

1 **SENATE FLOOR VERSION**

February 8, 2023

2 **AS AMENDED**

3 SENATE BILL NO. 405

By: Rader and Bergstrom

4  
5  
6 **[ income tax - adjustments - application -  
7 notification - effective date ]**  
8

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

10 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2358, as  
11 last amended by Section 1, Chapter 377, O.S.L. 2022 (68 O.S. Supp.  
12 2022, Section 2358), is amended to read as follows:

13 Section 2358. For all tax years beginning after December 31,  
14 1981, taxable income and adjusted gross income shall be adjusted to  
15 arrive at Oklahoma taxable income and Oklahoma adjusted gross income  
16 as required by this section.

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

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

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

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

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

16            b. For carryovers and carrybacks to taxable years  
17                beginning after December 31, 1980, the amount of any  
18                net operating loss deduction allowed for the taxable  
19                year shall be an amount equal to the aggregate of the  
20                Oklahoma net operating loss carryovers and carrybacks  
21                to such year. Oklahoma net operating losses shall be  
22                separately determined by reference to Section 172 of  
23                the Internal Revenue Code, 26 U.S.C., Section 172, as  
24                modified by the Oklahoma Income Tax Act, Section 2351

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

22 4. Items of the following nature shall be allocated as  
23 indicated. Allowable deductions attributable to items separately  
24 allocable in subparagraphs a, b, and c of this paragraph, whether or

1 not such items of income were actually received, shall be allocated  
2 on the same basis as those items:

3 a. Income from real and tangible personal property, such  
4 as rents, oil and mining production or royalties, and  
5 gains or losses from sales of such property, shall be  
6 allocated in accordance with the situs of such  
7 property;

8 b. Income from intangible personal property, such as  
9 interest, dividends, patent or copyright royalties,  
10 and gains or losses from sales of such property, shall  
11 be allocated in accordance with the domiciliary situs  
12 of the taxpayer, except that:

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

1 business situs insofar as distributed income is  
2 concerned,

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

1                   constitute qualifying gain receiving capital  
2                   treatment as defined in subparagraph a of  
3                   paragraph 2 of subsection F of this section,

4                   (3) income from such property which is required to be  
5                   allocated pursuant to the provisions of paragraph  
6                   5 of this subsection shall be allocated as herein  
7                   provided;

8                   c. Net income or loss from a business activity which is  
9                   not a part of business carried on within or without  
10                  the state of a unitary character shall be separately  
11                  allocated to the state in which such activity is  
12                  conducted;

13                  d. In the case of a manufacturing or processing  
14                  enterprise the business of which in Oklahoma consists  
15                  solely of marketing its products by:

16                  (1) sales having a situs without this state, shipped  
17                  directly to a point from without the state to a  
18                  purchaser within the state, commonly known as  
19                  interstate sales,

20                  (2) sales of the product stored in public warehouses  
21                  within the state pursuant to "in transit"  
22                  tariffs, as prescribed and allowed by the  
23                  Interstate Commerce Commission, to a purchaser  
24                  within the state, or

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

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

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

22 (1) except as otherwise provided by division (2) of  
23 this subparagraph, taxable income of an insurance  
24 company for a taxable year shall be apportioned

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

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

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

22 5. The net income or loss remaining after the separate  
23 allocation in paragraph 4 of this subsection, being that which is  
24 derived from a unitary business enterprise, shall be apportioned to

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

24

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

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

20 (2) Property owned by the taxpayer is valued at its  
21 original cost. Property rented by the taxpayer  
22 is valued at eight times the net annual rental  
23 rate. Net annual rental rate is the annual  
24 rental rate paid by the taxpayer, less any annual

1 rental rate received by the taxpayer from  
2 subrentals,

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

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

19 (1) In the case of a transportation enterprise, the  
20 numerator of the fraction shall include a portion  
21 of such expenditure in connection with employees  
22 operating equipment over a fixed route, such as  
23 railroad employees, airline pilots, or bus  
24 drivers, in this state only a part of the time,

1 in the proportion that mileage traveled in  
2 Oklahoma bears to total mileage traveled by such  
3 employees,

4 (2) In any case the numerator of the fraction shall  
5 include a portion of such expenditures in  
6 connection with itinerant employees, such as  
7 traveling salespersons, in this state only a part  
8 of the time, in the proportion that time spent in  
9 Oklahoma bears to total time spent in furtherance  
10 of the enterprise by such employees;

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

19 (1) Sales of tangible personal property have a situs  
20 in this state if the property is delivered or  
21 shipped to a purchaser other than the United  
22 States government, within this state regardless  
23 of the FOB point or other conditions of the sale;  
24 or the property is shipped from an office, store,

1 warehouse, factory, or other place of storage in  
2 this state and (a) the purchaser is the United  
3 States government or (b) the taxpayer is not  
4 doing business in the state of the destination of  
5 the shipment.

