
24 enterprise or freight car, tank car, refrigerator

1 car or other railroad equipment enterprise, the
2 numerator of the fraction shall include a portion
3 of revenue from interstate transportation in the
4 proportion that interstate mileage traveled in
5 ~~Oklahoma~~ this state bears to total interstate
6 mileage traveled.

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

22 (5) In the case of a telephone or telegraph or other
23 communication enterprise, the numerator of the
24 fraction shall include that portion of the

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

17 In any case where the apportionment of the three factors
18 prescribed in this paragraph attributes to ~~Oklahoma~~ this state a
19 portion of net income of the enterprise out of all appropriate
20 proportion to the property owned and/or business transacted within
21 this state, because of the fact that one or more of the factors so
22 prescribed are not employed to any appreciable extent in furtherance
23 of the enterprise; or because one or more factors not so prescribed
24 are employed to a considerable extent in furtherance of the

1 enterprise; or because of other reasons, the Tax Commission is
2 empowered to permit, after a showing by taxpayer that an excessive
3 portion of net income has been attributed to ~~Oklahoma~~ this state, or
4 require, when in its judgment an insufficient portion of net income
5 has been attributed to ~~Oklahoma~~ this state, the elimination,
6 substitution, or use of additional factors, or reduction or increase
7 in the weight of such prescribed factors. Provided, however, that
8 any such variance from such prescribed factors which has the effect
9 of increasing the portion of net income attributable to ~~Oklahoma~~
10 this state must not be inherently arbitrary, and application of the
11 recomputed final apportionment to the net income of the enterprise
12 must attribute to ~~Oklahoma~~ this state only a reasonable portion
13 thereof.

14 6. For calendar years 1997 and 1998, the owner of a new or
15 expanded agricultural commodity processing facility in this state
16 may exclude from Oklahoma taxable income, or in the case of an
17 individual, the Oklahoma adjusted gross income, fifteen percent
18 (15%) of the investment by the owner in the new or expanded
19 agricultural commodity processing facility. For calendar year 1999,
20 and all subsequent years, the percentage, not to exceed fifteen
21 percent (15%), available to the owner of a new or expanded
22 agricultural commodity processing facility in this state claiming
23 the exemption shall be adjusted annually so that the total estimated
24 reduction in tax liability does not exceed One Million Dollars

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

15 For purposes of this paragraph:

16 a. "Agricultural commodity processing facility" means
17 ~~building~~ buildings, structures, fixtures and
18 improvements used or operated primarily for the
19 processing or production of marketable products from
20 agricultural commodities. The term shall also mean a
21 dairy operation that requires a depreciable investment
22 of at least Two Hundred Fifty Thousand Dollars
23 (\$250,000.00) and which produces milk from dairy cows.
24 The term does not include a facility that provides

1 only, and nothing more than, storage, cleaning, drying
2 or transportation of agricultural commodities, and

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

5 (1) the processing of agricultural commodities,
6 including receiving or storing agricultural
7 commodities, or the production of milk at a dairy
8 operation,

9 (2) transporting the agricultural commodities or
10 product before, during or after the processing,
11 or

12 (3) packaging or otherwise preparing the product for
13 sale or shipment.

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

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

22 b. the loss properly shown on Schedule F of the Internal
23 Revenue Service Form 1040 reduced by one-half (1/2) of
24

1 the income from all other sources other than reflected
2 on Schedule F.

3 8. In taxable years beginning after December 31, 1995, all
4 qualified wages equal to the federal income tax credit set forth in
5 26 U.S.C.A., Section 45A, shall be deducted from taxable income.
6 The deduction allowed pursuant to this paragraph shall only be
7 permitted for the tax years in which the federal tax credit pursuant
8 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
9 paragraph, "qualified wages" means those wages used to calculate the
10 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

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

1 of the Internal Revenue Code by Section 1231 of the American
2 Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

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

1 B. 1. The taxable income of any corporation shall be further
2 adjusted to arrive at Oklahoma taxable income, except those
3 corporations electing treatment as provided in subchapter S of the
4 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
5 2365 of this title, deductions pursuant to the provisions of the
6 Accelerated Cost Recovery System as defined and allowed in the
7 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
8 Section 168, for depreciation of assets placed into service after
9 December 31, 1981, shall not be allowed in calculating Oklahoma
10 taxable income. Such corporations shall be allowed a deduction for
11 depreciation of assets placed into service after December 31, 1981,
12 in accordance with provisions of the Internal Revenue Code, 26
13 U.S.C., Section 1 et seq., in effect immediately prior to the
14 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
15 basis for all such assets placed into service after December 31,
16 1981, calculated in this section shall be retained and utilized for
17 all Oklahoma income tax purposes through the final disposition of
18 such assets.

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

24

1 For assets placed in service and held by a corporation in which
2 ~~accelerated cost recovery system~~ the Accelerated Cost Recovery
3 System was previously disallowed, an adjustment to taxable income is
4 required in the first taxable year beginning after December 31,
5 1982, to reconcile the basis of such assets to the basis allowed in
6 the Internal Revenue Code. The purpose of this adjustment is to
7 equalize the basis and allowance for depreciation accounts between
8 that reported to the Internal Revenue Service and that reported to
9 ~~Oklahoma~~ this state.

