

1 ENGROSSED HOUSE AMENDMENTS

TO

2 ENGROSSED SENATE BILL NO. 401

By: Pugh, Jett, Stephens, and
Stanley of the Senate

3

and

4

Martinez of the House

5

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An Act relating to income tax adjustments; amending
68 O.S. 2021, Section 2358, which relates to
determination of taxable income; modifying exemption
for military retirement benefits.

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11 AUTHOR: Add the following House Coauthors: Boles and McDugle

12 AUTHOR: Add the following Senate Coauthor: Garvin

13 AMENDMENT NO. 1. Page 1, lines 7 through 8 1/2, strike title to
read:

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15 "[income tax adjustments - modifying exemption for

16 military retirement benefits]"

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18 AMENDMENT NO. 2. Page 1, line 11, strike the enacting clause

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1 ENGROSSED SENATE
2 BILL NO. 401

By: Pugh, Jett, Stephens, and
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7 An Act relating to income tax adjustments; amending
8 68 O.S. 2021, Section 2358, which relates to
9 determination of taxable income; modifying exemption
10 for military retirement benefits.

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

12 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2358, is
13 amended to read as follows:

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

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

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

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

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

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

18 b. For carryovers and carrybacks to taxable years
19 beginning after December 31, 1980, the amount of any
20 net operating loss deduction allowed for the taxable
21 year shall be an amount equal to the aggregate of the
22 Oklahoma net operating loss carryovers and carrybacks
23 to such year. Oklahoma net operating losses shall be
24 separately determined by reference to Section 172 of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (1) In the case of a transportation enterprise, the
22 numerator of the fraction shall include a portion
23 of such expenditure in connection with employees
24 operating equipment over a fixed route, such as

1 railroad employees, airline pilots, or bus
2 drivers, in this state only a part of the time,
3 in the proportion that mileage traveled in
4 Oklahoma bears to total mileage traveled by such
5 employees,

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

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

21 (1) Sales of tangible personal property have a situs
22 in this state if the property is delivered or
23 shipped to a purchaser other than the United
24 States government, within this state regardless

1 of the FOB point or other conditions of the sale;
2 or the property is shipped from an office, store,
3 warehouse, factory or other place of storage in
4 this state and (a) the purchaser is the United
5 States government or (b) the taxpayer is not
6 doing business in the state of the destination of
7 the shipment.

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

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

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

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

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

1 pursuant to the provisions of this subsection.

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

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

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

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

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

4 For purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 2. For purposes of this subsection:

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

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

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

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

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

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

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

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

24 2. As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 f. As used in this paragraph:

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

9 (a) a qualified withdrawal,

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

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

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

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

4 18. For ~~taxable years beginning after December 31, 2005~~ tax
5 years 2006 through 2021, retirement benefits received by an
6 individual from any component of the Armed Forces of the United
7 States in an amount not to exceed the greater of seventy-five
8 percent (75%) of such benefits or Ten Thousand Dollars (\$10,000.00)
9 shall be exempt from taxable income but in no case less than the
10 amount of the exemption provided by paragraph 14 of this subsection.
11 For tax year 2022 and subsequent tax years, retirement benefits
12 received by an individual from any component of the Armed Forces of
13 the United States shall be exempt from taxable income.

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

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

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

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

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

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

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

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

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

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

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

24

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

6 2. As used in this subsection:

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

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

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

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

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

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

22 c. "Oklahoma company," "limited liability company," or
23 "partnership" means an entity whose primary
24 headquarters have been located in Oklahoma for at

1 least three (3) uninterrupted years prior to the date
2 of the transaction from which the net capital gains
3 arise,

4 d. "direct" means the individual taxpayer directly owns
5 the asset,

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

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

23 (2) With respect to sales of stock or ownership
24 interest in or sales of all or substantially all

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

19 f. "Oklahoma proprietorship business enterprise" means a
20 business enterprise whose income and expenses have
21 been reported on Schedule C or F of an individual
22 taxpayer's federal income tax return, or any similar
23 successor schedule published by the Internal Revenue
24 Service and whose primary headquarters have been

1 located in Oklahoma for at least three (3)
2 uninterrupted years prior to the date of the
3 transaction from which the net capital gains arise.

4 G. 1. For purposes of computing its Oklahoma taxable income
5 under this section, the dividends-paid deduction otherwise allowed
6 by federal law in computing net income of a real estate investment
7 trust that is subject to federal income tax shall be added back in
8 computing the tax imposed by this state under this title if the real
9 estate investment trust is a captive real estate investment trust.

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

- 15 a. the term "real estate investment trust" or "REIT"
16 means the meaning ascribed to such term in Section 856
17 of the Internal Revenue Code,
18 b. the term "captive real estate investment trust" means
19 a real estate investment trust, the shares or
20 beneficial interests of which are not regularly traded
21 on an established securities market and more than
22 fifty percent (50%) of the voting power or value of
23 the beneficial interests or shares of which are owned
24

1 or controlled, directly or indirectly, or
2 constructively, by a single entity that is:
3 (1) treated as an association taxable as a
4 corporation under the Internal Revenue Code, and
5 (2) not exempt from federal income tax pursuant to
6 the provisions of Section 501(a) of the Internal
7 Revenue Code.

8 The term shall not include a real estate investment
9 trust that is intended to be regularly traded on an
10 established securities market, and that satisfies the
11 requirements of Section 856(a)(5) and (6) of the U.S.
12 Internal Revenue Code by reason of Section 856(h)(2)
13 of the Internal Revenue Code,

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

- 16 (1) any real estate investment trust as defined in
17 paragraph a of this subsection other than a
18 "captive real estate investment trust", or
19 (2) any qualified real estate investment trust
20 subsidiary under Section 856(i) of the Internal
21 Revenue Code, other than a qualified REIT
22 subsidiary of a "captive real estate investment
23 trust", or
24

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

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

17 (a) at least seventy-five percent (75%) of the
18 entity's total asset value at the close of
19 its taxable year is represented by real
20 estate assets, as defined in Section
21 856(c)(5)(B) of the Internal Revenue Code,
22 thereby including shares or certificates of
23 beneficial interest in any real estate
24

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

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

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

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

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

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

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

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

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Passed the Senate the 9th day of March, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2022.

Presiding Officer of the House
of Representatives