

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 401

By: Pugh

4  
5  
6 AS INTRODUCED

7 An Act relating to income tax adjustments; amending  
8 68 O.S. 2011, Section 2358, as last amended by  
9 Section 5, Chapter 201, O.S.L. 2019 (68 O.S. Supp.  
10 2020, Section 2358), which relates to determination  
11 of taxable income; modifying exemption for military  
12 retirement benefits; and providing an effective date.

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

14 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2358, as  
15 last amended by Section 5, Chapter 201, O.S.L. 2019 (68 O.S. Supp.  
16 2020, Section 2358), is amended to read as follows:

17 Section 2358. For all tax years beginning after December 31,  
18 1981, taxable income and adjusted gross income shall be adjusted to  
19 arrive at Oklahoma taxable income and Oklahoma adjusted gross income  
20 as required by this section.

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

24 1. There shall be added interest income on obligations of any  
state or political subdivision thereto which is not otherwise

1 exempted pursuant to other laws of this state, to the extent that  
2 such interest is not included in taxable income and adjusted gross  
3 income.

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

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

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

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

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

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

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

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

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

1 separate commercial or business situs insofar as  
2 undistributed income is concerned, but shall not  
3 be treated as having a separate commercial or  
4 business situs insofar as distributed income is  
5 concerned,

6 (2) for taxable years beginning after December 31,  
7 2003, capital or ordinary gains or losses from  
8 the sale of an ownership interest in a publicly  
9 traded partnership, as defined by Section 7704(b)  
10 of the Internal Revenue Code, shall be allocated  
11 to this state in the ratio of the original cost  
12 of such partnership's tangible property in this  
13 state to the original cost of such partnership's  
14 tangible property everywhere, as determined at  
15 the time of the sale; if more than fifty percent  
16 (50%) of the value of the partnership's assets  
17 consists of intangible assets, capital or  
18 ordinary gains or losses from the sale of an  
19 ownership interest in the partnership shall be  
20 allocated to this state in accordance with the  
21 sales factor of the partnership for its first  
22 full tax period immediately preceding its tax  
23 period during which the ownership interest in the  
24 partnership was sold; the provisions of this

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

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

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

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

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

23 (2) sales of the product stored in public warehouses  
24 within the state pursuant to "in transit"

1 tariffs, as prescribed and allowed by the  
2 Interstate Commerce Commission, to a purchaser  
3 within the state,

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

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

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

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

19 (2) if the principal source of premiums written by an  
20 insurance company consists of premiums for  
21 reinsurance accepted by it, the taxable income of  
22 such company shall be apportioned to this state  
23 by multiplying such income by a fraction, the  
24 numerator of which is the sum of (a) direct



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

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

1 percent (50%) of the apportionment factor. The apportionment  
2 factors shall be computed as follows:

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

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

22 (2) Property owned by the taxpayer is valued at its  
23 original cost. Property rented by the taxpayer  
24 is valued at eight times the net annual rental

1 rate. Net annual rental rate is the annual  
2 rental rate paid by the taxpayer, less any annual  
3 rental rate received by the taxpayer from  
4 subrentals,

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

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

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

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

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

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

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

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

21 (4) In the case of an oil, gasoline or gas pipeline  
22 enterprise, the numerator of the fraction shall  
23 be either the total of traffic units of the  
24 enterprise within Oklahoma or the revenue  
25

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

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

1           pursuant to the provisions of this subsection.  
2           Provided further, that the gross revenue factors  
3           shall be those as are determined pursuant to the  
4           accounting procedures prescribed by the Federal  
5           Communications Commission.

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



1 of the enterprise must attribute to Oklahoma only a reasonable  
2 portion thereof.

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

1 exemption from income pursuant to the provisions of this paragraph  
2 for a period not exceeding six (6) years following the year in which  
3 the investment was originally made.

4 For purposes of this paragraph:

5 a. "Agricultural commodity processing facility" means  
6 building, structures, fixtures and improvements used  
7 or operated primarily for the processing or production  
8 of marketable products from agricultural commodities.  
9 The term shall also mean a dairy operation that  
10 requires a depreciable investment of at least Two  
11 Hundred Fifty Thousand Dollars (\$250,000.00) and which  
12 produces milk from dairy cows. The term does not  
13 include a facility that provides only, and nothing  
14 more than, storage, cleaning, drying or transportation  
15 of agricultural commodities, 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,  
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  
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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 2 of this act~~ Section 2355.1P-2 of this title.

