

**FLOOR AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3849 \_\_\_\_\_  
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: Jeff Boatman

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 FLOOR SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 3849

6 By: Boatman

7 FLOOR SUBSTITUTE

8 An Act relating to revenue and taxation; amending 68  
9 O.S. 2021, Section 2358, which relates to Oklahoma  
10 taxable income and adjusted gross income; modifying  
11 provisions related to apportionment factors;  
12 authorizing certain corporations to select  
13 apportionment method; modifying provisions related to  
14 apportionment factor using sales; requiring certain  
15 corporations to use single sales factor for  
16 determination of taxable income; and providing an  
17 effective date.

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

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

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

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

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, shall be allocated  
13 to this state in the ratio of the original cost  
14 of such partnership's tangible property in this  
15 state to the original cost of such partnership's  
16 tangible property everywhere, as determined at  
17 the time of the sale; if more than fifty percent  
18 (50%) of the value of the partnership's assets  
19 consists of intangible assets, capital or  
20 ordinary gains or losses from the sale of an  
21 ownership interest in the partnership shall be  
22 allocated to this state in accordance with the  
23 sales factor of the partnership for its first  
24 full tax period immediately preceding its tax

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

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

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

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

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

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

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

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

22 e. In the case of insurance companies, Oklahoma taxable  
23 income shall be taxable income of the taxpayer for  
24 federal tax purposes, as adjusted for the adjustments



1 provided pursuant to the provisions of paragraphs 1  
2 and 2 of this subsection, apportioned as follows:

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

21 (2) if the principal source of premiums written by an  
22 insurance company consists of premiums for  
23 reinsurance accepted by it, the taxable income of  
24 such company shall be apportioned to this state

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

1 premiums written by each such ceding company for  
2 the taxable year.

3 5. ~~The~~

4 a. Except as otherwise provided by subparagraphs b or c  
5 of this paragraph, for taxable years beginning not  
6 later than December 31, 2022, the net income or loss  
7 remaining after the separate allocation in paragraph 4  
8 of this subsection, being that which is derived from a  
9 unitary business enterprise, shall be apportioned to  
10 this state on the basis of the arithmetical average of  
11 three factors consisting of property, payroll and  
12 sales or gross revenue enumerated as ~~subparagraphs a,~~  
13 ~~b and c of this paragraph~~ divisions (1), (2), and (3)  
14 of subparagraph d of this paragraph. Net income or  
15 loss as used in this paragraph includes that derived  
16 from patent or copyright royalties, purchase  
17 discounts, and interest on accounts receivable  
18 relating to or arising from a business activity, the  
19 income from which is apportioned pursuant to this  
20 subsection, including the sale or other disposition of  
21 such property and any other property used in the  
22 unitary enterprise. Deductions used in computing such  
23 net income or loss shall not include taxes based on or  
24 measured by income. ~~Provided,~~

1        b. For all taxable years beginning on or after January 1,  
2        2023, for qualifying corporations may elect to use a  
3        single sales factor apportionment comprising sales as  
4        one hundred percent (100%) the apportionment or the  
5        corporation may elect to compute Oklahoma taxable  
6        income using the apportionment methodology in which  
7        each of the three factors in subparagraph d of this  
8        paragraph is equally weighted and an arithmetical  
9        average of the three factors is determined as  
10       otherwise provided by this paragraph. A qualifying  
11       corporation is one whose property for purposes of the  
12       tax imposed by Section 2355 of this title has an  
13       initial cumulative investment cost equaling or  
14       exceeding ~~Two Hundred Million Dollars~~  
15       ~~(\$200,000,000.00) One Hundred Million Dollars~~  
16       (\$100,000,000.00) over three (3) years and such  
17       investment is made on or after ~~July 1, 1997,~~ January  
18       1, 2017, or ~~for corporations~~ a corporation which  
19       ~~expand~~ expands their property or facilities or which  
20       makes improvements or upgrades or any combination of  
21       such expenditures which shall be valued at the  
22       original costs, prior to federal adjustments, at the  
23       time of acquisition by the corporation and adjusted by  
24       subsequent capital additions or improvements thereto

