

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2665 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Kevin Wallace

Reading Clerk

1 STATE OF OKLAHOMA

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

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2665

By: Wallace

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to revenue and taxation; enacting the
9 Pass-Through Entity Tax Equity Act of 2019; defining
10 terms; stating purpose of enactment; providing for
11 apportionment of revenues; providing for computation
12 of pass-through entity tax; providing certain
13 provisions of Oklahoma Income Tax Code inapplicable
14 to electing pass-through entities; prescribing due
15 date; providing for treatment of certain losses;
16 prescribing procedures related to certain nonresident
17 income tax returns; providing for certain entities to
18 make election to become electing pass-through
19 entities for purposes of the Pass-Through Entity Tax
20 Equity Act of 2019; providing for applicability of
21 laws relating to deficiency and delinquency payments;
22 providing for revocation of election due to
23 nonpayment of tax; prescribing procedures for making
24 elections by pass-through entities; amending 68 O.S.
2011, Section 2358, as last amended by Section 1,
Chapter 9, 2nd Extraordinary Session, O.S.L. 2018 (68
O.S. Supp. 2018, Section 2358), which relates to
computation of Oklahoma taxable income and Oklahoma
adjusted gross income; providing for exclusion of
certain amounts in computation of taxable income or
adjusted gross income based upon election of certain
pass-through entities and payment of applicable
income tax on allocations made by electing pass-
through entities; amending 68 O.S. 2011, Sections
2365, 2368, as last amended by Section 1, Chapter
225, O.S.L. 2018, 2370.2 and 2372 (68 O.S. Supp.
2018, Section 2368), which relate to the Oklahoma
Income Tax Code; providing exceptions based upon
elections made pursuant to the Pass-Through Entity
Tax Equity Act of 2019; providing for codification;

1 providing for noncodification; and declaring an
2 emergency.

3
4
5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2355.1P-1 of Title 68, unless
8 there is created a duplication in numbering, reads as follows:

9 Sections 1 through 9 of this act shall be known and may be cited
10 as the "Pass-Through Entity Tax Equity Act of 2019".

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2355.1P-2 of Title 68, unless
13 there is created a duplication in numbering, reads as follows:

14 As used in this act:

15 1. "Distributive share" means a member's percentage share of
16 Oklahoma net entity income or net entity loss;

17 2. "Electing pass-through entity" means any pass-through entity
18 as defined in paragraph 6 of this section that has made an election
19 pursuant to subsection F of Section 4 of this act to pay income tax
20 as computed pursuant to Section 2358 of Title 68 of the Oklahoma
21 Statutes;

22 3. "Indirect member" means, with respect to any particular
23 electing pass-through entity, an individual, fiduciary, or entity
24 that (i) owns an interest in a pass-through entity other than the

1 electing pass-through entity and (ii) has been allocated items of
2 Oklahoma income, gain, loss or deduction that the electing pass-
3 through entity included in computing its tax pursuant to the
4 provisions of the Pass-Through Entity Tax Equity Act of 2019;

5 4. "Member" means any individual, fiduciary, or entity holding
6 an ownership interest in an electing pass-through entity;

7 5. "Oklahoma net entity income" or "Oklahoma net entity loss"
8 means the positive or negative sum of an electing pass-through
9 entity's items of Oklahoma income, gain, loss, and deduction
10 determined under Section 2351 et seq. of Title 68 of the Oklahoma
11 Statutes, regardless of whether any such items are required for
12 federal income tax purposes to be separately stated; and

13 6. "Pass-through entity" means a general partnership, a limited
14 partnership, a limited liability partnership, a limited liability
15 limited partnership, a limited liability company, or a corporation,
16 if any of the enumerated entity's items of income, gain, loss, and
17 deduction, as applicable, are subject to being included on another
18 person's return for federal income tax purposes under Subchapter K
19 or Subchapter S of the Internal Revenue Code.

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2355.1P-3 of Title 68, unless
22 there is created a duplication in numbering, reads as follows:

23 A. It is hereby declared to be the purpose of the Pass-Through
24 Entity Tax Equity Act of 2019 to establish a revenue-neutral

1 mechanism to provide a more fair and simplified taxation of pass-
2 through entities and their members in this state while maintaining
3 revenue levels for support of general governmental functions of the
4 State of Oklahoma.