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

16 C. 1. For taxable years beginning after December 31, 1987, the
17 taxable income of any corporation shall be further adjusted to
18 arrive at Oklahoma taxable income for transfers of technology to
19 qualified small businesses located in ~~Oklahoma~~ this state. Such
20 transferor corporation shall be allowed an exemption from taxable
21 income of an amount equal to the amount of royalty payment received
22 as a result of such transfer; provided, however, such amount shall
23 not exceed ten percent (10%) of the amount of gross proceeds
24 received by such transferor corporation as a result of the

1 technology transfer. Such exemption shall be allowed for a period
2 not to exceed ten (10) years from the date of receipt of the first
3 royalty payment accruing from such transfer. No exemption may be
4 claimed for transfers of technology to qualified small businesses
5 made prior to January 1, 1988.

6 2. For purposes of this subsection:

7 a. "Qualified small business" means an entity, whether
8 organized as a corporation, partnership, or
9 proprietorship, organized for profit with its
10 principal place of business located within this state
11 and which meets the following criteria:

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

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

17 (3) Not a subsidiary or affiliate of the transferor
18 corporation;

19 b. "Technology" means a proprietary process, formula,
20 pattern, device or compilation of scientific or
21 technical information which is not in the public
22 domain;

23

24

1 c. "Transferor corporation" means a corporation which is
2 the exclusive and undisputed owner of the technology
3 at the time the transfer is made; and

4 d. "Gross proceeds" means the total amount of
5 consideration for the transfer of technology, whether
6 the consideration is in money or otherwise.

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

15 2. As used in this subsection:

16 a. "qualifying gains receiving capital treatment" means
17 the amount of net capital gains, as defined in Section
18 1222(11) of the Internal Revenue Code, included in the
19 federal income tax return of the corporation, estate
20 or trust that result from:

21 (1) the sale of real property or tangible personal
22 property located within ~~Oklahoma~~ this state that
23 has been directly or indirectly owned by the
24 corporation, estate or trust for a holding period

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

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

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

23 b. "holding period" means an uninterrupted period of
24 time. The holding period shall include any additional

1 period when the property was held by another
2 individual or entity, if such additional period is
3 included in the taxpayer's holding period for the
4 asset pursuant to the Internal Revenue Code,

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

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

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

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

1 entity included in the chain of ownership has
2 been a member, partner, or shareholder of the
3 pass-through entity in the tier immediately below
4 it for an uninterrupted period of not less than
5 five (5) years.

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

21 E. The Oklahoma adjusted gross income of any individual
22 taxpayer shall be further adjusted as follows to arrive at Oklahoma
23 taxable income:

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

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

17 c. There shall be allowed an additional exemption of One
18 Thousand Dollars (\$1,000.00) for each taxpayer or
19 spouse who is sixty-five (65) years of age or older at
20 the close of the tax year based upon the filing status
21 and federal adjusted gross income of the taxpayer.
22 Taxpayers with the following filing status may claim
23 this exemption if the federal adjusted gross income
24 does not exceed:

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

9 Provided, for taxable years beginning after December
10 31, 1999, amounts included in the calculation of
11 federal adjusted gross income pursuant to the
12 conversion of a traditional individual retirement
13 account to a Roth individual retirement account shall
14 be excluded from federal adjusted gross income for
15 purposes of the income thresholds provided in this
16 subparagraph.

- 17 2. a. For taxable years beginning on or before December 31,
18 2005, in the case of individuals who use the standard
19 deduction in determining taxable income, there shall
20 be added or deducted, as the case may be, the
21 difference necessary to allow a standard deduction in
22 lieu of the standard deduction allowed by the Internal
23 Revenue Code, in an amount equal to the larger of
24 fifteen percent (15%) of the Oklahoma adjusted gross

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

9 b. For taxable years beginning on or after January 1,
10 2006, and before January 1, 2007, 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 in lieu of the standard
15 deduction allowed by the Internal Revenue Code, in an
16 amount equal to:

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

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

22 c. For the taxable year beginning on January 1, 2007, and
23 ending December 31, 2007, in the case of individuals
24 who use the standard deduction in determining taxable

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

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

8 (2) Four Thousand One Hundred Twenty-five Dollars
9 (\$4,125.00) for a head of household; or

10 (3) Two Thousand Seven Hundred Fifty Dollars
11 (\$2,750.00), if the filing status is single or
12 married filing separate.

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

20 (1) Six Thousand Five Hundred Dollars (\$6,500.00), if
21 the filing status is married filing joint or
22 qualifying widow, or

23 (2) Four Thousand Eight Hundred Seventy-five Dollars
24 (\$4,875.00) for a head of household, or

1 (3) Three Thousand Two Hundred Fifty Dollars
2 (\$3,250.00), if the filing status is single or
3 married filing separate.

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

11 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),
12 if the filing status is married filing joint or
13 qualifying widow, or

14 (2) Six Thousand Three Hundred Seventy-five Dollars
15 (\$6,375.00) for a head of household, or

16 (3) Four Thousand Two Hundred Fifty Dollars
17 (\$4,250.00), if the filing status is single or
18 married filing separate.