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

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

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

1 of which shall be the total of traffic units of  
2 the enterprise or the revenue of the enterprise  
3 everywhere as appropriate to the numerator. A  
4 "traffic unit" is hereby defined as the  
5 transportation for a distance of one (1) mile of  
6 one (1) barrel of oil, one (1) gallon of  
7 gasoline, or one thousand (1,000) cubic feet of  
8 natural or casinghead gas, as the case may be.

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

1 shall be those as are determined pursuant to the  
2 accounting procedures prescribed by the Federal  
3 Communications Commission.

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

1           6. For calendar years 1997 and 1998, the owner of a new or  
2 expanded agricultural commodity processing facility in this state  
3 may exclude from Oklahoma taxable income, or in the case of an  
4 individual, the Oklahoma adjusted gross income, fifteen percent  
5 (15%) of the investment by the owner in the new or expanded  
6 agricultural commodity processing facility. For calendar year 1999,  
7 and all subsequent years, the percentage, not to exceed fifteen  
8 percent (15%), available to the owner of a new or expanded  
9 agricultural commodity processing facility in this state claiming  
10 the exemption shall be adjusted annually so that the total estimated  
11 reduction in tax liability does not exceed One Million Dollars  
12 (\$1,000,000.00) annually. The Tax Commission shall promulgate rules  
13 for determining the percentage of the investment which each eligible  
14 taxpayer may exclude. The exclusion provided by this paragraph  
15 shall be taken in the taxable year when the investment is made. In  
16 the event the total reduction in tax liability authorized by this  
17 paragraph exceeds One Million Dollars (\$1,000,000.00) in any  
18 calendar year, the Tax Commission shall permit any excess over One  
19 Million Dollars (\$1,000,000.00) and shall factor such excess into  
20 the percentage for subsequent years. Any amount of the exemption  
21 permitted to be excluded pursuant to the provisions of this  
22 paragraph but not used in any year may be carried forward as an  
23 exemption from income pursuant to the provisions of this paragraph

24

1 for a period not exceeding six (6) years following the year in which  
2 the investment was originally made.

3 For purposes of this paragraph:

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

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

18 (1) the processing of agricultural commodities, ~~7~~  
19 including receiving or storing agricultural  
20 commodities, or the production of milk at a dairy  
21 operation,

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

1 (3) packaging or otherwise preparing the product for  
2 sale or shipment.

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

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

11 b. the loss properly shown on Schedule F of the Internal  
12 Revenue Service Form 1040 reduced by one-half (1/2) of  
13 the income from all other sources other than reflected  
14 on Schedule F.

15 8. In taxable years beginning after December 31, 1995, all  
16 qualified wages equal to the federal income tax credit set forth in  
17 26 U.S.C.A., Section 45A, shall be deducted from taxable income.  
18 The deduction allowed pursuant to this paragraph shall only be  
19 permitted for the tax years in which the federal tax credit pursuant  
20 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this  
21 paragraph, "qualified wages" means those wages used to calculate the  
22 federal credit pursuant to 26 U.S.C.A., Section 45A.

23 9. In taxable years beginning after December 31, 2005, an  
24 employer that is eligible for and utilizes the Safety Pays OSHA

1 Consultation Service provided by the ~~Oklahoma~~ Department of Labor  
2 shall receive an exemption from taxable income in the amount of One  
3 Thousand Dollars (\$1,000.00) for the tax year that the service is  
4 utilized.