1 and partial disposition thereof, by reason of sale,  
2 exchange or abandonment, in this state and such  
3 expansion ~~has,~~ improvements, upgrades, or expenditures  
4 have an investment cost equaling or exceeding ~~Two~~  
5 ~~Hundred Million Dollars (\$200,000,000.00)~~ One Hundred  
6 Million Dollars (\$100,000,000.00) over a period not to  
7 exceed three (3) years, and such expansion,  
8 improvements, upgrades, or any combination of such  
9 expenditures is commenced on or after January 1, ~~2000,~~  
10 ~~2017,~~ the three factors shall be apportioned with  
11 property and payroll, each comprising twenty-five  
12 percent (25%) of the apportionment factor and sales  
13 comprising fifty percent (50%) of the apportionment  
14 factor. The As used in this subsection, investments,  
15 improvements or expenditures shall include but not be  
16 limited to:

- 17 (1) Expenditures for intangible drilling costs, as  
18 defined in Internal Revenue Code Section 263(c),  
19 without regard to whether such intangible  
20 drilling costs are capitalized or expensed for  
21 federal income tax purposes; and
- 22 (2) Track structure expenditures, as defined in  
23 Internal Revenue Procedure 2001-46, without  
24 regard to whether such track costs are

1                   capitalized or expensed for federal income tax  
2                   purposes.

3       c. For any other corporation, for taxable years beginning  
4       on or after January 1, 2023, Oklahoma taxable income  
5       shall be computed using a single sales factor  
6       comprising one hundred percent (100%) of the  
7       apportionment and the corporation shall not use an  
8       arithmetic average of the three factors consisting of  
9       property, payroll, and sales. For the applicable tax  
10       years, the apportionment factors shall be computed as  
11       follows and for corporations required to use the  
12       single sales factor the provisions of division (3) of  
13       this subparagraph shall be used to determine Oklahoma  
14       taxable income as provided therein.

15       d. For corporations required or electing to use a single  
16       sales factor apportionment, the provisions of division  
17       (3) of this subparagraph shall be used to determine  
18       Oklahoma taxable income as provided therein. For the  
19       applicable tax years, or for qualifying corporations  
20       electing the three-factor apportionment, the  
21       apportionment factors shall be computed as follows:

22       a. (1) The property factor is a fraction, the numerator  
23               of which is the average value of the taxpayer's  
24               real and tangible personal property owned or

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

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

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

1 taxpayer, less any annual rental rate  
2 received by the taxpayer from subrentals,

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

11 ~~b.~~ (2) The payroll factor is a fraction, the numerator  
12 of which is the total compensation for services  
13 rendered in the state during the tax period, and  
14 the denominator of which is the total  
15 compensation for services rendered everywhere  
16 during the tax period. "Compensation", as used  
17 in this ~~subsection~~ division means those paid-for  
18 services to the extent related to the unitary  
19 business but does not include officers' salaries,  
20 wages and other compensation.

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



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

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

15 ~~e.~~ (3) The sales factor is a fraction, the numerator of  
16 which is the total sales or gross revenue of the  
17 taxpayer in this state during the tax period, and  
18 the denominator of which is the total sales or  
19 gross revenue of the taxpayer everywhere during  
20 the tax period. "Sales", as used in this  
21 ~~subsection~~ division, does not include sales or  
22 gross revenue which are separately allocated in  
23 paragraph 4 of this subsection.  
24

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

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

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

1 that interstate mileage traveled in Oklahoma  
2 bears to total interstate mileage traveled.

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

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

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

18                  In any case where the apportionment of the three factors  
19                  prescribed in ~~this paragraph~~ division (1), (2), or (3) of this  
20                  subparagraph attributes to Oklahoma a portion of net income of the  
21                  enterprise out of all appropriate proportion to the property owned  
22                  and/or business transacted within this state, because of the fact  
23                  that one or more of the factors so prescribed are not employed to  
24                  any appreciable extent in furtherance of the enterprise; or because

1 one or more factors not so prescribed are employed to a considerable  
2 extent in furtherance of the enterprise; or because of other  
3 reasons, the Tax Commission is empowered to permit, after a showing  
4 by taxpayer that an excessive portion of net income has been  
5 attributed to Oklahoma, or require, when in its judgment an  
6 insufficient portion of net income has been attributed to Oklahoma,  
7 the elimination, substitution, or use of additional factors, or  
8 reduction or increase in the weight of such prescribed factors.  
9 Provided, however, that any such variance from such prescribed  
10 factors which has the effect of increasing the portion of net income  
11 attributable to Oklahoma must not be inherently arbitrary, and  
12 application of the recomputed final apportionment to the net income  
13 of the enterprise must attribute to Oklahoma only a reasonable  
14 portion thereof.