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

22 f. For taxable years beginning on or after January 1,
23 2010, and ending on December 31, 2016, in the case of
24 individuals who use the standard deduction in

1 determining taxable income, there shall be added or
2 deducted, as the case may be, the difference necessary
3 to allow a standard deduction equal to the standard
4 deduction allowed by the Internal Revenue Code, based
5 upon the amount and filing status prescribed by such
6 Code for purposes of filing federal individual income
7 tax returns.

8 g. For taxable years beginning on or after January 1,
9 2017, in the case of individuals who use the standard
10 deduction in determining taxable income, there shall
11 be added or deducted, as the case may be, the
12 difference necessary to allow a standard deduction in
13 lieu of the standard deduction allowed by the Internal
14 Revenue Code, as follows:

15 (1) Six Thousand Three Hundred Fifty Dollars
16 (\$6,350.00) for single or married filing
17 separately,

18 (2) Twelve Thousand Seven Hundred Dollars
19 (\$12,700.00) for married filing jointly or
20 qualifying widower with dependent child, and

21 (3) Nine Thousand Three Hundred Fifty Dollars
22 (\$9,350.00) for head of household.

23 3. a. In the case of resident and part-year resident
24 individuals having adjusted gross income from sources

1 both within and without the state, the itemized or
2 standard deductions and personal exemptions shall be
3 reduced to an amount which is the same portion of the
4 total thereof as Oklahoma adjusted gross income is of
5 adjusted gross income. To the extent itemized
6 deductions include allowable moving expense, proration
7 of moving expense shall not be required or permitted
8 but allowable moving expense shall be fully deductible
9 for those taxpayers moving within or into ~~Oklahoma~~
10 this state and no part of moving expense shall be
11 deductible for those taxpayers moving without or out
12 of ~~Oklahoma~~ this state. All other itemized or
13 standard deductions and personal exemptions shall be
14 subject to proration as provided by law.

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

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

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

19 b. On or after July 1, 2010, one hundred percent (100%)
20 of the income received by any person from the United
21 States as salary or compensation in any form, other
22 than retirement benefits, as a member of any component
23 of the Armed Forces of the United States shall be
24 deducted from taxable income.

1 c. Whenever the filing of a timely income tax return by a
2 member of the Armed Forces of the United States is
3 made impracticable or impossible of accomplishment by
4 reason of:

5 (1) absence from the United States, which term
6 includes only the states and the District of
7 Columbia;

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

10 (3) confinement in a hospital within the United
11 States for treatment of wounds, injuries or
12 disease,

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

17 (a) Such individual shall return to the United
18 States if the extension is granted pursuant
19 to subparagraph a of this paragraph, return
20 to ~~the State of Oklahoma~~ this state if the
21 extension is granted pursuant to
22 subparagraph b of this paragraph or be
23 discharged from such hospital if the
24

1 extension is granted pursuant to
2 subparagraph c of this paragraph; or

3 (b) An executor, administrator, or conservator
4 of the estate of the taxpayer is appointed,
5 whichever event occurs the earliest.

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

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

22 7. a. An individual taxpayer, whether resident or
23 nonresident, may deduct an amount equal to the federal
24

1 income taxes paid by the taxpayer during the taxable
2 year.

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

12 c. For the purpose of this paragraph, "federal income
13 taxes paid" shall mean federal income taxes, surtaxes
14 imposed on incomes or excess profits taxes, as though
15 the taxpayer was on the accrual basis. In determining
16 the amount of deduction for federal income taxes for
17 tax year 2001, the amount of the deduction shall not
18 be adjusted by the amount of any accelerated ten
19 percent (10%) tax rate bracket credit or advanced
20 refund of the credit received during the tax year
21 provided pursuant to the federal Economic Growth and
22 Tax Relief Reconciliation Act of 2001, P.L. No. 107-
23 16, and the advanced refund of such credit shall not
24 be subject to taxation.

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

4 8. Retirement benefits not to exceed Five Thousand Five Hundred
5 Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five
6 Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand
7 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax
8 years, which are received by an individual from the civil service of
9 the United States, the Oklahoma Public Employees Retirement System,
10 the Teachers' Retirement System of Oklahoma, the Oklahoma Law
11 Enforcement Retirement System, the Oklahoma Firefighters Pension and
12 Retirement System, the Oklahoma Police Pension and Retirement
13 System, the employee retirement systems created by counties pursuant
14 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the
15 Uniform Retirement System for Justices and Judges, the Oklahoma
16 Wildlife Conservation Department Retirement Fund, the Oklahoma
17 Employment Security Commission Retirement Plan, or the employee
18 retirement systems created by municipalities pursuant to Section 48-
19 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt
20 from taxable income.

21 9. In taxable years beginning after December 31, 1984, Social
22 Security benefits received by an individual shall be exempt from
23 taxable income, to the extent such benefits are included in the
24

1 federal adjusted gross income pursuant to the provisions of Section
2 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

17 11. In taxable years beginning after December 31, 1995,
18 contributions made to and interest received from a medical savings
19 account established pursuant to Sections 2621 through 2623 of Title
20 63 of the Oklahoma Statutes shall be exempt from taxable income.

21 12. For taxable years beginning after December 31, 1996, the
22 Oklahoma adjusted gross income of any individual taxpayer who is a
23 swine or poultry producer may be further adjusted for the deduction
24 for depreciation allowed for new construction or expansion costs

1 which may be computed using the same depreciation method elected for
2 federal income tax purposes except that the useful life shall be
3 seven (7) years for purposes of this paragraph. If depreciation is
4 allowed as a deduction in determining the adjusted gross income of
5 an individual, any depreciation calculated and claimed pursuant to
6 this section shall in no event be a duplication of any depreciation
7 allowed or permitted on the federal income tax return of the
8 individual.