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

15 11. For taxable years beginning on or after January 1, 2019,  
16 there shall be subtracted from Oklahoma taxable income or adjusted  
17 gross income any item of income or gain, and there shall be added to  
18 Oklahoma taxable income or adjusted gross income any item of loss or  
19 deduction that in the absence of an election pursuant to the  
20 provisions of the Pass-Through Entity Tax Equity Act of 2019 would  
21 be allocated to a member or to an indirect member of an electing  
22 pass-through entity pursuant to Section 2351 et seq. of this title,  
23 if (i) the electing pass-through entity has accounted for such item  
24 in computing its Oklahoma net entity income or loss pursuant to the

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

13 B. 1. The taxable income of any corporation shall be further  
14 adjusted to arrive at Oklahoma taxable income, except those  
15 corporations electing treatment as provided in subchapter S of the  
16 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section  
17 2365 of this title, deductions pursuant to the provisions of the  
18 Accelerated Cost Recovery System as defined and allowed in the  
19 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,  
20 Section 168, for depreciation of assets placed into service after  
21 December 31, 1981, shall not be allowed in calculating Oklahoma  
22 taxable income. Such corporations shall be allowed a deduction for  
23 depreciation of assets placed into service after December 31, 1981,  
24 in accordance with provisions of the Internal Revenue Code, 26

1 U.S.C., Section 1 et seq., in effect immediately prior to the  
2 enactment of the Accelerated Cost Recovery System. The Oklahoma tax  
3 basis for all such assets placed into service after December 31,  
4 1981, calculated in this section shall be retained and utilized for  
5 all Oklahoma income tax purposes through the final disposition of  
6 such assets.

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

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

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

1 small business expense under Internal Revenue Code, Section 179 as  
2 provided in the American Recovery and Reinvestment Act of 2009.

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

17 2. For tax year 2024 and subsequent tax years, to be eligible  
18 for the exemption provided in this subsection, corporations shall  
19 annually apply to the Oklahoma Department of Commerce on a form  
20 prescribed by the Department. The form prescribed shall require  
21 information from the corporation including:

22 a. gross proceeds generated from assets and employees in  
23 this state for the previous tax year,

- 1           b. employment levels and total annual payroll in this  
2           state for the previous tax year,  
3           c. for corporations applying to receive a first tax year  
4           exemption pursuant to this subsection, an estimated  
5           amount of exemption that will be claimed, and  
6           d. for corporations applying to receive subsequent tax  
7           year exemptions pursuant to this subsection, the  
8           amount of exemption claimed in the previous tax year.

9 The Department shall determine if the corporation has provided the  
10 required information in the application and is therefore eligible to  
11 claim the exemption provided in this subsection. The Department  
12 shall, upon an affirmative determination, notify the Tax Commission  
13 that the corporation has met the application requirements of this  
14 paragraph. The Department shall notify the Commission of all  
15 eligible applicants by the end of the tax year. The Department  
16 shall establish an annual application deadline that provides the  
17 Department sufficient time to determine an applicant's eligibility  
18 and provide the required notification.

19           3. For purposes of this subsection:

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

- 1                   (1) ~~Capitalization~~ capitalization of not more than  
2                   Two Hundred Fifty Thousand Dollars (\$250,000.00),  
3                   (2) ~~Having~~ having at least fifty percent (50%) of its  
4                   employees and assets located in ~~Oklahoma~~ this  
5                   state at the time of the transfer, and  
6                   (3) ~~Not~~ not a subsidiary or affiliate of the  
7                   transferor corporation;

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

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

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

18           D. 1. For taxable years beginning after December 31, 2005, the  
19           taxable income of any corporation, estate, or trust, shall be  
20           further adjusted for qualifying gains receiving capital treatment.  
21           Such corporations, estates, or trusts shall be allowed a deduction  
22           from Oklahoma taxable income for the amount of qualifying gains  
23           receiving capital treatment earned by the corporation, estate, or  
24

1 trust during the taxable year and included in the federal taxable  
2 income of such corporation, estate, or trust.

3 2. As used in this subsection:

4 a. "qualifying gains receiving capital treatment" means  
5 the amount of net capital gains, as defined in Section  
6 1222(11) of the Internal Revenue Code, included in the  
7 federal income tax return of the corporation, estate,  
8 or trust that result from:

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

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

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

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

18 c. "Oklahoma company", "limited liability company", or  
19 "partnership" means an entity whose primary  
20 headquarters have been located in Oklahoma for at  
21 least three (3) uninterrupted years prior to the date  
22 of the transaction from which the net capital gains  
23 arise,  
24

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

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

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

20 (2) With respect to sales of stock or ownership  
21 interest in or sales of all or substantially all  
22 of the assets of an Oklahoma company, limited  
23 liability company, or partnership, the deduction  
24 described in this subsection shall not apply

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

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

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

19 b. There shall be allowed an additional exemption of One  
20 Thousand Dollars (\$1,000.00) for each taxpayer or  
21 spouse who is blind at the close of the tax year. For  
22 purposes of this subparagraph, an individual is blind  
23 only if the central visual acuity of the individual  
24 does not exceed 20/200 in the better eye with

1 correcting lenses, or if the visual acuity of the  
2 individual is greater than 20/200, but is accompanied  
3 by a limitation in the fields of vision such that the  
4 widest diameter of the visual field subtends an angle  
5 no greater than twenty (20) degrees.