15 6. For calendar years 1997 and 1998, the owner of a new or  
16 expanded agricultural commodity processing facility in this state  
17 may exclude from Oklahoma taxable income, or in the case of an  
18 individual, the Oklahoma adjusted gross income, fifteen percent  
19 (15%) of the investment by the owner in the new or expanded  
20 agricultural commodity processing facility. For calendar year 1999,  
21 and all subsequent years, the percentage, not to exceed fifteen  
22 percent (15%), available to the owner of a new or expanded  
23 agricultural commodity processing facility in this state claiming  
24 the exemption shall be adjusted annually so that the total estimated

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

16 For purposes of this paragraph:

- 17 a. "Agricultural commodity processing facility" means  
18 building, structures, fixtures and improvements used  
19 or operated primarily for the processing or production  
20 of marketable products from agricultural commodities.  
21 The term shall also mean a dairy operation that  
22 requires a depreciable investment of at least Two  
23 Hundred Fifty Thousand Dollars (\$250,000.00) and which  
24 produces milk from dairy cows. The term does not

1 include a facility that provides only, and nothing  
2 more than, storage, cleaning, drying or transportation  
3 of agricultural commodities, and

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

6 (1) the processing of agricultural commodities,  
7 including receiving or storing agricultural  
8 commodities, or the production of milk at a dairy  
9 operation,

10 (2) transporting the agricultural commodities or  
11 product before, during or after the processing,  
12 or

13 (3) packaging or otherwise preparing the product for  
14 sale or shipment.

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

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

23 b. the loss properly shown on Schedule F of the Internal  
24 Revenue Service Form 1040 reduced by one-half (1/2) of

1 the income from all other sources other than reflected  
2 on Schedule F.

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

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

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



1 of the Internal Revenue Code by Section 1231 of the American  
2 Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

3 11. For taxable years beginning on or after January 1, 2019,  
4 there shall be subtracted from Oklahoma taxable income or adjusted  
5 gross income any item of income or gain, and there shall be added to  
6 Oklahoma taxable income or adjusted gross income any item of loss or  
7 deduction that in the absence of an election pursuant to the  
8 provisions of the Pass-Through Entity Tax Equity Act of 2019 would  
9 be allocated to a member or to an indirect member of an electing  
10 pass-through entity pursuant to Section 2351 et seq. of this title,  
11 if (i) the electing pass-through entity has accounted for such item  
12 in computing its Oklahoma net entity income or loss pursuant to the  
13 provisions of the Pass-Through Entity Tax Equity Act of 2019, and  
14 (ii) the total amount of tax attributable to any resulting Oklahoma  
15 net entity income has been paid. The Oklahoma Tax Commission shall  
16 promulgate rules for the reporting of such exclusion to direct and  
17 indirect members of the electing pass-through entity. As used in  
18 this paragraph, "electing pass-through entity", "indirect member",  
19 and "member" shall be defined in the same manner as prescribed by  
20 Section 2355.1P-2 of this title. Notwithstanding the application of  
21 this paragraph, the adjusted tax basis of any ownership interest in  
22 a pass-through entity for purposes of Section 2351 et seq. of this  
23 title shall be equal to its adjusted tax basis for federal income  
24 tax purposes.

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

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

24

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

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

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

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

5 2. For purposes of this subsection:

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

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

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

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

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

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

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

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

12           2. As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

4 (2) With respect to sales of stock or ownership  
5 interest in or sales of all or substantially all  
6 of the assets of an Oklahoma company, limited  
7 liability company, or partnership, the deduction  
8 described in this subsection shall not apply  
9 unless the pass-through entity that makes the  
10 sale has held the stock or ownership interest or  
11 the assets for not less than three (3)  
12 uninterrupted years prior to the date of the  
13 transaction that created the capital gain, and  
14 each pass-through entity included in the chain of  
15 ownership has been a member, partner or  
16 shareholder of the pass-through entity in the  
17 tier immediately below it for an uninterrupted  
18 period of not less than three (3) years.