5 B. All monies collected pursuant to the provisions of
6 subsection A of Section 2358 of Title 68 of the Oklahoma Statutes
7 shall be apportioned in the same manner as provided in paragraph 1
8 of Section 2352 of Title 68 of the Oklahoma Statutes if the tax is
9 computed based upon a distribution made to one or more individuals,
10 trusts and estates and shall be apportioned in the same manner as
11 provided in paragraph 2 of Section 2352 of Title 68 of the Oklahoma
12 Statutes if the tax is computed based upon a distribution to a
13 corporation or to a pass-through entity as such term is defined in
14 Section 2 of this act.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2355.1P-4 of Title 68, unless
17 there is created a duplication in numbering, reads as follows:

18 A. For tax years beginning on or after January 1, 2019, there
19 is hereby levied on each electing pass-through entity the pass-
20 through entity tax which shall be calculated as follows:

21 1. With regard to each member of an electing pass-through
22 entity, the electing pass-through entity shall multiply such
23 member's Oklahoma distributive share of the electing pass-through
24 entity's Oklahoma net entity income for the tax year by:

- a. the highest Oklahoma marginal income tax rate levied on the taxable income of natural persons pursuant to Section 2355 of Title 68 of the Oklahoma Statutes if the member is an individual, trust, or estate,
- b. six percent (6%) if the member is classified as a corporation pursuant to the Internal Revenue Code, and is not classified as an S corporation,
- c. six percent (6%) if the member is a pass-through entity,
- d. six percent (6%) if the member is a financial institution subject to tax imposed pursuant to the provisions of Section 2370 of Title 68 of the Oklahoma Statutes, and
- e. the highest Oklahoma marginal income tax rate that would be applicable to any item of the electing pass-through entity's income or gain without the election made pursuant to subsection F of this section, if the member is an organization described in Section 2359 of Title 68 of the Oklahoma Statutes; and

2. The electing pass-through entity shall aggregate the amounts determined with respect to all members pursuant to paragraph 1 of this subsection and the pass-through entity tax for the applicable tax year shall be equal to such aggregated tax amount for the tax year with respect to which the election has been made.

1 B. Sections 2385.29, 2385.30 and 2385.31 of Title 68 of the
2 Oklahoma Statutes shall not be applicable to an electing pass-
3 through entity.

4 C. The pass-through entity tax shall be due and payable on the
5 same date as provided for the filing of the electing pass-through
6 entity's Oklahoma income tax return, and for tax years beginning on
7 or after January 1, 2020, estimated tax payments shall be required
8 as provided in Section 2385.9 of Title 68 of the Oklahoma Statutes.

9 D. If the pass-through entity election results in a net entity
10 loss for Oklahoma income tax purposes in any tax year, the net
11 entity loss may be carried back and carried forward by the electing
12 pass-through entity for Oklahoma income tax purposes as set forth in
13 subparagraph b of paragraph 3 of subsection A of Section 2358 of
14 this title.

15 E. Notwithstanding paragraph 2 of subsection C of Section 2368
16 of Title 68 of the Oklahoma Statutes, a nonresident individual who
17 is a member of an electing pass-through entity is not required to
18 file an Oklahoma income tax return, if, for the taxable year, the
19 only source of income allocable or apportionable to this state for
20 the member, or, if a joint income tax return is filed, the member
21 and his or her spouse, is from one or more electing pass-through
22 entities, and each electing pass-through entity files and pays the
23 taxes due under this section.

24

1 F. Any entity required to file an Oklahoma partnership income
2 tax return or an Oklahoma S corporation income tax return may elect
3 to become an electing pass-through entity. The election shall be
4 made on such form and in such manner as the Oklahoma Tax Commission
5 may prescribe, and any election under this subsection shall have
6 priority over and revoke any election to file a composite Oklahoma
7 partnership return or requirement of a Subchapter S corporation to
8 report and pay tax on behalf of a nonresident shareholder for the
9 same tax year.

10 G. Pursuant to procedures prescribed by the Tax Commission, if
11 the amount of tax required to be paid by a pass-through entity
12 pursuant to the provisions of this section is not paid when due, the
13 Oklahoma Tax Commission may revoke the pass-through entity's
14 election under subsection F of this section effective for the first
15 year for which the tax is not paid.

