

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 389

By: Garvin

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5  
6 AS INTRODUCED

7 An Act relating to income tax; amending 68 O.S. 2021,  
8 Section 2358, as last amended by Section 1, Chapter  
9 377, O.S.L. 2022 (68 O.S. Supp. 2022, Section 2358),  
10 which relates to adjustments to arrive at Oklahoma  
11 taxable income; authorizing deduction for certain  
12 business expense incurred conducting licensed medical  
13 marijuana activity; updating statutory language; and  
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2358, as  
17 last amended by Section 1, Chapter 377, O.S.L. 2022 (68 O.S. Supp.  
18 2022, Section 2358), is amended to read as follows:

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

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

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

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

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

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

21 b. For carryovers and carrybacks to taxable years  
22 beginning after December 31, 1980, the amount of any  
23 net operating loss deduction allowed for the taxable  
24 year shall be an amount equal to the aggregate of the

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

1 with "Oklahoma net operating loss" and "Oklahoma  
2 taxable income".

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

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

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

18 (1) where such property has acquired a nonunitary  
19 business or commercial situs apart from the  
20 domicile of the taxpayer such income shall be  
21 allocated in accordance with such business or  
22 commercial situs; interest income from  
23 investments held to generate working capital for  
24 a unitary business enterprise shall be included

1 in apportionable income; a resident trust or  
2 resident estate shall be treated as having a  
3 separate commercial or business situs insofar as  
4 undistributed income is concerned, but shall not  
5 be treated as having a separate commercial or  
6 business situs insofar as distributed income is  
7 concerned,

8 (2) for taxable years beginning after December 31,  
9 2003, capital or ordinary gains or losses from  
10 the sale of an ownership interest in a publicly  
11 traded partnership, as defined by Section 7704(b)  
12 of the Internal Revenue Code, shall be allocated  
13 to this state in the ratio of the original cost  
14 of such partnership's tangible property in this  
15 state to the original cost of such partnership's  
16 tangible property everywhere, as determined at  
17 the time of the sale; if more than fifty percent  
18 (50%) of the value of the partnership's assets  
19 consists of intangible assets, capital or  
20 ordinary gains or losses from the sale of an  
21 ownership interest in the partnership shall be  
22 allocated to this state in accordance with the  
23 sales factor of the partnership for its first  
24 full tax period immediately preceding its tax

1 period during which the ownership interest in the  
2 partnership was sold; the provisions of this  
3 division shall only apply if the capital or  
4 ordinary gains or losses from the sale of an  
5 ownership interest in a partnership do not  
6 constitute qualifying gain receiving capital  
7 treatment as defined in subparagraph a of  
8 paragraph 2 of subsection F of this section,

9 (3) income from such property which is required to be  
10 allocated pursuant to the provisions of paragraph  
11 5 of this subsection shall be allocated as herein  
12 provided;

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

18 d. In the case of a manufacturing or processing  
19 enterprise the business of which in Oklahoma consists  
20 solely of marketing its products by:

21 (1) sales having a situs without this state, shipped  
22 directly to a point from without the state to a  
23 purchaser within the state, commonly known as  
24 interstate sales,

1 (2) sales of the product stored in public warehouses  
2 within the state pursuant to "in transit"  
3 tariffs, as prescribed and allowed by the  
4 Interstate Commerce Commission, to a purchaser  
5 within the state, or

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

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

22 e. In the case of insurance companies, Oklahoma taxable  
23 income shall be taxable income of the taxpayer for  
24 federal tax purposes, as adjusted for the adjustments

1 provided pursuant to the provisions of paragraphs 1  
2 and 2 of this subsection, apportioned as follows:

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

21 (2) if the principal source of premiums written by an  
22 insurance company consists of premiums for  
23 reinsurance accepted by it, the taxable income of  
24 such company shall be apportioned to this state



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

1                    premiums written by each such ceding company for  
2                    the taxable year.