19 E. The Oklahoma adjusted gross income of any individual  
20 taxpayer shall be further adjusted as follows to arrive at Oklahoma  
21 taxable income:

22 1. a. In the case of individuals, there shall be added or  
23 deducted, as the case may be, the difference necessary  
24 to allow personal exemptions of One Thousand Dollars



1 (\$1,000.00) in lieu of the personal exemptions allowed  
2 by the Internal Revenue Code.

3 b. There shall be allowed an additional exemption of One  
4 Thousand Dollars (\$1,000.00) for each taxpayer or  
5 spouse who is blind at the close of the tax year. For  
6 purposes of this subparagraph, an individual is blind  
7 only if the central visual acuity of the individual  
8 does not exceed 20/200 in the better eye with  
9 correcting lenses, or if the visual acuity of the  
10 individual is greater than 20/200, but is accompanied  
11 by a limitation in the fields of vision such that the  
12 widest diameter of the visual field subtends an angle  
13 no greater than twenty (20) degrees.

14 c. There shall be allowed an additional exemption of One  
15 Thousand Dollars (\$1,000.00) for each taxpayer or  
16 spouse who is sixty-five (65) years of age or older at  
17 the close of the tax year based upon the filing status  
18 and federal adjusted gross income of the taxpayer.  
19 Taxpayers with the following filing status may claim  
20 this exemption if the federal adjusted gross income  
21 does not exceed:

22 (1) Twenty-five Thousand Dollars (\$25,000.00) if  
23 married and filing jointly;  
24

- 1 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)  
2 if married and filing separately;  
3 (3) Fifteen Thousand Dollars (\$15,000.00) if single;  
4 and  
5 (4) Nineteen Thousand Dollars (\$19,000.00) if a  
6 qualifying head of household.

7 Provided, for taxable years beginning after December  
8 31, 1999, amounts included in the calculation of  
9 federal adjusted gross income pursuant to the  
10 conversion of a traditional individual retirement  
11 account to a Roth individual retirement account shall  
12 be excluded from federal adjusted gross income for  
13 purposes of the income thresholds provided in this  
14 subparagraph.

- 15 2. a. For taxable years beginning on or before December 31,  
16 2005, in the case of individuals who use the standard  
17 deduction in determining taxable income, there shall  
18 be added or deducted, as the case may be, the  
19 difference necessary to allow a standard deduction in  
20 lieu of the standard deduction allowed by the Internal  
21 Revenue Code, in an amount equal to the larger of  
22 fifteen percent (15%) of the Oklahoma adjusted gross  
23 income or One Thousand Dollars (\$1,000.00), but not to  
24 exceed Two Thousand Dollars (\$2,000.00), except that

1 in the case of a married individual filing a separate  
2 return such deduction shall be the larger of fifteen  
3 percent (15%) of such Oklahoma adjusted gross income  
4 or Five Hundred Dollars (\$500.00), but not to exceed  
5 the maximum amount of One Thousand Dollars  
6 (\$1,000.00).

7 b. For taxable years beginning on or after January 1,  
8 2006, and before January 1, 2007, in the case of  
9 individuals who use the standard deduction in  
10 determining taxable income, there shall be added or  
11 deducted, as the case may be, the difference necessary  
12 to allow a standard deduction in lieu of the standard  
13 deduction allowed by the Internal Revenue Code, in an  
14 amount equal to:

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

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

20 c. For the taxable year beginning on January 1, 2007, and  
21 ending December 31, 2007, in the case of individuals  
22 who use the standard deduction in determining taxable  
23 income, there shall be added or deducted, as the case  
24 may be, the difference necessary to allow a standard

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

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

6 (2) Four Thousand One Hundred Twenty-five Dollars  
7 (\$4,125.00) for a head of household; or

8 (3) Two Thousand Seven Hundred Fifty Dollars  
9 (\$2,750.00), if the filing status is single or  
10 married filing separate.

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

21 (2) Four Thousand Eight Hundred Seventy-five Dollars  
22 (\$4,875.00) for a head of household, or  
23  
24

1 (3) Three Thousand Two Hundred Fifty Dollars  
2 (\$3,250.00), if the filing status is single or  
3 married filing separate.