9 Notwithstanding the application of this paragraph, the adjusted tax  
10 basis of any ownership interest in a pass-through entity for  
11 purposes of Section 2351 et seq. of this title shall be equal to its  
12 adjusted tax basis for federal income 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  
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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 transfer; provided, however, such amount shall not exceed  
10 ten percent (10%) of the amount of gross proceeds received by such  
11 transferor corporation as a result of the technology transfer. Such  
12 exemption shall be allowed for a period not to exceed ten (10) years  
13 from the date of receipt of the first royalty payment accruing from  
14 such transfer. No exemption may be claimed for transfers of  
15 technology to qualified small businesses made prior to January 1,  
16 1988.

17 2. For purposes of this subsection:

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

23 (1) Capitalization of not more than Two Hundred Fifty  
24 Thousand Dollars (\$250,000.00),  
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1 (2) Having at least fifty percent (50%) of its  
2 employees and assets located in Oklahoma at the  
3 time of the transfer, and

4 (3) Not a subsidiary or affiliate of the transferor  
5 corporation;

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

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

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

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

24 2. As used in this subsection:  
25



1 a. "qualifying gains receiving capital treatment" means  
2 the amount of net capital gains, as defined in Section  
3 1222(11) of the Internal Revenue Code, included in the  
4 federal income tax return of the corporation, estate  
5 or trust that result from:

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

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

21 (3) the sale of real property, tangible personal  
22 property or intangible personal property located  
23 within Oklahoma as part of the sale of all or  
24 substantially all of the assets of an Oklahoma  
25

1 company, limited liability company, or  
2 partnership where such property has been directly  
3 or indirectly owned by such entity owned by the  
4 owners of such entity, and used in or derived  
5 from such entity for a period of at least three  
6 (3) years prior to the date of the transaction  
7 from which the net capital gains arise,

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

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

20 d. "direct" means the taxpayer directly owns the asset,  
21 and

22 e. "indirect" means the taxpayer owns an interest in a  
23 pass-through entity (or chain of pass-through  
24

1 entities) that sells the asset that gives rise to the  
2 qualifying gains receiving capital treatment.

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

16 (2) With respect to sales of stock or ownership  
17 interest in or sales of all or substantially all  
18 of the assets of an Oklahoma company, limited  
19 liability company, or partnership, the deduction  
20 described in this subsection shall not apply  
21 unless the pass-through entity that makes the  
22 sale has held the stock or ownership interest or  
23 the assets for not less than three (3)  
24 uninterrupted years prior to the date of the  
25

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

7 E. The Oklahoma adjusted gross income of any individual  
8 taxpayer shall be further adjusted as follows to arrive at Oklahoma  
9 taxable income:

10 1. a. In the case of individuals, there shall be added or  
11 deducted, as the case may be, the difference necessary  
12 to allow personal exemptions of One Thousand Dollars  
13 (\$1,000.00) in lieu of the personal exemptions allowed  
14 by the Internal Revenue Code.

15 b. There shall be allowed an additional exemption of One  
16 Thousand Dollars (\$1,000.00) for each taxpayer or  
17 spouse who is blind at the close of the tax year. For  
18 purposes of this subparagraph, an individual is blind  
19 only if the central visual acuity of the individual  
20 does not exceed 20/200 in the better eye with  
21 correcting lenses, or if the visual acuity of the  
22 individual is greater than 20/200, but is accompanied  
23 by a limitation in the fields of vision such that the  
24

1 widest diameter of the visual field subtends an angle  
2 no greater than twenty (20) degrees.

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

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

19 Provided, for taxable years beginning after December  
20 31, 1999, amounts included in the calculation of  
21 federal adjusted gross income pursuant to the  
22 conversion of a traditional individual retirement  
23 account to a Roth individual retirement account shall  
24 be excluded from federal adjusted gross income for  
25

1 purposes of the income thresholds provided in this  
2 subparagraph.