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

1 apportioned with property and payroll, each comprising twenty-five  
2 percent (25%) of the apportionment factor and sales comprising fifty  
3 percent (50%) of the apportionment factor. The apportionment  
4 factors shall be computed as follows:

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

12 (1) Property, the income from which is separately  
13 allocated in paragraph 4 of this subsection,  
14 shall not be included in determining this  
15 fraction. The numerator of the fraction shall  
16 include a portion of the investment in  
17 transportation and other equipment having no  
18 fixed situs, such as rolling stock, buses, trucks  
19 and trailers, including machinery and equipment  
20 carried thereon, airplanes, salespersons'  
21 automobiles, and other similar equipment, in the  
22 proportion that miles traveled in Oklahoma by  
23 such equipment bears to total miles traveled,  
24

1 (2) Property owned by the taxpayer is valued at its  
2 original cost. Property rented by the taxpayer  
3 is valued at eight times the net annual rental  
4 rate. Net annual rental rate is the annual  
5 rental rate paid by the taxpayer, less any annual  
6 rental rate received by the taxpayer from  
7 subrentals,

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

15 b. The payroll factor is a fraction, the numerator of  
16 which is the total compensation for services rendered  
17 in the state during the tax period, and the  
18 denominator of which is the total compensation for  
19 services rendered everywhere during the tax period.  
20 "Compensation", as used in this subsection means those  
21 paid-for services to the extent related to the unitary  
22 business but does not include officers' salaries,  
23 wages, and other compensation.  
24

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

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

17 c. The sales factor is a fraction, the numerator of which  
18 is the total sales or gross revenue of the taxpayer in  
19 this state during the tax period, and the denominator  
20 of which is the total sales or gross revenue of the  
21 taxpayer everywhere during the tax period. "Sales",  
22 as used in this subsection does not include sales or  
23 gross revenue which are separately allocated in  
24 paragraph 4 of this subsection.

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

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

17 (3) In the case of an airline, truck, or bus  
18 enterprise or freight car, tank car, refrigerator  
19 car, or other railroad equipment enterprise, the  
20 numerator of the fraction shall include a portion  
21 of revenue from interstate transportation in the  
22 proportion that interstate mileage traveled in  
23 Oklahoma bears to total interstate mileage  
24 traveled.

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

15 (5) In the case of a telephone or telegraph or other  
16 communication enterprise, the numerator of the  
17 fraction shall include that portion of the  
18 interstate revenue as is allocated pursuant to  
19 the accounting procedures prescribed by the  
20 Federal Communications Commission; provided that  
21 in respect to each corporation or business entity  
22 required by the Federal Communications Commission  
23 to keep its books and records in accordance with  
24 a uniform system of accounts prescribed by such

1 Commission, the intrastate net income shall be  
2 determined separately in the manner provided by  
3 such uniform system of accounts and only the  
4 interstate income shall be subject to allocation  
5 pursuant to the provisions of this subsection.  
6 Provided further, that the gross revenue factors  
7 shall be those as are determined pursuant to the  
8 accounting procedures prescribed by the Federal  
9 Communications Commission.

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



1 factors which has the effect of increasing the portion of net income  
2 attributable to Oklahoma must not be inherently arbitrary, and  
3 application of the recomputed final apportionment to the net income  
4 of the enterprise must attribute to Oklahoma only a reasonable  
5 portion thereof.

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

1 the percentage for subsequent years. Any amount of the exemption  
2 permitted to be excluded pursuant to the provisions of this  
3 paragraph but not used in any year may be carried forward as an  
4 exemption from income pursuant to the provisions of this paragraph  
5 for a period not exceeding six (6) years following the year in which  
6 the investment was originally made.

7 For purposes of this paragraph:

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

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

22 (1) the processing of agricultural commodities,  
23 including receiving or storing agricultural  
24

1 commodities, or the production of milk at a dairy  
2 operation,

3 (2) transporting the agricultural commodities or  
4 product before, during, or after the processing,  
5 or

6 (3) packaging or otherwise preparing the product for  
7 sale or shipment.