4 e. For the taxable year beginning on January 1, 2009, and  
5 ending December 31, 2009, 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) Eight Thousand Five Hundred Dollars (\$8,500.00),  
12 if the filing status is married filing joint or  
13 qualifying widow, or

14 (2) Six Thousand Three Hundred Seventy-five Dollars  
15 (\$6,375.00) for a head of household, or

16 (3) Four Thousand Two Hundred Fifty Dollars  
17 (\$4,250.00), if the filing status is single or  
18 married filing separate.

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

22 f. For taxable years beginning on or after January 1,  
23 2010, and ending on December 31, 2016, 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 equal to the standard  
4 deduction allowed by the Internal Revenue Code, based  
5 upon the amount and filing status prescribed by such  
6 Code for purposes of filing federal individual income  
7 tax returns.

8 g. For taxable years beginning on or after January 1,  
9 2017, in the case of individuals who use the standard  
10 deduction in determining taxable income, there shall  
11 be added or deducted, as the case may be, the  
12 difference necessary to allow a standard deduction in  
13 lieu of the standard deduction allowed by the Internal  
14 Revenue Code, as follows:

15 (1) Six Thousand Three Hundred Fifty Dollars  
16 (\$6,350.00) for single or married filing  
17 separately,

18 (2) Twelve Thousand Seven Hundred Dollars  
19 (\$12,700.00) for married filing jointly or  
20 qualifying widower with dependent child, and

21 (3) Nine Thousand Three Hundred Fifty Dollars  
22 (\$9,350.00) for head of household.

23 3. a. In the case of resident and part-year resident  
24 individuals having adjusted gross income from sources

1 both within and without the state, the itemized or  
2 standard deductions and personal exemptions shall be  
3 reduced to an amount which is the same portion of the  
4 total thereof as Oklahoma adjusted gross income is of  
5 adjusted gross income. To the extent itemized  
6 deductions include allowable moving expense, proration  
7 of moving expense shall not be required or permitted  
8 but allowable moving expense shall be fully deductible  
9 for those taxpayers moving within or into Oklahoma and  
10 no part of moving expense shall be deductible for  
11 those taxpayers moving without or out of Oklahoma.  
12 All other itemized or standard deductions and personal  
13 exemptions shall be subject to proration as provided  
14 by law.

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

1           4. A resident individual with a physical disability  
2 constituting a substantial handicap to employment may deduct from  
3 Oklahoma adjusted gross income such expenditures to modify a motor  
4 vehicle, home or workplace as are necessary to compensate for his or  
5 her handicap. A veteran certified by the Department of Veterans  
6 Affairs of the federal government as having a service-connected  
7 disability shall be conclusively presumed to be an individual with a  
8 physical disability constituting a substantial handicap to  
9 employment. The Tax Commission shall promulgate rules containing a  
10 list of combinations of common disabilities and modifications which  
11 may be presumed to qualify for this deduction. The Tax Commission  
12 shall prescribe necessary requirements for verification.

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

19                    b.    On or after July 1, 2010, one hundred percent (100%)  
20                    of the income received by any person from the United  
21                    States as salary or compensation in any form, other  
22                    than retirement benefits, as a member of any component  
23                    of the Armed Forces of the United States shall be  
24                    deducted from taxable income.



1 c. Whenever the filing of a timely income tax return by a  
2 member of the Armed Forces of the United States is  
3 made impracticable or impossible of accomplishment by  
4 reason of:

5 (1) absence from the United States, which term  
6 includes only the states and the District of  
7 Columbia;

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

10 (3) confinement in a hospital within the United  
11 States for treatment of wounds, injuries or  
12 disease,

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

17 (a) Such individual shall return to the United  
18 States if the extension is granted pursuant  
19 to subparagraph a of this paragraph, return  
20 to the State of Oklahoma if the extension is  
21 granted pursuant to subparagraph b of this  
22 paragraph or be discharged from such  
23 hospital if the extension is granted  
24

1                                   pursuant to subparagraph c of this  
2                                   paragraph; or

3                   (b) An executor, administrator, or conservator  
4                                   of the estate of the taxpayer is appointed,  
5                                   whichever event occurs the earliest.

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

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

22           7. a. An individual taxpayer, whether resident or  
23                                   nonresident, may deduct an amount equal to the federal  
24

1 income taxes paid by the taxpayer during the taxable  
2 year.