16 H. The election authorized by the provisions of this section
17 shall be made pursuant to procedures prescribed by the Tax
18 Commission and shall be filed (i) within sixty (60) days of
19 enactment and pursuant to procedures prescribed by the Oklahoma Tax
20 Commission for any income tax year beginning on or after January 1,
21 2019, and prior to January 1, 2020, or (ii) for any income tax year
22 beginning on or after January 1, 2020, at any time during the
23 preceding tax year or two (2) months and fifteen (15) days after the
24 beginning of the tax year. Any such election shall be binding until

1 revoked pursuant to procedures prescribed by the Tax Commission.
2 The effective date of a revocation (i) made within two (2) months
3 and fifteen (15) days of the electing pass-through entity's taxable
4 year shall be the first day of such taxable year and (ii) made
5 during the electing pass-through entity's taxable year but after
6 such fifteenth day shall be effective on the first day of the
7 following taxable year. No election made by a pass-through entity
8 with respect to income tax to be paid by such entity using the
9 calculations prescribed by this section shall be binding on any
10 other pass-through entity, and each pass-through entity shall be
11 able to make an election under the provisions of this act
12 independently.

13 SECTION 5. AMENDATORY 68 O.S. 2011, Section 2358, as
14 last amended by Section 1, Chapter 9, 2nd Extraordinary Session,
15 O.S.L. 2018 (68 O.S. Supp. 2018, Section 2358), is amended to read
16 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 1. There shall be added interest income on obligations of any
2 state or political subdivision thereto which is not otherwise
3 exempted pursuant to other laws of this state, to the extent that
4 such interest is not included in taxable income and adjusted gross
5 income.

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

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

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

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

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

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

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

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

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

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

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

8 (2) for taxable years beginning after December 31,
9 2003, capital or ordinary gains or losses from
10 the sale of an ownership interest in a publicly
11 traded partnership, as defined by Section 7704(b)
12 of the Internal Revenue Code ~~of 1986, as amended,~~
13 shall be allocated to this state in the ratio of
14 the original cost of such partnership's tangible
15 property in this state to the original cost of
16 such partnership's tangible property everywhere,
17 as determined at the time of the sale; if more
18 than fifty percent (50%) of the value of the
19 partnership's assets consists of intangible
20 assets, capital or ordinary gains or losses from
21 the sale of an ownership interest in the
22 partnership shall be allocated to this state in
23 accordance with the sales factor of the
24 partnership for its first full tax period

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

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

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

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

22 (1) sales having a situs without this state, shipped
23 directly to a point from without the state to a
24

1 purchaser within the state, commonly known as
2 interstate sales,

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

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

14 the Oklahoma net income shall, at the option of the
15 taxpayer, be that portion of the total net income of
16 the taxpayer for federal income tax purposes derived
17 from the manufacture and/or processing and sales
18 everywhere as determined by the ratio of the sales
19 defined in this section made to the purchaser within
20 the state to the total sales everywhere. The term
21 "public warehouse" as used in this subparagraph means
22 a licensed public warehouse, the principal business of
23 which is warehousing merchandise for the public;
24

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

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

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

1 which the sum of the direct premiums written for
2 insurance on property or risks in this state by
3 each ceding company from which reinsurance is
4 accepted bears to the sum of the total direct
5 premiums written by each such ceding company for
6 the taxable year.

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

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

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

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

1 automobiles and other similar equipment, in the
2 proportion that miles traveled in Oklahoma by
3 such equipment bears to total miles traveled,

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

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

18 b. The payroll factor is a fraction, the numerator of
19 which is the total compensation for services rendered
20 in the state during the tax period, and the
21 denominator of which is the total compensation for
22 services rendered everywhere during the tax period.
23 "Compensation", as used in this subsection means those
24 paid-for services to the extent related to the unitary

1 business but does not include officers' salaries,
2 wages and other compensation.

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

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

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

1 gross revenue which are separately allocated in
2 paragraph 4 of this subsection.