3 2. a. For taxable years beginning on or before December 31,  
4 2005, in the case of individuals who use the standard  
5 deduction in determining taxable income, there shall  
6 be added or deducted, as the case may be, the  
7 difference necessary to allow a standard deduction in  
8 lieu of the standard deduction allowed by the Internal  
9 Revenue Code, in an amount equal to the larger of  
10 fifteen percent (15%) of the Oklahoma adjusted gross  
11 income or One Thousand Dollars (\$1,000.00), but not to  
12 exceed Two Thousand Dollars (\$2,000.00), except that  
13 in the case of a married individual filing a separate  
14 return such deduction shall be the larger of fifteen  
15 percent (15%) of such Oklahoma adjusted gross income  
16 or Five Hundred Dollars (\$500.00), but not to exceed  
17 the maximum amount of One Thousand Dollars  
18 (\$1,000.00).

19 b. For taxable years beginning on or after January 1,  
20 2006, and before January 1, 2007, in the case of  
21 individuals who use the standard deduction in  
22 determining taxable income, there shall be added or  
23 deducted, as the case may be, the difference necessary  
24 to allow a standard deduction in lieu of the standard  
25

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

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

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

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

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

18 (2) Four Thousand One Hundred Twenty-five Dollars  
19 (\$4,125.00) for a head of household; or

20 (3) Two Thousand Seven Hundred Fifty Dollars  
21 (\$2,750.00), if the filing status is single or  
22 married filing separate.

23 d. For the taxable year beginning on January 1, 2008, and  
24 ending December 31, 2008, in the case of individuals

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

- 6 (1) Six Thousand Five Hundred Dollars (\$6,500.00), if  
7 the filing status is married filing joint or  
8 qualifying widow, or  
9 (2) Four Thousand Eight Hundred Seventy-five Dollars  
10 (\$4,875.00) for a head of household, or  
11 (3) Three Thousand Two Hundred Fifty Dollars  
12 (\$3,250.00), if the filing status is single or  
13 married filing separate.

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

- 21 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),  
22 if the filing status is married filing joint or  
23 qualifying widow, or  
24



- 1 (2) Six Thousand Three Hundred Seventy-five Dollars  
2 (\$6,375.00) for a head of household, or  
3 (3) Four Thousand Two Hundred Fifty Dollars  
4 (\$4,250.00), if the filing status is single or  
5 married filing separate.

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

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

19 g. For taxable years beginning on or after January 1,  
20 2017, in the case of individuals who use the standard  
21 deduction in determining taxable income, there shall  
22 be added or deducted, as the case may be, the  
23 difference necessary to allow a standard deduction in  
24

1 lieu of the standard deduction allowed by the Internal  
2 Revenue Code, as follows:

3 (1) Six Thousand Three Hundred Fifty Dollars  
4 (\$6,350.00) for single or married filing  
5 separately,

6 (2) Twelve Thousand Seven Hundred Dollars  
7 (\$12,700.00) for married filing jointly or  
8 qualifying widower with dependent child, and

9 (3) Nine Thousand Three Hundred Fifty Dollars  
10 (\$9,350.00) for head of household.

- 11 3. a. In the case of resident and part-year resident  
12 individuals having adjusted gross income from sources  
13 both within and without the state, the itemized or  
14 standard deductions and personal exemptions shall be  
15 reduced to an amount which is the same portion of the  
16 total thereof as Oklahoma adjusted gross income is of  
17 adjusted gross income. To the extent itemized  
18 deductions include allowable moving expense, proration  
19 of moving expense shall not be required or permitted  
20 but allowable moving expense shall be fully deductible  
21 for those taxpayers moving within or into Oklahoma and  
22 no part of moving expense shall be deductible for  
23 those taxpayers moving without or out of Oklahoma.  
24 All other itemized or standard deductions and personal

1 exemptions shall be subject to proration as provided  
2 by law.

3 b. For taxable years beginning on or after January 1,  
4 2018, the net amount of itemized deductions allowable  
5 on an Oklahoma income tax return, subject to the  
6 provisions of paragraph 24 of this subsection, shall  
7 not exceed Seventeen Thousand Dollars (\$17,000.00).  
8 For purposes of this subparagraph, charitable  
9 contributions and medical expenses deductible for  
10 federal income tax purposes shall be excluded from the  
11 amount of Seventeen Thousand Dollars (\$17,000.00) as  
12 specified by this subparagraph.

