

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 638

By: Floyd

4  
5  
6 AS INTRODUCED

7 An Act relating to income tax; amending 68 O.S. 2011,  
8 Section 2358, as last amended by Section 1, Chapter  
9 9, 2nd Extraordinary Session, O.S.L. 2018 (68 O.S.  
10 Supp. 2018, Section 2358), which relates to  
11 adjustments to Oklahoma taxable or adjusted gross  
12 income; limiting time period during which income of a  
13 corporation, estate, trust or individual may be  
14 adjusted for certain capital gains; specifying date  
15 after which no adjustment shall be allowed; and  
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2358, as  
19 last amended by Section 1, Chapter 9, 2nd Extraordinary Session,  
20 O.S.L. 2018 (68 O.S. Supp. 2018, Section 2358), is amended to read  
21 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (2) for taxable years beginning after December 31,  
13 2003, capital or ordinary gains or losses from  
14 the sale of an ownership interest in a publicly  
15 traded partnership, as defined by Section 7704(b)  
16 of the Internal Revenue Code of 1986, as amended,  
17 shall be allocated to this state in the ratio of  
18 the original cost of such partnership's tangible  
19 property in this state to the original cost of  
20 such partnership's tangible property everywhere,  
21 as determined at the time of the sale; if more  
22 than fifty percent (50%) of the value of the  
23 partnership's assets consists of intangible  
24 assets, capital or ordinary gains or losses from

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

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

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

1 d. In the case of a manufacturing or processing  
2 enterprise the business of which in Oklahoma consists  
3 solely of marketing its products by:

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

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

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

19 the Oklahoma net income shall, at the option of the  
20 taxpayer, be that portion of the total net income of  
21 the taxpayer for federal income tax purposes derived  
22 from the manufacture and/or processing and sales  
23 everywhere as determined by the ratio of the sales  
24 defined in this section made to the purchaser within

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

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

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



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

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

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

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

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

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

19 (1) Property, the income from which is separately  
20 allocated in paragraph 4 of this subsection,  
21 shall not be included in determining this  
22 fraction. The numerator of the fraction shall  
23 include a portion of the investment in  
24 transportation and other equipment having no  
25

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

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

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

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

1 services rendered everywhere during the tax period.

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

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

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

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

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

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

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

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

1 numerator of the fraction shall include a portion  
2 of revenue from interstate transportation in the  
3 proportion that interstate mileage traveled in  
4 Oklahoma bears to total interstate mileage  
5 traveled.

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

20 (5) In the case of a telephone or telegraph or other  
21 communication enterprise, the numerator of the  
22 fraction shall include that portion of the  
23 interstate revenue as is allocated pursuant to  
24 the accounting procedures prescribed by the  
25

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

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



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

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

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

12 For purposes of this paragraph:

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

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

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

7           (2) transporting the agricultural commodities or  
8                 product before, during or after the processing,  
9                 or

10           (3) packaging or otherwise preparing the product for  
11                 sale or shipment.

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

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

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

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

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

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

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

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

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

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

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

1 from the date of receipt of the first royalty payment accruing from  
2 such transfer. No exemption may be claimed for transfers of  
3 technology to qualified small businesses made prior to January 1,  
4 1988.

5 2. For purposes of this subsection:

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

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

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

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

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

22 c. "Transferor corporation" means a corporation which is  
23 the exclusive and undisputed owner of the technology  
24 at the time the transfer is made; and  
25

1           d. "Gross proceeds" means the total amount of  
2           consideration for the transfer of technology, whether  
3           the consideration is in money or otherwise.

4           D. 1. For taxable years beginning after December 31, 2005, and  
5 ending on or before January 1, 2020, the taxable income of any  
6 corporation, estate or trust, shall be further adjusted for  
7 qualifying gains receiving capital treatment. Such corporations,  
8 estates or trusts shall be allowed a deduction from Oklahoma taxable  
9 income for the amount of qualifying gains receiving capital  
10 treatment earned by the corporation, estate or trust during the  
11 taxable year and included in the federal taxable income of such  
12 corporation, estate or trust.

13           2. As used in this subsection:

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

19           (1) the sale of real property or tangible personal  
20           property located within Oklahoma that has been  
21           directly or indirectly owned by the corporation,  
22           estate or trust for a holding period of at least  
23           five (5) years prior to the date of the  
24



1 transaction from which such net capital gains  
2 arise,

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

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

22 provided, no adjustment for qualifying gains receiving  
23 capital treatment shall be allowed for sales provided in  
24 this subsection that occur on or after July 1, 2019,

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;
- 6 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)  
7 if married and filing separately;
- 8 (3) Fifteen Thousand Dollars (\$15,000.00) if single;  
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 household  
22 or qualifying widow; 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