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

14 (1) Twenty-five Thousand Dollars (\$25,000.00) if  
15 married and filing jointly~~†~~L

16 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)  
17 if married and filing separately~~†~~L

18 (3) Fifteen Thousand Dollars (\$15,000.00) if single~~†~~L  
19 and

20 (4) Nineteen Thousand Dollars (\$19,000.00) if a  
21 qualifying head of household.

22 Provided, for taxable years beginning after December  
23 31, 1999, amounts included in the calculation of  
24 federal adjusted gross income pursuant to the

1 conversion of a traditional individual retirement  
2 account to a Roth individual retirement account shall  
3 be excluded from federal adjusted gross income for  
4 purposes of the income thresholds provided in this  
5 subparagraph.

6 2. a. For taxable years beginning on or before December 31,  
7 2005, in the case of individuals who use the standard  
8 deduction in determining taxable income, there shall  
9 be added or deducted, as the case may be, the  
10 difference necessary to allow a standard deduction in  
11 lieu of the standard deduction allowed by the Internal  
12 Revenue Code, in an amount equal to the larger of  
13 fifteen percent (15%) of the Oklahoma adjusted gross  
14 income or One Thousand Dollars (\$1,000.00), but not to  
15 exceed Two Thousand Dollars (\$2,000.00), except that  
16 in the case of a married individual filing a separate  
17 return such deduction shall be the larger of fifteen  
18 percent (15%) of such Oklahoma adjusted gross income  
19 or Five Hundred Dollars (\$500.00), but not to exceed  
20 the maximum amount of One Thousand Dollars  
21 (\$1,000.00).

22 b. For taxable years beginning on or after January 1,  
23 2006, and before January 1, 2007, 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 in lieu of the standard  
4 deduction allowed by the Internal Revenue Code, in an  
5 amount equal to:

6 (1) Three Thousand Dollars (\$3,000.00), if the filing  
7 status is married filing joint, head of  
8 household, or qualifying widow~~+~~+ or

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

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

18 (1) Five Thousand Five Hundred Dollars (\$5,500.00),  
19 if the filing status is married filing joint or  
20 qualifying widow~~+~~+

21 (2) Four Thousand One Hundred Twenty-five Dollars  
22 (\$4,125.00) for a head of household~~+~~+ or  
23  
24

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

4 d. For the taxable year beginning on January 1, 2008, and  
5 ending December 31, 2008, 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) Six Thousand Five Hundred Dollars (\$6,500.00), if  
12 the filing status is married filing joint or  
13 qualifying widow, ~~or~~

14 (2) Four Thousand Eight Hundred Seventy-five Dollars  
15 (\$4,875.00) for a head of household, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) absence from the United States, which term  
23 includes only the states and the District of  
24 Columbia~~7~~L

1 (2) absence from ~~the State of Oklahoma~~ this state  
2 while on active duty~~,~~ or

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

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

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

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

23 Provided, that the Tax Commission may, in its discretion, grant  
24 any member of the Armed Forces of the United States an extension of

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

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

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

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

1 paragraph shall be prorated on the ratio of the  
2 Oklahoma adjusted gross income to federal adjusted  
3 gross income.

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

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

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

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

13 9. In taxable years beginning after December 31, 1984, Social  
14 Security benefits received by an individual shall be exempt from  
15 taxable income, to the extent such benefits are included in the  
16 federal adjusted gross income pursuant to the provisions of Section  
17 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

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

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

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

24

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

4 (1) the adoption of a minor, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 f. As used in this paragraph:

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

15 (a) a qualified withdrawal,

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

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

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

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

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

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

19 19. For taxable years beginning after December 31, 2006,  
20 retirement benefits received by federal civil service retirees,  
21 including survivor annuities, paid in lieu of Social Security  
22 benefits shall be exempt from taxable income to the extent such  
23 benefits are included in the federal adjusted gross income pursuant  
24