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

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

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

13                    c.    Whenever the filing of a timely income tax return by a  
14                    member of the Armed Forces of the United States is  
15                    made impracticable or impossible of accomplishment by  
16                    reason of:

17                    (1)   absence from the United States, which term  
18                    includes only the states and the District of  
19                    Columbia;

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

22                    (3)   confinement in a hospital within the United  
23                    States for treatment of wounds, injuries or  
24                    disease,

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

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

14 (b) An executor, administrator, or conservator  
15 of the estate of the taxpayer is appointed,  
16 whichever event occurs the earliest.

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

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

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

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

22           c. For the purpose of this paragraph, "federal income  
23 taxes paid" shall mean federal income taxes, surtaxes  
24 imposed on incomes or excess profits taxes, as though

1 the taxpayer was on the accrual basis. In determining  
2 the amount of deduction for federal income taxes for  
3 tax year 2001, the amount of the deduction shall not  
4 be adjusted by the amount of any accelerated ten  
5 percent (10%) tax rate bracket credit or advanced  
6 refund of the credit received during the tax year  
7 provided pursuant to the federal Economic Growth and  
8 Tax Relief Reconciliation Act of 2001, P.L. No. 107-  
9 16, and the advanced refund of such credit shall not  
10 be subject to taxation.

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

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

1 Uniform Retirement System for Justices and Judges, the Oklahoma  
2 Wildlife Conservation Department Retirement Fund, the Oklahoma  
3 Employment Security Commission Retirement Plan, or the employee  
4 retirement systems created by municipalities pursuant to Section 48-  
5 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt  
6 from taxable income.

7 9. In taxable years beginning after December 31, 1984, Social  
8 Security benefits received by an individual shall be exempt from  
9 taxable income, to the extent such benefits are included in the  
10 federal adjusted gross income pursuant to the provisions of Section  
11 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

12 10. For taxable years beginning after December 31, 1994, lump-  
13 sum distributions from employer plans of deferred compensation,  
14 which are not qualified plans within the meaning of Section 401(a)  
15 of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which  
16 are deposited in and accounted for within a separate bank account or  
17 brokerage account in a financial institution within this state,  
18 shall be excluded from taxable income in the same manner as a  
19 qualifying rollover contribution to an individual retirement account  
20 within the meaning of Section 408 of the Internal Revenue Code, 26  
21 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage  
22 account, including any earnings thereon, shall be included in  
23 taxable income when withdrawn in the same manner as withdrawals from  
24



1 individual retirement accounts within the meaning of Section 408 of  
2 the Internal Revenue Code.

3 11. In taxable years beginning after December 31, 1995,  
4 contributions made to and interest received from a medical savings  
5 account established pursuant to Sections 2621 through 2623 of Title  
6 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

19 13. a. In taxable years beginning after December 31, 2002,  
20 nonrecurring adoption expenses paid by a resident  
21 individual taxpayer in connection with:  
22 (1) the adoption of a minor, or  
23 (2) a proposed adoption of a minor which did not  
24 result in a decreed adoption,

1           may be deducted from the Oklahoma adjusted gross  
2           income.

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

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

12          d.    "Nonrecurring adoption expenses" means adoption fees,  
13          court costs, medical expenses, attorney fees and  
14          expenses which are directly related to the legal  
15          process of adoption of a child including, but not  
16          limited to, costs relating to the adoption study,  
17          health and psychological examinations, transportation  
18          and reasonable costs of lodging and food for the child  
19          or adoptive parents which are incurred to complete the  
20          adoption process and are not reimbursed by other  
21          sources.  The term "nonrecurring adoption expenses"  
22          shall not include attorney fees incurred for the  
23          purpose of litigating a contested adoption, from and  
24          after the point of the initiation of the contest,

1 costs associated with physical remodeling, renovation  
2 and alteration of the adoptive parents' home or  
3 property, except for a special needs child as  
4 authorized by the court.

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

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

23 (1) in taxable years beginning after December 31,  
24 2004, and prior to January 1, 2007, the

1                   qualifying amount shall be Thirty-seven Thousand  
2                   Five Hundred Dollars (\$37,500.00) or less if the  
3                   filing status is single, head of household, or  
4                   married filing separate, or Seventy-five Thousand  
5                   Dollars (\$75,000.00) or less if the filing status  
6                   is married filing jointly or qualifying widow,

7                   (2) in the taxable year beginning January 1, 2007,  
8                   the qualifying amount shall be Fifty Thousand  
9                   Dollars (\$50,000.00) or less if the filing status  
10                  is single, head of household, or married filing  
11                  separate, or One Hundred Thousand Dollars  
12                  (\$100,000.00) or less if the filing status is  
13                  married filing jointly or qualifying widow,