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

12 (1) the adoption of a minor, or

13 (2) a proposed adoption of a minor which did not
14 result in a decreed adoption,

15 may be deducted from the Oklahoma adjusted gross
16 income.

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

20 c. The Tax Commission shall promulgate rules to implement
21 the provisions of this paragraph which shall contain a
22 specific list of nonrecurring adoption expenses which
23 may be presumed to qualify for the deduction. The Tax
24

1 Commission shall prescribe necessary requirements for
2 verification.

3 d. "Nonrecurring adoption expenses" means adoption fees,
4 court costs, medical expenses, attorney fees and
5 expenses which are directly related to the legal
6 process of adoption of a child including, but not
7 limited to, costs relating to the adoption study,
8 health and psychological examinations, transportation
9 and reasonable costs of lodging and food for the child
10 or adoptive parents which are incurred to complete the
11 adoption process and are not reimbursed by other
12 sources. The term ~~"nonrecurring adoption expenses"~~
13 nonrecurring adoption expenses shall not include
14 attorney fees incurred for the purpose of litigating a
15 contested adoption, from and after the point of the
16 initiation of the contest, costs associated with
17 physical remodeling, renovation and alteration of the
18 adoptive parents' home or property, except for a
19 special needs child as authorized by the court.

20 14. a. In taxable years beginning before January 1, 2005,
21 retirement benefits not to exceed the amounts
22 specified in this paragraph, which are received by an
23 individual sixty-five (65) years of age or older and
24 whose Oklahoma adjusted gross income is Twenty-five

1 Thousand Dollars (\$25,000.00) or less if the filing
2 status is single, head of household, or married filing
3 separate, or Fifty Thousand Dollars (\$50,000.00) or
4 less if the filing status is married filing joint or
5 qualifying widow, shall be exempt from taxable income.
6 In taxable years beginning after December 31, 2004,
7 retirement benefits not to exceed the amounts
8 specified in this paragraph, which are received by an
9 individual whose Oklahoma adjusted gross income is
10 less than the qualifying amount specified in this
11 paragraph, shall be exempt from taxable income.

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

- 14 (1) in taxable years beginning after December 31,
15 2004, and prior to January 1, 2007, the
16 qualifying amount shall be Thirty-seven Thousand
17 Five Hundred Dollars (\$37,500.00) or less if the
18 filing status is single, head of household, or
19 married filing separate, or Seventy-five Thousand
20 Dollars (\$75,000.00) or less if the filing status
21 is married filing jointly or qualifying widow,
22 (2) in the taxable year beginning January 1, 2007,
23 the qualifying amount shall be Fifty Thousand
24 Dollars (\$50,000.00) or less if the filing status

1 is single, head of household, or married filing
2 separate, or One Hundred Thousand Dollars
3 (\$100,000.00) or less if the filing status is
4 married filing jointly or qualifying widow,

5 (3) in the taxable year beginning January 1, 2008,
6 the qualifying amount shall be Sixty-two Thousand
7 Five Hundred Dollars (\$62,500.00) or less if the
8 filing status is single, head of household, or
9 married filing separate, or One Hundred Twenty-
10 five Thousand Dollars (\$125,000.00) or less if
11 the filing status is married filing jointly or
12 qualifying widow,

13 (4) in the taxable year beginning January 1, 2009,
14 the qualifying amount shall be One Hundred
15 Thousand Dollars (\$100,000.00) or less if the
16 filing status is single, head of household, or
17 married filing separate, or Two Hundred Thousand
18 Dollars (\$200,000.00) or less if the filing
19 status is married filing jointly or qualifying
20 widow, and

21 (5) in the taxable year beginning January 1, 2010,
22 and subsequent taxable years, there shall be no
23 limitation upon the qualifying amount.
24

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

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

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

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

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

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

20 (6) lump-sum distributions from a retirement plan
21 which satisfies the requirements of Section
22 402(e) of the Internal Revenue Code, 26 U.S.C.,
23 Section 402(e).
24

1 d. The amount of the exemption provided by this paragraph
2 shall be limited to Five Thousand Five Hundred Dollars
3 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
4 Hundred Dollars (\$7,500.00) for the 2005 tax year and
5 Ten Thousand Dollars (\$10,000.00) for the tax year
6 2006 and for all subsequent tax years. Any individual
7 who claims the exemption provided for in paragraph 8
8 of this subsection shall not be permitted to claim a
9 combined total exemption pursuant to this paragraph
10 and paragraph 8 of this subsection in an amount
11 exceeding Five Thousand Five Hundred Dollars
12 (\$5,500.00) for the 2004 tax year, Seven Thousand Five
13 Hundred Dollars (\$7,500.00) for the 2005 tax year and
14 Ten Thousand Dollars (\$10,000.00) for the 2006 tax
15 year and all subsequent tax years.