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

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

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

1 Oklahoma bears to total interstate mileage
2 traveled.

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

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

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

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

1 reduction or increase in the weight of such prescribed factors.
2 Provided, however, that any such variance from such prescribed
3 factors which has the effect of increasing the portion of net income
4 attributable to Oklahoma must not be inherently arbitrary, and
5 application of the recomputed final apportionment to the net income
6 of the enterprise must attribute to Oklahoma only a reasonable
7 portion thereof.

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

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

9 For purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 B. 1. The taxable income of any corporation shall be further
19 adjusted to arrive at Oklahoma taxable income, except those
20 corporations electing treatment as provided in subchapter S of the
21 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
22 2365 of this title, deductions pursuant to the provisions of the
23 Accelerated Cost Recovery System as defined and allowed in the
24 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,

1 Section 168, for depreciation of assets placed into service after
2 December 31, 1981, shall not be allowed in calculating Oklahoma
3 taxable income. Such corporations shall be allowed a deduction for
4 depreciation of assets placed into service after December 31, 1981,
5 in accordance with provisions of the Internal Revenue Code, 26
6 U.S.C., Section 1 et seq., in effect immediately prior to the
7 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
8 basis for all such assets placed into service after December 31,
9 1981, calculated in this section shall be retained and utilized for
10 all Oklahoma income tax purposes through the final disposition of
11 such assets.

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

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

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

7 C. 1. For taxable years beginning after December 31, 1987, the
8 taxable income of any corporation shall be further adjusted to
9 arrive at Oklahoma taxable income for transfers of technology to
10 qualified small businesses located in Oklahoma. Such transferor
11 corporation shall be allowed an exemption from taxable income of an
12 amount equal to the amount of royalty payment received as a result
13 of such transfer; provided, however, such amount shall not exceed
14 ten percent (10%) of the amount of gross proceeds received by such
15 transferor corporation as a result of the technology transfer. Such
16 exemption shall be allowed for a period not to exceed ten (10) years
17 from the date of receipt of the first royalty payment accruing from
18 such transfer. No exemption may be claimed for transfers of
19 technology to qualified small businesses made prior to January 1,
20 1988.

21 2. For purposes of this subsection:

22 a. "Qualified small business" means an entity, whether
23 organized as a corporation, partnership, or
24 proprietorship, organized for profit with its

1 principal place of business located within this state
2 and which meets the following criteria:

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

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

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

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

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

1 capital treatment earned by the corporation, estate or trust during
2 the taxable year and included in the federal taxable income of such
3 corporation, estate or trust.

4 2. As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 b. For taxable years beginning on or after January 1,
23 2006, and before January 1, 2007, in the case of
24 individuals who use the standard deduction in

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

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

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

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

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

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

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

4 d. For the taxable year beginning on January 1, 2008, and
5 ending December 31, 2008, in the case of individuals
6 who use the standard deduction in determining taxable
7 income, there shall be added or deducted, as the case
8 may be, the difference necessary to allow a standard
9 deduction in lieu of the standard deduction allowed by
10 the Internal Revenue Code, in an amount equal to:

11 (1) Six Thousand Five Hundred Dollars (\$6,500.00), if
12 the filing status is married filing joint or
13 qualifying widow, or

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

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

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

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

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

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

- 14 f. For taxable years beginning on or after January 1,
15 2010, and ending on December 31, 2016, in the case of
16 individuals who use the standard deduction in
17 determining taxable income, there shall be added or
18 deducted, as the case may be, the difference necessary
19 to allow a standard deduction equal to the standard
20 deduction allowed by the Internal Revenue Code ~~of~~
21 ~~1986, as amended~~, based upon the amount and filing
22 status prescribed by such Code for purposes of filing
23 federal individual income tax returns.