14                  (3) in the taxable year beginning January 1, 2008,  
15                  the qualifying amount shall be Sixty-two Thousand  
16                  Five Hundred Dollars (\$62,500.00) or less if the  
17                  filing status is single, head of household, or  
18                  married filing separate, or One Hundred Twenty-  
19                  five Thousand Dollars (\$125,000.00) or less if  
20                  the filing status is married filing jointly or  
21                  qualifying widow,

22                  (4) in the taxable year beginning January 1, 2009,  
23                  the qualifying amount shall be One Hundred  
24                  Thousand Dollars (\$100,000.00) or less if the

1 filing status is single, head of household, or  
2 married filing separate, or Two Hundred Thousand  
3 Dollars (\$200,000.00) or less if the filing  
4 status is married filing jointly or qualifying  
5 widow, and

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

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

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

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

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

22 (4) an employee annuity subject to the provisions of  
23 Section 403(a) or (b) of the Internal Revenue  
24 Code, 26 U.S.C., Section 403(a) or (b),  
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~~ tax  
5 years 2006 through 2021, retirement benefits received by an  
6 individual from any component of the Armed Forces of the United  
7 States in an amount not to exceed the greater of seventy-five  
8 percent (75%) of such benefits or Ten Thousand Dollars (\$10,000.00)  
9 shall be exempt from taxable income but in no case less than the  
10 amount of the exemption provided by paragraph 14 of this subsection.  
11 For tax year 2022 and subsequent tax years, retirement benefits  
12 received by an individual from any component of the Armed Forces of  
13 the United States shall be exempt from taxable income.

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

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

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

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

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

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

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

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

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

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

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

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 an  
17 individual taxpayer's federal income tax return that  
18 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 individual  
22 taxpayer for a holding period of at least five  
23 (5) years prior to the date of the transaction  
24 from which such net capital gains arise,

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

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

23 b. "holding period" means an uninterrupted period of  
24 time. The holding period shall include any additional  
25

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,

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

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

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

- 1 (1) any real estate investment trust as defined in  
2 paragraph a of this subsection other than a  
3 "captive real estate investment trust", or  
4 (2) any qualified real estate investment trust  
5 subsidiary under Section 856(i) of the Internal  
6 Revenue Code, other than a qualified REIT  
7 subsidiary of a "captive real estate investment  
8 trust", or  
9 (3) any Listed Australian Property Trust (meaning an  
10 Australian unit trust registered as a "Managed  
11 Investment Scheme" under the Australian  
12 Corporations Act in which the principal class of  
13 units is listed on a recognized stock exchange in  
14 Australia and is regularly traded on an  
15 established securities market), or an entity  
16 organized as a trust, provided that a Listed  
17 Australian Property Trust owns or controls,  
18 directly or indirectly, seventy-five percent  
19 (75%) or more of the voting power or value of the  
20 beneficial interests or shares of such trust, or  
21 (4) any Qualified Foreign Entity, meaning a  
22 corporation, trust, association or partnership  
23 organized outside the laws of the United States  
24 and which satisfies the following criteria:

- 1 (a) at least seventy-five percent (75%) of the  
2 entity's total asset value at the close of  
3 its taxable year is represented by real  
4 estate assets, as defined in Section  
5 856(c) (5) (B) of the Internal Revenue Code,  
6 thereby including shares or certificates of  
7 beneficial interest in any real estate  
8 investment trust, cash and cash equivalents,  
9 and U.S. Government securities,
- 10 (b) the entity receives a dividend-paid  
11 deduction comparable to Section 561 of the  
12 Internal Revenue Code, or is exempt from  
13 entity level tax,
- 14 (c) the entity is required to distribute at  
15 least eighty-five percent (85%) of its  
16 taxable income, as computed in the  
17 jurisdiction in which it is organized, to  
18 the holders of its shares or certificates of  
19 beneficial interest on an annual basis,
- 20 (d) not more than ten percent (10%) of the  
21 voting power or value in such entity is held  
22 directly or indirectly or constructively by  
23 a single entity or individual, or the shares  
24 or beneficial interests of such entity are

1 regularly traded on an established  
2 securities market, and

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

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

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

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

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