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

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

20 8. In taxable years beginning after December 31, 1995, all  
21 qualified wages equal to the federal income tax credit set forth in  
22 26 U.S.C.A., Section 45A, shall be deducted from taxable income.  
23 The deduction allowed pursuant to this paragraph shall only be  
24 permitted for the tax years in which the federal tax credit pursuant

1 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this  
2 paragraph, "qualified wages" means those wages used to calculate the  
3 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

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

20 11. For taxable years beginning on or after January 1, 2019,  
21 there shall be subtracted from Oklahoma taxable income or adjusted  
22 gross income any item of income or gain, and there shall be added to  
23 Oklahoma taxable income or adjusted gross income any item of loss or  
24 deduction that in the absence of an election pursuant to the  
25

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

18 12. For tax year 2024 and subsequent tax years, there shall be  
19 allowed a deduction from Oklahoma taxable income equal to the amount  
20 of any deduction for business expense incurred in conducting  
21 applicable licensed medical marijuana business activity within this  
22 state which was disallowed for the same tax year pursuant to the  
23 provisions of 26 U.S.C., Section 280E. Deductions allowed pursuant  
24 to this paragraph shall be equivalent to deductions allowed for

1 common business expenses to arrive at federal taxable income for a  
2 business not engaged in licensed medical marijuana business  
3 activity. The Tax Commission may promulgate rules to effectuate the  
4 provisions of this paragraph and may utilize Internal Revenue  
5 Service Forms to verify deductions, including IRS Form 2106.

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

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

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

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

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

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

10 2. For purposes of this subsection:

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

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

23 b. "Technology" means a proprietary process, formula,  
24 pattern, device, or compilation of scientific or  
25



1 technical information which is not in the public  
2 domain;

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

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

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

17 2. As used in this subsection:

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

23 (1) the sale of real property or tangible personal  
24 property located within Oklahoma that has been  
25

1 directly or indirectly owned by the corporation,  
2 estate, or trust for a holding period of at least  
3 five (5) years prior to the date of the  
4 transaction from which such net capital gains  
5 arise,

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

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

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

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

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

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

19 (1) With respect to sales of real property or  
20 tangible personal property located within  
21 Oklahoma, the deduction described in this  
22 subsection shall not apply unless the pass-  
23 through entity that makes the sale has held the  
24 property for not less than five (5) uninterrupted

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

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

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

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

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

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

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

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

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

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

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

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

- 20 (1) Three Thousand Dollars (\$3,000.00), if the filing  
21 status is married filing joint, head of  
22 household, or qualifying widow~~r~~, or  
23 (2) Two Thousand Dollars (\$2,000.00), if the filing  
24 status is single or married filing separate.

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

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

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

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

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



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

4 (2) Four Thousand Eight Hundred Seventy-five Dollars  
5 (\$4,875.00) for a head of household, or

6 (3) Three Thousand Two Hundred Fifty Dollars  
7 (\$3,250.00), if the filing status is single or  
8 married filing separate.

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

16 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),  
17 if the filing status is married filing joint or  
18 qualifying widow, ~~or~~

19 (2) Six Thousand Three Hundred Seventy-five Dollars  
20 (\$6,375.00) for a head of household, or

21 (3) Four Thousand Two Hundred Fifty Dollars  
22 (\$4,250.00), if the filing status is single or  
23 married filing separate.

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

4 f. For taxable years beginning on or after January 1,  
5 2010, and ending on December 31, 2016, in the case of  
6 individuals who use the standard deduction in  
7 determining taxable income, there shall be added or  
8 deducted, as the case may be, the difference necessary  
9 to allow a standard deduction equal to the standard  
10 deduction allowed by the Internal Revenue Code, based  
11 upon the amount and filing status prescribed by such  
12 Code for purposes of filing federal individual income  
13 tax returns.

14 g. For taxable years beginning on or after January 1,  
15 2017, in the case of individuals who use the standard  
16 deduction in determining taxable income, there shall  
17 be added or deducted, as the case may be, the  
18 difference necessary to allow a standard deduction in  
19 lieu of the standard deduction allowed by the Internal  
20 Revenue Code, as follows:

21 (1) Six Thousand Three Hundred Fifty Dollars  
22 (\$6,350.00) for single or married filing  
23 separately,

- 1 (2) Twelve Thousand Seven Hundred Dollars  
2 (\$12,700.00) for married filing jointly or  
3 qualifying widower with dependent child, and  
4 (3) Nine Thousand Three Hundred Fifty Dollars  
5 (\$9,350.00) for head of household.