1 to the provisions of Section 86 of the Internal Revenue Code, 26  
2 U.S.C., Section 86, according to the following schedule:

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

14 20. a. For taxable years beginning after December 31, 2007, a  
15 resident individual may deduct up to Ten Thousand  
16 Dollars (\$10,000.00) from Oklahoma adjusted gross  
17 income if the individual, or the dependent of the  
18 individual, while living, donates one or more human  
19 organs of the individual to another human being for  
20 human organ transplantation. As used in this  
21 paragraph, "human organ" means all or part of a liver,  
22 pancreas, kidney, intestine, lung, or bone marrow. A  
23 deduction that is claimed under this paragraph may be  
24

1           claimed in the taxable year in which the human organ  
2           transplantation occurs.

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

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

13          21.  For taxable years beginning after December 31, 2009, there  
14          shall be exempt from taxable income any amount received by the  
15          beneficiary of the death benefit for an emergency medical technician  
16          or a registered emergency medical responder provided by Section 1-  
17          2505.1 of Title 63 of the Oklahoma Statutes.

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

22          23.  For taxable years beginning after December 31, 2008, there  
23          shall be exempt from taxable income any payment in an amount less  
24          than Six Hundred Dollars (\$600.00) received by a person as an award

1 for participation in a competitive livestock show event. For  
2 purposes of this paragraph, the payment shall be treated as a  
3 scholarship amount paid by the entity sponsoring the event and the  
4 sponsoring entity shall cause the payment to be categorized as a  
5 scholarship in its books and records.

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

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

1 succeeding tax year, or through the due date of a taxpayer's state  
2 income tax return excluding extensions, whichever is later.  
3 Provided, a deduction for the same contribution may not be taken in  
4 more than one (1) tax year.

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

10 2. As used in this subsection:

11 a. "qualifying gains receiving capital treatment" means  
12 the amount of net capital gains, as defined in Section  
13 1222(11) of the Internal Revenue Code, included in an  
14 individual taxpayer's federal income tax return that  
15 result from:

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

22 (2) the sale of stock or the sale of a direct or  
23 indirect ownership interest in an Oklahoma  
24 company, limited liability company, or

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

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

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

1 included in the taxpayer's holding period for the  
2 asset pursuant to the Internal Revenue Code,

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

9 d. "direct" means the individual taxpayer directly owns  
10 the asset,

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

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

1 pass-through entity in the tier immediately below  
2 it for an uninterrupted period of not less than  
3 five (5) years.

4 (2) With respect to sales of stock or ownership  
5 interest in or sales of all or substantially all  
6 of the assets of an Oklahoma company, limited  
7 liability company, partnership, or Oklahoma  
8 proprietorship business enterprise, the deduction  
9 described in this subsection shall not apply  
10 unless the pass-through entity that makes the  
11 sale has held the stock or ownership interest for  
12 not less than two (2) uninterrupted years prior  
13 to the date of the transaction that created the  
14 capital gain, and each pass-through entity  
15 included in the chain of ownership has been a  
16 member, partner, or shareholder of the pass-  
17 through entity in the tier immediately below it  
18 for an uninterrupted period of not less than two  
19 (2) years. For purposes of this division,  
20 uninterrupted ownership prior to July 1, 2007,  
21 shall be included in the determination of the  
22 required holding period prescribed by this  
23 division, and  
24

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

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

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

21 a. the term "real estate investment trust" or "REIT"  
22 means the meaning ascribed to such term in Section 856  
23 of the Internal Revenue Code,  
24

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

- 9                   (1)    treated as an association taxable as a  
10                          corporation under the Internal Revenue Code, and  
11                   (2)    not exempt from federal income tax pursuant to  
12                          the provisions of Section 501(a) of the Internal  
13                          Revenue Code.

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

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

- 22                   (1)    any real estate investment trust as defined in  
23                          paragraph a of this subsection other than a  
24                          "captive real estate investment trust", ~~or~~

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

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

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

22 (a) at least seventy-five percent (75%) of the  
23 entity's total asset value at the close of  
24 its taxable year is represented by real

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

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

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

17 (d) not more than ten percent (10%) of the  
18 voting power or value in such entity is held  
19 directly or indirectly or constructively by  
20 a single entity or individual, or the shares  
21 or beneficial interests of such entity are  
22 regularly traded on an established  
23 securities market, and  
24

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

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

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
24 February 8, 2023 - DO PASS AS AMENDED