1 g. For taxable years beginning on or after January 1,
2 2017, in the case of individuals who use the standard
3 deduction in determining taxable income, there shall
4 be added or deducted, as the case may be, the
5 difference necessary to allow a standard deduction in
6 lieu of the standard deduction allowed by the Internal
7 Revenue Code ~~of 1986, as amended~~, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Provided, that the Tax Commission may, in its discretion, grant
23 any member of the Armed Forces of the United States an extension of
24 time for filing of income tax returns and payment of income tax

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

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

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

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

1 Oklahoma adjusted gross income to federal adjusted
2 gross income.

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

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

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

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

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

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

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

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

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

23
24

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

4 (1) the adoption of a minor, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 f. As used in this paragraph:

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

15 (a) a qualified withdrawal,

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

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

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

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

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

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

17 19. For taxable years beginning after December 31, 2006,
18 retirement benefits received by federal civil service retirees,
19 including survivor annuities, paid in lieu of Social Security
20 benefits shall be exempt from taxable income to the extent such
21 benefits are included in the federal adjusted gross income pursuant
22 to the provisions of Section 86 of the Internal Revenue Code, 26
23 U.S.C., Section 86, according to the following schedule:
24

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

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

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

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

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

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

20 23. For taxable years beginning after December 31, 2008, there
21 shall be exempt from taxable income any payment in an amount less
22 than Six Hundred Dollars (\$600.00) received by a person as an award
23 for participation in a competitive livestock show event. For
24 purposes of this paragraph, the payment shall be treated as a

1 scholarship amount paid by the entity sponsoring the event and the
2 sponsoring entity shall cause the payment to be categorized as a
3 scholarship in its books and records.

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

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

16 2. As used in this subsection:

17 a. "qualifying gains receiving capital treatment" means
18 the amount of net capital gains, as defined in Section
19 1222(11) of the Internal Revenue Code, included in an
20 individual taxpayer's federal income tax return that
21 result from:

22 (1) the sale of real property or tangible personal
23 property located within Oklahoma that has been
24 directly or indirectly owned by the individual

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

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

13 (3) the sale of real property, tangible personal
14 property or intangible personal property located
15 within Oklahoma as part of the sale of all or
16 substantially all of the assets of an Oklahoma
17 company, limited liability company, or
18 partnership or an Oklahoma proprietorship
19 business enterprise where such property has been
20 directly or indirectly owned by such entity or
21 business enterprise or owned by the owners of
22 such entity or business enterprise for a period
23 of at least two (2) years prior to the date of
24

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

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

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

15 d. "direct" means the individual taxpayer directly owns
16 the asset,

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

21 (1) With respect to sales of real property or
22 tangible personal property located within
23 Oklahoma, the deduction described in this
24 subsection shall not apply unless the pass-

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

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

1 (2) years. For purposes of this division,
2 uninterrupted ownership prior to July 1, 2007,
3 shall be included in the determination of the
4 required holding period prescribed by this
5 division, and

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

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

21 2. For purposes of computing its Oklahoma taxable income under
22 this section, a taxpayer shall add back otherwise deductible rents
23 and interest expenses paid to a captive real estate investment trust
24

1 that is not subject to the provisions of paragraph 1 of this
2 subsection. As used in this subsection:

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

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

14 (1) treated as an association taxable as a
15 corporation under the Internal Revenue Code ~~of~~
16 ~~1986, as amended,~~ and

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

20 The term shall not include a real estate investment
21 trust that is intended to be regularly traded on an
22 established securities market, and that satisfies the
23 requirements of Section 856(a) (5) and (6) of the U.S.
24

1 Internal Revenue Code by reason of Section 856(h) (2)
2 of the Internal Revenue Code,

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

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

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

13 (3) any Listed Australian Property Trust (meaning an
14 Australian unit trust registered as a "Managed
15 Investment Scheme" under the Australian
16 Corporations Act in which the principal class of
17 units is listed on a recognized stock exchange in
18 Australia and is regularly traded on an
19 established securities market), or an entity
20 organized as a trust, provided that a Listed
21 Australian Property Trust owns or controls,
22 directly or indirectly, seventy-five percent
23 (75%) or more of the voting power or value of the
24 beneficial interests or shares of such trust, or

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

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

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

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

1 (d) not more than ten percent (10%) of the
2 voting power or value in such entity is held
3 directly or indirectly or constructively by
4 a single entity or individual, or the shares
5 or beneficial interests of such entity are
6 regularly traded on an established
7 securities market, and

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

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

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

1 the first day it has both met the requirements of Section 856 of the
2 Internal Revenue Code and has elected to be treated as a real estate
3 investment trust pursuant to Section 856(c)(1) of the Internal
4 Revenue Code.