16 15. In taxable years beginning after December 31, 1999, for an
17 individual engaged in production agriculture who has filed a
18 Schedule F form with the taxpayer's federal income tax return for
19 such taxable year, there shall be excluded from taxable income any
20 amount which was included as federal taxable income or federal
21 adjusted gross income and which consists of the discharge of an
22 obligation by a creditor of the taxpayer incurred to finance the
23 production of agricultural products.

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

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

15 b. In taxable years beginning after December 31, 2004,
16 each taxpayer shall be allowed a deduction for
17 contributions to accounts established pursuant to the
18 Oklahoma College Savings Plan Act. The maximum annual
19 deduction shall equal the amount of contributions to
20 all such accounts plus any contributions to such
21 accounts by the taxpayer for prior taxable years after
22 December 31, 2004, which were not deducted, but in no
23 event shall the deduction for each tax year exceed Ten
24 Thousand Dollars (\$10,000.00) for each individual

1 taxpayer or Twenty Thousand Dollars (\$20,000.00) for
2 taxpayers filing a joint return. Any amount of a
3 contribution that is not deducted by the taxpayer in
4 the year for which the contribution is made may be
5 carried forward as a deduction from income for the
6 succeeding five (5) years. For taxable years
7 beginning after December 31, 2005, deductions may be
8 taken for contributions and rollovers made during a
9 taxable year and up to April 15 of the succeeding
10 year, or the due date of a taxpayer's state income tax
11 return, excluding extensions, whichever is later.
12 Provided, a deduction for the same contribution may
13 not be taken for two (2) different taxable years.

14 c. In taxable years beginning after December 31, 2006,
15 deductions for contributions made pursuant to
16 subparagraph b of this paragraph shall be limited as
17 follows:

18 (1) for a taxpayer who qualified for the five-year
19 carryforward election and who takes a rollover or
20 nonqualified withdrawal during that period, the
21 tax deduction otherwise available pursuant to
22 subparagraph b of this paragraph shall be reduced
23 by the amount which is equal to the rollover or
24 nonqualified withdrawal, and

1 (2) for a taxpayer who elects to take a rollover or
2 nonqualified withdrawal within the same tax year
3 in which a contribution was made to the
4 taxpayer's account, the tax deduction otherwise
5 available pursuant to subparagraph b of this
6 paragraph shall be reduced by the amount of the
7 contribution which is equal to the rollover or
8 nonqualified withdrawal.

9 d. If a taxpayer elects to take a rollover on a
10 contribution for which a deduction has been taken
11 pursuant to subparagraph b of this paragraph within
12 one (1) year of the date of contribution, the amount
13 of such rollover shall be included in the adjusted
14 gross income of the taxpayer in the taxable year of
15 the rollover.

16 e. If a taxpayer makes a nonqualified withdrawal of
17 contributions for which a deduction was taken pursuant
18 to subparagraph b of this paragraph, such nonqualified
19 withdrawal and any earnings thereon shall be included
20 in the adjusted gross income of the taxpayer in the
21 taxable year of the nonqualified withdrawal.

22 f. As used in this paragraph:
23
24

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

4 (a) a qualified withdrawal,

5 (b) a withdrawal made as a result of the death
6 or disability of the designated beneficiary
7 of an account,

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

16 (d) a rollover or change of designated
17 beneficiary as permitted by subsection F of
18 Section 3970.7 of Title 70 of the Oklahoma
19 Statutes, and

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

23 18. For tax years 2006 through 2021, retirement benefits
24 received by an individual from any component of the Armed Forces of

1 the United States in an amount not to exceed the greater of seventy-
2 five percent (75%) of such benefits or Ten Thousand Dollars
3 (\$10,000.00) shall be exempt from taxable income but in no case less
4 than the amount of the exemption provided by paragraph 14 of this
5 subsection. For tax year 2022 and subsequent tax years, retirement
6 benefits received by an individual from any component of the Armed
7 Forces of the United States shall be exempt from taxable income.

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

- 15 a. in the taxable year beginning January 1, 2007, twenty
16 percent (20%) of such benefits shall be exempt,
- 17 b. in the taxable year beginning January 1, 2008, forty
18 percent (40%) of such benefits shall be exempt,
- 19 c. in the taxable year beginning January 1, 2009, sixty
20 percent (60%) of such benefits shall be exempt,
- 21 d. in the taxable year beginning January 1, 2010, eighty
22 percent (80%) of such benefits shall be exempt, and

23

24

1 e. in the taxable year beginning January 1, 2011, and
2 subsequent taxable years, one hundred percent (100%)
3 of such benefits shall be exempt.

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

16 b. An individual may claim this deduction only once, and
17 the deduction may be claimed only for unreimbursed
18 expenses that are incurred by the individual and
19 related to the organ donation of the individual.

20 c. The Oklahoma Tax Commission shall promulgate rules to
21 implement the provisions of this paragraph which shall
22 contain a specific list of expenses which may be
23 presumed to qualify for the deduction. The Tax
24

1 Commission shall prescribe necessary requirements for
2 verification.

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

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

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

20 24. For taxable years beginning on or after January 1, 2016,
21 taxable income shall be increased by any amount of state and local
22 sales or income taxes deducted under 26 U.S.C., Section 164 of the
23 Internal Revenue Code. If the amount of state and local taxes
24 deducted on the federal return is limited, taxable income on the

1 state return shall be increased only by the amount actually deducted
2 after any such limitations are applied.