11 (2) Four Thousand One Hundred Twenty-five Dollars  
12 (\$4,125.00) for a head of household; 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 of  
11 1986, as amended, based upon the amount and filing  
12 status prescribed by such Code for purposes of filing  
13 federal individual income 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 of 1986, as amended, as follows:

21 (1) Six Thousand Three Hundred Fifty Dollars  
22 (\$6,350.00) for single or married filing  
23 separately,  
24

- 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 or  
12 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 while on  
17 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:

1 (a) Such individual shall return to the United  
2 States if the extension is granted pursuant  
3 to subparagraph a of this paragraph, return  
4 to the State of Oklahoma if the extension is  
5 granted pursuant to subparagraph b of this  
6 paragraph or be discharged from such  
7 hospital if the extension is granted  
8 pursuant to subparagraph c of this  
9 paragraph; or

10 (b) An executor, administrator, or conservator  
11 of the estate of the taxpayer is appointed,  
12 whichever event occurs the earliest.

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

21 6. Before July 1, 2010, the salary or any other form of  
22 compensation, received from the United States by a member of any  
23 component of the Armed Forces of the United States, shall be  
24 deducted from taxable income during the time in which the person is

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

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

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

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

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

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

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

1 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt  
2 from taxable income.

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

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

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



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

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

- 18 a. in the taxable year beginning January 1, 2007, twenty  
19 percent (20%) of such benefits shall be exempt,  
20 b. in the taxable year beginning January 1, 2008, forty  
21 percent (40%) of such benefits shall be exempt,  
22 c. in the taxable year beginning January 1, 2009, sixty  
23 percent (60%) of such benefits shall be exempt,  
24

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

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

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

22 c. The Oklahoma Tax Commission shall promulgate rules to  
23 implement the provisions of this paragraph which shall  
24 contain a specific list of expenses which may be  
25

1           presumed to qualify for the deduction. The Tax  
2           Commission shall prescribe necessary requirements for  
3           verification.

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

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

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

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

1 deducted on the federal return is limited, taxable income on the  
2 state return shall be increased only by the amount actually deducted  
3 after any such limitations are applied.

4 F. 1. For taxable years beginning after December 31, 2004, and  
5 ending on or before December 31, 2020, a deduction from the Oklahoma  
6 adjusted gross income of any individual taxpayer shall be allowed  
7 for qualifying gains receiving capital treatment that are included  
8 in the federal adjusted gross income of such individual taxpayer  
9 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  
25

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 provided, no deduction for qualifying gains receiving  
21 capital treatment shall be allowed from sales provided in  
22 this subsection that occur on or after July 1, 2019,

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

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

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

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

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

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



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

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

1 required holding period prescribed by this  
2 division, and

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

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

18 2. For purposes of computing its Oklahoma taxable income under  
19 this section, a taxpayer shall add back otherwise deductible rents  
20 and interest expenses paid to a captive real estate investment trust  
21 that is not subject to the provisions of paragraph 1 of this  
22 subsection. As used in this subsection:  
23  
24  
25

1 a. the term "real estate investment trust" or "REIT"  
2 means the meaning ascribed to such term in Section 856  
3 of the Internal Revenue Code of 1986, as amended,

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

12 (1) treated as an association taxable as a  
13 corporation under the Internal Revenue Code of  
14 1986, as amended, and

15 (2) not exempt from federal income tax pursuant to  
16 the provisions of Section 501(a) of the Internal  
17 Revenue Code of 1986, as amended.

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

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

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

6 (2) any qualified real estate investment trust  
7 subsidiary under Section 856(i) of the Internal  
8 Revenue Code of 1986, as amended, other than a  
9 qualified REIT subsidiary of a "captive real  
10 estate investment trust", or

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

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

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

3 (a) at least seventy-five percent (75%) of the  
4 entity's total asset value at the close of  
5 its taxable year is represented by real  
6 estate assets, as defined in Section  
7 856(c) (5) (B) of the Internal Revenue Code of  
8 1986, as amended, thereby including shares  
9 or certificates of beneficial interest in  
10 any real estate investment trust, cash and  
11 cash equivalents, and U.S. Government  
12 securities,

13 (b) the entity receives a dividend-paid  
14 deduction comparable to Section 561 of the  
15 Internal Revenue Code of 1986, as amended,  
16 or is exempt from entity level tax,

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

23 (d) not more than ten percent (10%) of the  
24 voting power or value in such entity is held  
25

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

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

8 3. For purposes of this subsection, the constructive ownership  
9 rules of Section 318(a) of the Internal Revenue Code of 1986, as  
10 amended, as modified by Section 856(d)(5) of the Internal Revenue  
11 Code of 1986, as amended, shall apply in determining the ownership  
12 of stock, assets, or net profits of any person.

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

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

3 SECTION 2. This act shall become effective November 1, 2019.

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