5 SECTION 6. AMENDATORY 68 O.S. 2011, Section 2365, is
6 amended to read as follows:

7 Section 2365. The Except as otherwise provided for in the Pass-
8 Through Entity Tax Equity Act of 2019, the provisions, applicable to
9 the taxation of income of corporations and stockholders, electing
10 treatment as provided in subchapter S of the Internal Revenue Code,
11 shall apply to taxpayers as provided under this act. A corporation
12 having an election in effect under subchapter S of the Internal
13 Revenue Code shall not be subject to the Oklahoma income tax on
14 corporations and for tax years beginning after December 31, 1996,
15 shall not be subject to the tax imposed by subsection A of Section
16 2370 of this title, and the shareholders of such corporation shall
17 include in their taxable incomes their proportionate part of the
18 federal income of such corporation, subject to the modifications as
19 set forth in Sections 2358, 2362 and 2370.2 of this title, in the
20 same manner and to the same extent as provided by the Internal
21 Revenue Code. However, if any of the shareholders of such
22 corporation are nonresidents during any part of the taxable year of
23 the corporation, such corporation shall be taxable for such year on
24 that part of the income of the corporation, as determined pursuant

1 to Sections 2358, 2362 and 2370.2 of this title, allocable to the
2 shares of stock owned by such nonresident unless (i) the corporation
3 files with its return for such year an agreement executed by each
4 nonresident stockholder stating that such nonresident will file an
5 Oklahoma income tax return which will include in the adjusted gross
6 income of such nonresident that portion of the Oklahoma taxable
7 income of the corporation allocable to the interest of the
8 nonresident in such corporation, or (ii) the corporation has made a
9 valid election pursuant to the provisions of the Pass-Through Entity
10 Tax Equity Act of 2019 and has paid the applicable tax. For
11 purposes of this section, the term "corporation" shall include
12 state-chartered banks, state and federal savings associations and
13 national banking associations that have total assets of Three
14 Billion Dollars (\$3,000,000,000.00) or less and that are organized
15 pursuant to the laws of this state, or the United States, or are
16 located or doing business in this state.

17 SECTION 7. AMENDATORY 68 O.S. 2011, Section 2368, as
18 last amended by Section 1, Chapter 225, O.S.L. 2018 (68 O.S. Supp.
19 2018, Section 2368), is amended to read as follows:

20 Section 2368. A. For tax years ending before January 1, 2017,
21 the following individuals shall each make a return stating
22 specifically the taxable income and, where necessary, the adjusted
23 gross income and the adjustments provided in Section 2351 et seq. of
24

1 this title to arrive at Oklahoma taxable income and, where
2 necessary, Oklahoma adjusted gross income:

3 1. Every resident individual having a gross income, or gross
4 receipts, for the taxable year in an amount sufficient to require
5 the filing of a federal income tax return, if single, or if married
6 and not living with husband or wife; and

7 2. ~~Every~~ Except as otherwise provided for in the Pass-Through
8 Entity Tax Equity Act of 2019, every resident individual having a
9 gross income, or gross receipts, for the taxable year in an amount
10 sufficient to require the filing of a federal income tax return, if
11 married and living with husband or wife.

12 Provided however, every resident individual who does not meet
13 the requirements sufficient to file a federal return, but has
14 Oklahoma withholding, may file a claim for refund for all Oklahoma
15 income taxes withheld and shall not be subject to the provisions of
16 Section 2358 of this title; and

17 3. Every nonresident individual having Oklahoma gross income
18 for the taxable year of One Thousand Dollars (\$1,000.00) or more.

19 B. If a husband and wife, living together, have an aggregate
20 gross income or gross receipts, for such year, in an amount
21 sufficient to require the filing of a federal income tax return:

22 1. Each shall make a return; or
23
24

1 2. The income of each shall be included in a single joint
2 return, in which case the tax shall be computed on the aggregate net
3 income.

4 C. 1. For tax years beginning on or after January 1, 2017,
5 every resident individual whose gross income from both within and
6 outside of Oklahoma exceeds the sum of the standard deduction and
7 personal exemption allowed in Section 2358 of this title shall file
8 an Oklahoma income tax return. Resident individuals not required to
9 file a federal income tax return must attach a completed federal
10 income tax return to the Oklahoma income tax return to show how
11 adjusted gross income and deductions were determined, if their gross
12 income is more than their adjusted gross income. The Oklahoma
13 income tax return must show the taxable income and, where necessary,
14 the adjusted gross income and modifications required by Section 2351
15 et seq. of this title, and any other information the Tax Commission
16 may require.