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

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

23 F. 1. For taxable years beginning after December 31, 2004, a
24 deduction from the Oklahoma adjusted gross income of any individual

1 taxpayer shall be allowed for qualifying gains receiving capital
2 treatment that are included in the federal adjusted gross income of
3 such individual taxpayer during the taxable year.

4 2. As used in this subsection:

5 a. "qualifying gains receiving capital treatment" means
6 the amount of net capital gains, as defined in Section
7 1222(11) of the Internal Revenue Code, included in an
8 individual taxpayer's federal income tax return that
9 result from:

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

17 (2) the sale of stock or the sale of a direct or
18 indirect ownership interest in an Oklahoma
19 company, limited liability company, or
20 partnership where such stock or ownership
21 interest has been directly or indirectly owned by
22 the individual taxpayer for a holding period of
23 at least two (2) years prior to the date of the
24

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

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

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

22 c. "Oklahoma company," "limited liability company," or
23 "partnership" means an entity whose primary
24 headquarters have been located in ~~Oklahoma~~ this state

1 for at least three (3) uninterrupted years prior to
2 the date of the transaction from which the net capital
3 gains arise,

4 d. "direct" means the individual taxpayer directly owns
5 the asset,

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

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

23 (2) With respect to sales of stock or ownership
24 interest in or sales of all or substantially all

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

19 f. "Oklahoma proprietorship business enterprise" means a
20 business enterprise whose income and expenses have
21 been reported on Schedule C or F of an individual
22 taxpayer's federal income tax return, or any similar
23 successor schedule published by the Internal Revenue
24 Service and whose primary headquarters have been

1 located in ~~Oklahoma~~ this state for at least three (3)
2 uninterrupted years prior to the date of the
3 transaction from which the net capital gains arise.

4 G. 1. For purposes of computing its Oklahoma taxable income
5 under this section, the dividends-paid deduction otherwise allowed
6 by federal law in computing net income of a real estate investment
7 trust that is subject to federal income tax shall be added back in
8 computing the tax imposed by this state under this title if the real
9 estate investment trust is a captive real estate investment trust.

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

- 15 a. the term "real estate investment trust" or "REIT"
16 means the meaning ascribed to such term in Section 856
17 of the Internal Revenue Code,
18 b. the term "captive real estate investment trust" means
19 a real estate investment trust, the shares or
20 beneficial interests of which are not regularly traded
21 on an established securities market and more than
22 fifty percent (50%) of the voting power or value of
23 the beneficial interests or shares of which are owned
24

1 or controlled, directly or indirectly, or
2 constructively, by a single entity that is:
3 (1) treated as an association taxable as a
4 corporation under the Internal Revenue Code, and
5 (2) not exempt from federal income tax pursuant to
6 the provisions of Section 501(a) of the Internal
7 Revenue Code.

8 The term shall not include a real estate investment
9 trust that is intended to be regularly traded on an
10 established securities market, and that satisfies the
11 requirements of Section 856(a) (5) and (6) of the U.S.
12 Internal Revenue Code by reason of Section 856(h) (2)
13 of the Internal Revenue Code,

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

- 16 (1) any real estate investment trust as defined in
17 paragraph a of this subsection other than a
18 ~~"captive real estate investment trust"~~ captive
19 real estate investment trust, or
20 (2) any qualified real estate investment trust
21 subsidiary under Section 856(i) of the Internal
22 Revenue Code, other than a qualified REIT
23 subsidiary of a ~~"captive real estate investment~~
24 ~~trust"~~ captive real estate investment trust, or

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

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

21 (a) at least seventy-five percent (75%) of the
22 entity's total asset value at the close of
23 its taxable year is represented by real
24 estate assets, as defined in Section

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

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

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

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

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

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

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

20 SECTION 3. AMENDATORY Section 2, Chapter 278, O.S.L.
21 2023 (70 O.S. Supp. 2023, Section 28-101), is amended to read as
22 follows:

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

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

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

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

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

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

17 6. "Qualified expense" for the purpose of claiming the credit
18 authorized by ~~subparagraph a~~ of paragraph 1 of subsection C of this
19 section means tuition and fees at a private school in this state
20 accredited by the State Board of Education or another accrediting
21 association. Provided, the amount of tuition and fees considered a
22 qualified expense pursuant to this paragraph shall not include
23 tuition and fees paid with any scholarship or tuition and fees
24 discounted or otherwise reduced by the school;

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

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

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

20 B. There is hereby created the Oklahoma Parental Choice Tax
21 Credit Program to provide an income tax credit to a taxpayer for
22 qualified expenses to support the education of eligible students in
23 this state.
24

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

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

12 a. ~~(1)~~ Seven Thousand Five Hundred Dollars (\$7,500.00)
13 or the amount of tuition and fees for the private
14 school, whichever is less, if the combined adjusted
15 gross income of the parents or legal guardians of the
16 eligible student ~~is a member of a household in which~~
17 ~~the total adjusted gross income~~ during the second
18 preceding tax year does not exceed Seventy-five
19 Thousand Dollars (\$75,000.00),

20 ~~(2)~~ b. Seven Thousand Dollars (\$7,000.00) or the amount
21 of tuition and fees for the private school, whichever
22 is less, if the combined adjusted gross income of the
23 parents or legal guardians of the eligible student ~~is~~
24 ~~a member of a household in which the total adjusted~~