- 6 3. a. In the case of resident and part-year resident  
7 individuals having adjusted gross income from sources  
8 both within and without the state, the itemized or  
9 standard deductions and personal exemptions shall be  
10 reduced to an amount which is the same portion of the  
11 total thereof as Oklahoma adjusted gross income is of  
12 adjusted gross income. To the extent itemized  
13 deductions include allowable moving expense, proration  
14 of moving expense shall not be required or permitted  
15 but allowable moving expense shall be fully deductible  
16 for those taxpayers moving within or into Oklahoma and  
17 no part of moving expense shall be deductible for  
18 those taxpayers moving without or out of Oklahoma.  
19 All other itemized or standard deductions and personal  
20 exemptions shall be subject to proration as provided  
21 by law.
- 22 b. For taxable years beginning on or after January 1,  
23 2018, the net amount of itemized deductions allowable  
24 on an Oklahoma income tax return, subject to the

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

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

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

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

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

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

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

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

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

21 the time for filing a return and paying an income tax  
22 shall be and is hereby extended without incurring  
23 liability for interest or penalties, to the fifteenth  
24 day of the third month following the month in which:  
25

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

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

22 6. Before July 1, 2010, the salary or any other form of  
23 compensation, received from the United States by a member of any  
24 component of the Armed Forces of the United States, shall be  
25

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

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

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

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

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

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

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



1 retirement systems created by municipalities pursuant to Section 48-  
2 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt  
3 from taxable income.

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

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

23 11. In taxable years beginning after December 31, 1995,  
24 contributions made to and interest received from a medical savings  
25

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

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

15 13. a. In taxable years beginning after December 31, 2002,  
16 nonrecurring adoption expenses paid by a resident  
17 individual taxpayer in connection with:  
18 (1) the adoption of a minor, or  
19 (2) a proposed adoption of a minor which did not  
20 result in a decreed adoption,  
21 may be deducted from the Oklahoma adjusted gross  
22 income.

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

1 property, except for a special needs child as  
2 authorized by the court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

5 f. As used in this paragraph:

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

9 (a) a qualified withdrawal,

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

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

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

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

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

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

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

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

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

20 b. An individual may claim this deduction only once, and  
21 the deduction may be claimed only for unreimbursed  
22 expenses that are incurred by the individual and  
23 related to the organ donation of the individual.  
24

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

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

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

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

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

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

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

6 2. As used in this subsection:

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

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

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



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 as part of the sale of all or  
6 substantially all of the assets of an Oklahoma  
7 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,~~ company", "limited liability  
23 ~~company,~~ company", or "partnership" means an entity  
24 whose primary headquarters have been located in

1 Oklahoma for at least three (3) uninterrupted years  
2 prior to the date of the transaction from which the  
3 net capital 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, the deduction described in this  
13 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 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", ~~or~~  
19 (2) any qualified real estate investment trust  
20 subsidiary under Section 856(i) of the Internal  
21 Revenue Code, other than a qualified REIT  
22 subsidiary of a ~~"captive~~ captive real estate  
23 investment ~~trust", or trust,~~

- 1 (3) any Listed Australian Property Trust (meaning an  
2 Australian unit trust registered as a "Managed  
3 Investment Scheme" under the Australian  
4 Corporations Act in which the principal class of  
5 units is listed on a recognized stock exchange in  
6 Australia and is regularly traded on an  
7 established securities market), or an entity  
8 organized as a trust, provided that a Listed  
9 Australian Property Trust owns or controls,  
10 directly or indirectly, seventy-five percent  
11 (75%) or more of the voting power or value of the  
12 beneficial interests or shares of such trust, or  
13 (4) any Qualified Foreign Entity, meaning a  
14 corporation, trust, association or partnership  
15 organized outside the laws of the United States  
16 and which satisfies the following criteria:  
17 (a) at least seventy-five percent (75%) of the  
18 entity's total asset value at the close of  
19 its taxable year is represented by real  
20 estate assets, as defined in Section  
21 856(c) (5) (B) of the Internal Revenue Code,  
22 thereby including shares or certificates of  
23 beneficial interest in any real estate  
24

1 investment trust, cash and cash equivalents,  
2 and U.S. Government securities,

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

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

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

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

22 3. For purposes of this subsection, the constructive ownership  
23 rules of Section 318(a) of the Internal Revenue Code, as modified by  
24 Section 856(d) (5) of the Internal Revenue Code, shall apply in

1 determining the ownership of stock, assets, or net profits of any  
2 person.

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

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

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