17 2. ~~Every~~ Except as otherwise provided for in the Pass-Through
18 Entity Tax Equity Act of 2019, every nonresident individual having
19 Oklahoma gross income for the taxable year of One Thousand Dollars
20 (\$1,000.00) or more shall file an Oklahoma income tax return.

21 D. If an individual is unable to make his or her own return,
22 the return shall be made by a duly authorized agent or by the
23 guardian or other person charged with the care of the person or
24 property of such individual.

1 E. Every partnership shall make a return for each taxable year,
2 stating the taxable income and the adjustments to arrive at Oklahoma
3 income. The Oklahoma return shall include a schedule showing the
4 distribution to partners of the various items of income as per the
5 federal return and the adjustments required by Section 2351 et seq.
6 of this title for Oklahoma. The return shall be signed by one of
7 the partners. ~~If~~ Except for partnerships making an election
8 pursuant to the provisions of the Pass-Through Entity Tax Equity Act
9 of 2019, if a partnership has elected pursuant to the provisions of
10 Section 761 of the Internal Revenue Code, or any provision
11 comparable thereto, not to file partnership income tax returns, that
12 partnership shall not be required to file an Oklahoma partnership
13 return. The Oklahoma Tax Commission shall promulgate rules for
14 purposes of partnership returns when multiple partners would
15 otherwise be required to file a nonresident return. The rules shall
16 provide a specific number of partners in a partnership above which a
17 composite return may be filed. The return shall be in such form as
18 prescribed by the Tax Commission.

19 F. Every corporation shall make a return for each taxable year
20 stating the taxable income and the adjustments provided in Section
21 2351 et seq. of this title to arrive at Oklahoma taxable income. In
22 addition, corporations electing subchapter S treatment pursuant to
23 the Internal Revenue Code and Section 2351 et seq. of this title,
24 shall include a schedule showing the distribution to shareholders of

1 the various items of income as per the federal return and the
2 adjustments for Oklahoma. All corporation returns shall be signed
3 by the president, vice president, or other principal officer and the
4 corporate seal impressed. In cases where receivers, trustees in
5 bankruptcy, or assignees are operating the property or business of
6 corporations, such receivers, trustees, or assignees shall make a
7 return for such corporations in the same manner and form as
8 corporations are required to make returns. Any tax due on the basis
9 of such returns made by receivers, trustees, or assignees shall be
10 collected in the same manner as if collected from the corporations
11 of whose business or property they have custody and control.

12 G. Every resident estate and trust shall make a return for each
13 taxable year stating the taxable income and the adjustments to
14 arrive at Oklahoma taxable income. Every nonresident estate or
15 trust having Oklahoma taxable income as provided in Section 2362 of
16 this title shall make a return for each taxable year stating the
17 taxable income and the adjustments to arrive at Oklahoma taxable
18 income. The Oklahoma return shall include a schedule showing the
19 distribution to beneficiaries, if any, of the various items of
20 income as per the federal return and the adjustments for Oklahoma.
21 The fiduciary shall be responsible for making the return and the
22 return shall be signed by the fiduciary, or by one fiduciary if
23 there is more than one. The Tax Commission shall promulgate rules
24 for purposes of estate and trust returns when multiple returns would

1 otherwise be required of nonresident beneficiaries of estates or
2 trusts. The return shall be in such form as prescribed by the Tax
3 Commission.

4 H. 1. All individual returns, except individual returns filed
5 electronically, made on the basis of the calendar year shall be due
6 on or before the fifteenth day of April following the close of the
7 taxable year. Provided, if the Internal Revenue Code provides for a
8 later due date for returns of individuals, the Tax Commission shall
9 accept returns filed by individuals by such date and such returns
10 shall be considered as timely filed.

11 2. All individual returns filed electronically, made on the
12 basis of the calendar year, shall be due on or before the twentieth
13 day of April following the close of the taxable year.

14 3. All individual returns made on the basis of a fiscal year
15 shall be due on or before the fifteenth day of the fourth month
16 following the close of the fiscal year.