1 ~~gross income~~ during the second preceding tax year is
2 more than Seventy-five Thousand Dollars (\$75,000.00)
3 but does not exceed One Hundred Fifty Thousand Dollars
4 (\$150,000.00),

5 ~~(3)~~ c. Six Thousand Five Hundred Dollars (\$6,500.00) or
6 the amount of tuition and fees for the private school,
7 whichever is less, if the combined adjusted gross
8 income of the parents or legal guardians of the
9 eligible student ~~is a member of a household in which~~
10 ~~the total adjusted gross income~~ during the second
11 preceding tax year is more than One Hundred Fifty
12 Thousand Dollars (\$150,000.00) but does not exceed Two
13 Hundred Twenty-five Thousand Dollars (\$225,000.00),

14 ~~(4)~~ d. Six Thousand Dollars (\$6,000.00) or the amount
15 of tuition and fees for the private school, whichever
16 is less, if the combined adjusted gross income of the
17 parents or legal guardians of the eligible student ~~is~~
18 ~~a member of a household in which the total adjusted~~
19 ~~gross income~~ during the second preceding tax year is
20 more than Two Hundred Twenty-five Thousand Dollars
21 (\$225,000.00) but does not exceed Two Hundred Fifty
22 Thousand Dollars (\$250,000.00), or

23 ~~(5)~~ e. Five Thousand Dollars (\$5,000.00) or the amount
24 of tuition and fees for the private school, whichever

1 is less, if the combined adjusted gross income of the
2 parents or legal guardians of the eligible student is
3 ~~a member of a household in which the total adjusted~~
4 ~~gross income~~ during the second preceding tax year is
5 more than Two Hundred Fifty Thousand Dollars
6 (\$250,000.00), ~~and;~~

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

12 ~~b.~~ 3. For tax year 2024 and subsequent tax years, the maximum
13 credit amount shall be One Thousand Dollars (\$1,000.00) in qualified
14 expenses per eligible student in each tax year if the eligible
15 student is educated pursuant to the other means of education
16 exception provided for in subsection A of Section 10-105 of ~~Title 70~~
17 ~~of the Oklahoma Statutes~~ this title. To claim the credit, the
18 taxpayer shall submit to the Commission receipts for qualified
19 expenses as defined by paragraph 7 of subsection A of this section;

20 4. If the eligible student attends a private school in this
21 state, accredited by the State Board of Education or another
22 accrediting association, that exclusively serves students
23 experiencing homelessness, the credit amount shall be Seven Thousand
24 Five Hundred Dollars (\$7,500.00) or the amount of the cost to

1 educate the eligible student at the private school, whichever is
2 less;

3 5. If the eligible student attends a private school in this
4 state, accredited by the State Board of Education or another
5 accrediting association, that primarily serves financially
6 disadvantaged students, the credit amount shall be the maximum
7 credit amount authorized by paragraph 1 of this subsection or the
8 amount of the cost to educate the eligible student at the private
9 school, whichever is less. The cost to educate the eligible student
10 shall be equal to the average cost to educate all students attending
11 the private school, which shall be calculated by dividing the
12 private school's total expenditures in the previous year by the
13 total enrollment in the previous school year. A private school
14 shall be deemed to be primarily serving financially disadvantaged
15 students if the private school's admissions are based on enrolling
16 students whose gross family income is two hundred fifty percent
17 (250%) of the federal poverty threshold or below;

18 ~~2.~~ 6. The taxpayer shall retain all receipts of qualified
19 expenses as proof of the amounts paid each tax year the credit is
20 claimed and shall submit them to the Commission upon request; ~~and~~

21 ~~3.~~ 7. If the credit exceeds the tax imposed by Section 2355 of
22 Title 68 of the Oklahoma Statutes, the excess amount shall be
23 refunded to the taxpayer; and

24

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

3 a. delinquent tax liability,

4 b. accrued penalty or interest from the failure to file a
5 report or return,

6 c. accrued penalty or interest from the failure to pay a
7 state tax within the statutory period allowed for its
8 payment,

9 d. tax liability of the taxpayer from any prior tax year,
10 or

11 e. any debt, unpaid fine, final judgment, or claim filed
12 with the Commission by a qualified entity as defined
13 in Section 205.2 of Title 68 of the Oklahoma Statutes.

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

18 b. For ~~tax year 2025~~ the period of January 1, 2025,
19 through June 30, 2025, the total amount of credits
20 authorized by ~~subparagraph a~~ of paragraph 1 of
21 subsection C of this section shall not exceed ~~Two~~
22 ~~Hundred Million Dollars (\$200,000,000.00)~~ One Hundred
23 Million Dollars (\$100,000,000.00).

1 c. For ~~tax year 2026, and subsequent tax years~~ fiscal
2 year 2026 and subsequent fiscal years, the total
3 amount of credits authorized by ~~subparagraph a of~~
4 paragraph 1 of subsection C of this section shall not
5 exceed Two Hundred Fifty Million Dollars
6 (\$250,000,000.00).