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

12 c. For the purpose of this paragraph, "federal income  
13 taxes paid" shall mean federal income taxes, surtaxes  
14 imposed on incomes or excess profits taxes, as though  
15 the taxpayer was on the accrual basis. In determining  
16 the amount of deduction for federal income taxes for  
17 tax year 2001, the amount of the deduction shall not  
18 be adjusted by the amount of any accelerated ten  
19 percent (10%) tax rate bracket credit or advanced  
20 refund of the credit received during the tax year  
21 provided pursuant to the federal Economic Growth and  
22 Tax Relief Reconciliation Act of 2001, P.L. No. 107-  
23 16, and the advanced refund of such credit shall not  
24 be subject to taxation.

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

4           8.    Retirement benefits not to exceed Five Thousand Five Hundred  
5 Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five  
6 Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand  
7 Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax  
8 years, which are received by an individual from the civil service of  
9 the United States, the Oklahoma Public Employees Retirement System,  
10 the Teachers' Retirement System of Oklahoma, the Oklahoma Law  
11 Enforcement Retirement System, the Oklahoma Firefighters Pension and  
12 Retirement System, the Oklahoma Police Pension and Retirement  
13 System, the employee retirement systems created by counties pursuant  
14 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the  
15 Uniform Retirement System for Justices and Judges, the Oklahoma  
16 Wildlife Conservation Department Retirement Fund, the Oklahoma  
17 Employment Security Commission Retirement Plan, or the employee  
18 retirement systems created by municipalities pursuant to Section 48-  
19 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt  
20 from taxable income.

21           9.    In taxable years beginning after December 31, 1984, Social  
22 Security benefits received by an individual shall be exempt from  
23 taxable income, to the extent such benefits are included in the  
24

1 federal adjusted gross income pursuant to the provisions of Section  
2 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

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

17 11. In taxable years beginning after December 31, 1995,  
18 contributions made to and interest received from a medical savings  
19 account established pursuant to Sections 2621 through 2623 of Title  
20 63 of the Oklahoma Statutes shall be exempt from taxable income.

21 12. For taxable years beginning after December 31, 1996, the  
22 Oklahoma adjusted gross income of any individual taxpayer who is a  
23 swine or poultry producer may be further adjusted for the deduction  
24 for depreciation allowed for new construction or expansion costs

1 which may be computed using the same depreciation method elected for  
2 federal income tax purposes except that the useful life shall be  
3 seven (7) years for purposes of this paragraph. If depreciation is  
4 allowed as a deduction in determining the adjusted gross income of  
5 an individual, any depreciation calculated and claimed pursuant to  
6 this section shall in no event be a duplication of any depreciation  
7 allowed or permitted on the federal income tax return of the  
8 individual.

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

- 12 (1) the adoption of a minor, or  
13 (2) a proposed adoption of a minor which did not  
14 result in a decreed adoption,  
15 may be deducted from the Oklahoma adjusted gross  
16 income.

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

20 c. The Tax Commission shall promulgate rules to implement  
21 the provisions of this paragraph which shall contain a  
22 specific list of nonrecurring adoption expenses which  
23 may be presumed to qualify for the deduction. The Tax  
24

1 Commission shall prescribe necessary requirements for  
2 verification.

3 d. "Nonrecurring adoption expenses" means adoption fees,  
4 court costs, medical expenses, attorney fees and  
5 expenses which are directly related to the legal  
6 process of adoption of a child including, but not  
7 limited to, costs relating to the adoption study,  
8 health and psychological examinations, transportation  
9 and reasonable costs of lodging and food for the child  
10 or adoptive parents which are incurred to complete the  
11 adoption process and are not reimbursed by other  
12 sources. The term "nonrecurring adoption expenses"  
13 shall not include attorney fees incurred for the  
14 purpose of litigating a contested adoption, from and  
15 after the point of the initiation of the contest,  
16 costs associated with physical remodeling, renovation  
17 and alteration of the adoptive parents' home or  
18 property, except for a special needs child as  
19 authorized by the court.