17 4. For tax years beginning before January 1, 2016, calendar
18 year corporation returns shall be due on or before the fifteenth day
19 of March following the close of the taxable year. For tax years
20 beginning on or after January 1, 2016, calendar year corporation
21 returns shall be due no later than thirty (30) days after the due
22 date established under the Internal Revenue Code.

23 5. For tax years beginning before January 1, 2016, fiscal year
24 corporation returns shall be due on or before the fifteenth day of

1 the third month following the close of the fiscal year. For tax
2 years beginning on or after January 1, 2016, fiscal year corporation
3 returns shall be due no later than thirty (30) days after the due
4 date established under the Internal Revenue Code.

5 6. For tax years beginning before January 1, 2016, partnership
6 returns shall be due on or before the fifteenth day of April
7 following the close of the taxable year. For tax years beginning on
8 or after January 1, 2016, partnership returns shall be due no later
9 than thirty (30) days after the due date established under the
10 Internal Revenue Code.

11 7. All estate and trust returns made on the basis of the
12 calendar year shall be due on or before the fifteenth day of April
13 following the close of the taxable year. All estate and trust
14 returns made on the basis of a fiscal year shall be due on or before
15 the fifteenth day of the fourth month following the close of the
16 fiscal year.

17 8. In the case of complete liquidation, or the dissolution, of
18 a corporation the return of such corporation shall be made on or
19 before the fifteenth day of the fourth month following the month in
20 which the corporation is completely liquidated. A corporation which
21 has terminated its business activities, satisfied or made provision
22 for all of its liabilities or has distributed all of its assets,
23 even though not formally dissolved under state law, is deemed to
24 have completely liquidated for purposes of this subsection.

1 I. Returns by individuals, fiduciaries, partnerships,
2 corporations or any other person or entity required, or that may
3 hereafter be required to file a return, shall contain or be verified
4 by a written declaration that such return is made under the
5 penalties of perjury and the fact that any individual's name is
6 signed to a filed return shall be prima facie evidence for all
7 purposes that the return was actually signed by that individual.
8 Provided, the Tax Commission shall promulgate rules to provide
9 procedures for verification of signatures on returns which are filed
10 electronically.

11 J. Every return required by Section 2351 et seq. of this title
12 shall be in such form as the Tax Commission may, from time to time,
13 prescribe. Each return shall be filed with the Tax Commission and
14 forms shall be furnished by the Tax Commission on application
15 therefor, but failure to secure or receive the form of a return
16 prescribed shall not relieve any taxpayer from the obligation of
17 making and filing any return herein required.

18 K. For tax years ending after January 1, 2017, if a taxpayer
19 elects to make installment payments of tax due pursuant to the
20 provisions of subsection (h) of Section 965 of the Internal Revenue
21 Code, 26 U.S.C., Section 965, such election may also apply to the
22 payment of Oklahoma income tax, attributable to the income upon
23 which such installment payments are based.

24

1 SECTION 8. AMENDATORY 68 O.S. 2011, Section 2370.2, is
2 amended to read as follows:

3 Section 2370.2 ~~A~~ Except as otherwise provided for in the Pass-
4 Through Entity Tax Equity Act of 2019, a state banking association
5 or national banking association having an election in effect under
6 subchapter S of the Internal Revenue Code for any tax year beginning
7 after December 31, 1996, in reporting items of income, loss,
8 deductions and credits proportionately to its shareholders for
9 inclusion in their taxable incomes, shall use as a basis items of
10 income, loss, deductions and credits of such banking association as
11 shown on its federal income tax return, subject to modifications as
12 set forth in Sections 2358 and 2362 of this title.

13 SECTION 9. AMENDATORY 68 O.S. 2011, Section 2372, is
14 amended to read as follows:

15 Section 2372. ~~Every~~ Except as otherwise provided for in the
16 Pass-Through Entity Tax Equity Act of 2019, every national banking
17 association or state bank, subject to taxation under this act, shall
18 make its return to the Tax Commission at the same time and in the
19 same manner required of other corporations, as specified herein, and
20 except to the manner of computing the net income subject to the tax
21 levied by this act, each shall be subject to all other provisions of
22 this act applicable to such other corporations.

23 SECTION 10. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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