7 2. For tax year 2025~~7~~ and subsequent tax years, the total
8 amount of credits authorized by ~~subparagraph b of paragraph 1~~
9 paragraph 3 of subsection C of this section shall not exceed Five
10 Million Dollars (\$5,000,000.00). For tax year 2025 and subsequent
11 tax years, the Commission shall annually calculate and publish a
12 percentage by which the credits authorized by this section shall be
13 reduced so the total amount of credits claimed does not exceed Five
14 Million Dollars (\$5,000,000.00) per year. The formula to be used
15 for the percentage adjustment shall be Five Million Dollars
16 (\$5,000,000.00) divided by the credits claimed in the second
17 preceding year.

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 the

1 expected amount of tuition and fees for the private school based on
2 the ~~affidavit~~ enrollment verification form submitted pursuant to
3 this subsection, but in no event shall an installment payment exceed
4 ~~half~~ the amount of the credit authorized by ~~subparagraph a of~~
5 paragraph 1 of subsection C of this section. If an eligible
6 taxpayer provides documentation on the application that he or she is
7 a recipient of income-based government benefits including the
8 Supplemental Nutrition Assistance Program (SNAP), Temporary
9 Assistance for Needy Families (TANF), or SoonerCare, the eligible
10 taxpayer shall not be required to provide additional income
11 verification. A taxpayer claiming the credit authorized by
12 ~~subparagraph a of~~ paragraph 1 of subsection C of this section shall
13 submit to the Commission an ~~affidavit~~ enrollment verification form
14 from the private school in which the eligible student is enrolled or
15 is expected to enroll with the tuition and fees to be charged the
16 taxpayer for the applicable school year. In reviewing applications
17 submitted by eligible taxpayers to determine whether they qualify
18 for a credit authorized by ~~subparagraph a of~~ paragraph 1 of
19 subsection C of this section, the Commission shall give first
20 preference in making installments to taxpayers who qualify pursuant
21 to ~~divisions (1) and (2) of subparagraph a~~ subparagraphs a and b of
22 paragraph 1 of subsection C of this section. ~~The Commission shall~~
23 ~~make the installments based on the expected amount of tuition and~~
24 ~~fee amounts on the affidavit submitted pursuant to this subsection.~~

1 For credits issued in fiscal year 2026 and subsequent fiscal years,
2 the application period shall open on January 15 prior to the
3 beginning of each school year. For any eligible student who is a
4 member of a household in which the total federal adjusted gross
5 income does not exceed One Hundred Fifty Thousand Dollars
6 (\$150,000.00), applications shall be submitted to the Commission
7 within the first sixty (60) days of the opening of the application
8 period to receive priority consideration. For students enrolled in
9 the full school year, the credit shall be paid in two installments,
10 one per school semester, to be paid no later than August 30 and
11 January 15, each of which shall be half of the total expected amount
12 of tuition and fees on the enrollment verification form submitted
13 pursuant to this subsection. For students enrolled in less than the
14 full school year, the credit shall be prorated by semester and
15 issued no later than thirty (30) days after the application is
16 approved or during the first thirty (30) days of the semester in
17 which the student is enrolled, whichever is later. The prorated
18 installment payment shall not be less than fifty percent (50%) of
19 the total expected amount of tuition and fees for the private school
20 based on the enrollment verification form submitted pursuant to this
21 subsection, but in no event shall an installment payment exceed the
22 amount of credit authorized by this section.

23 F. Taxpayers claiming the credit shall:
24

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. enrolls in a nonaccredited private school,

17 c. graduates from high school, or

18 d. is no longer utilizing credits authorized by paragraph
19 1 of subsection C of this section for any reason.

20 G. Eligible students may accept a scholarship from the Lindsey
21 Nicole Henry Scholarships for Students with Disabilities Program
22 created by Section 13-101.2 of ~~Title 70 of the Oklahoma Statutes~~
23 this title while participating in the Oklahoma Parental Choice Tax
24 Credit 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~~
4 paragraph 3 of 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 4. The Commission shall provide notification of approval status
19 to applicants within thirty (30) days of application submission.
20 Notice to applicants with an eligible student whose parents or legal
21 guardians have a combined adjusted gross income of more than One
22 Hundred Fifty Thousand Dollars (\$150,000.00) shall be sent within
23 thirty (30) days or no later than thirty (30) days from the last day
24 of the priority consideration period.

1 I. In the event of a failure of revenue pursuant to the
2 Oklahoma State Finance Act, the tax credits otherwise authorized in
3 subsection C of this section shall be reduced proportionately to the
4 reduction in the amount of money appropriated to the State Board of
5 Education for the financial support of public schools for the fiscal
6 year in which the failure of revenue occurs.

7 J. The Commission shall make available on its website to be
8 updated monthly:

9 1. The total ~~the~~ amount of credits claimed each ~~tax~~ year
10 pursuant to ~~subparagraphs a and b of paragraph 1~~ paragraphs 1
11 through 4 of subsection C of this section;

12 2. The amount of credits claimed and number of students awarded
13 each fiscal year pursuant to paragraph 1 of subsection C of this
14 section disaggregated by income categories;

15 3. The total amount of credits claimed and number of students
16 awarded who attended a public school in the semester immediately
17 preceding the school year for which the application is made each
18 year; and

19 4. The total number of applications denied and total amount of
20 credits the denied applications represent for each fiscal year.

21 K. Credits received pursuant to this act shall not constitute
22 taxable income to a taxpayer who received the credit on behalf of an
23 eligible student.

24

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

5

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