20 14. a. In taxable years beginning before January 1, 2005,  
21 retirement benefits not to exceed the amounts  
22 specified in this paragraph, which are received by an  
23 individual sixty-five (65) years of age or older and  
24 whose Oklahoma adjusted gross income is Twenty-five

1 Thousand Dollars (\$25,000.00) or less if the filing  
2 status is single, head of household, or married filing  
3 separate, or Fifty Thousand Dollars (\$50,000.00) or  
4 less if the filing status is married filing joint or  
5 qualifying widow, shall be exempt from taxable income.  
6 In taxable years beginning after December 31, 2004,  
7 retirement benefits not to exceed the amounts  
8 specified in this paragraph, which are received by an  
9 individual whose Oklahoma adjusted gross income is  
10 less than the qualifying amount specified in this  
11 paragraph, shall be exempt from taxable income.

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

- 14 (1) in taxable years beginning after December 31,  
15 2004, and prior to January 1, 2007, the  
16 qualifying amount shall be Thirty-seven Thousand  
17 Five Hundred Dollars (\$37,500.00) or less if the  
18 filing status is single, head of household, or  
19 married filing separate, or Seventy-five Thousand  
20 Dollars (\$75,000.00) or less if the filing status  
21 is married filing jointly or qualifying widow,  
22 (2) in the taxable year beginning January 1, 2007,  
23 the qualifying amount shall be Fifty Thousand  
24 Dollars (\$50,000.00) or less if the filing status



1 is single, head of household, or married filing  
2 separate, or One Hundred Thousand Dollars  
3 (\$100,000.00) or less if the filing status is  
4 married filing jointly or qualifying widow,

5 (3) in the taxable year beginning January 1, 2008,  
6 the qualifying amount shall be Sixty-two Thousand  
7 Five Hundred Dollars (\$62,500.00) or less if the  
8 filing status is single, head of household, or  
9 married filing separate, or One Hundred Twenty-  
10 five Thousand Dollars (\$125,000.00) or less if  
11 the filing status is married filing jointly or  
12 qualifying widow,

13 (4) in the taxable year beginning January 1, 2009,  
14 the qualifying amount shall be One Hundred  
15 Thousand Dollars (\$100,000.00) or less if the  
16 filing status is single, head of household, or  
17 married filing separate, or Two Hundred Thousand  
18 Dollars (\$200,000.00) or less if the filing  
19 status is married filing jointly or qualifying  
20 widow, and

21 (5) in the taxable year beginning January 1, 2010,  
22 and subsequent taxable years, there shall be no  
23 limitation upon the qualifying amount.  
24

1 c. For purposes of this paragraph, "retirement benefits"  
2 means the total distributions or withdrawals from the  
3 following:

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

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

10 (3) an individual retirement account, annuity or  
11 trust or simplified employee pension that  
12 satisfies the requirements of Section 408 of the  
13 Internal Revenue Code, 26 U.S.C., Section 408,

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

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

20 (6) lump-sum distributions from a retirement plan  
21 which satisfies the requirements of Section  
22 402(e) of the Internal Revenue Code, 26 U.S.C.,  
23 Section 402(e).  
24

1           d.    The amount of the exemption provided by this paragraph  
2                   shall be limited to Five Thousand Five Hundred Dollars  
3                   (\$5,500.00) for the 2004 tax year, Seven Thousand Five  
4                   Hundred Dollars (\$7,500.00) for the 2005 tax year and  
5                   Ten Thousand Dollars (\$10,000.00) for the tax year  
6                   2006 and for all subsequent tax years. Any individual  
7                   who claims the exemption provided for in paragraph 8  
8                   of this subsection shall not be permitted to claim a  
9                   combined total exemption pursuant to this paragraph  
10                  and paragraph 8 of this subsection in an amount  
11                  exceeding Five Thousand Five Hundred Dollars  
12                  (\$5,500.00) for the 2004 tax year, Seven Thousand Five  
13                  Hundred Dollars (\$7,500.00) for the 2005 tax year and  
14                  Ten Thousand Dollars (\$10,000.00) for the 2006 tax  
15                  year and all subsequent tax years.

16           15. In taxable years beginning after December 31, 1999, for an  
17 individual engaged in production agriculture who has filed a  
18 Schedule F form with the taxpayer's federal income tax return for  
19 such taxable year, there shall be excluded from taxable income any  
20 amount which was included as federal taxable income or federal  
21 adjusted gross income and which consists of the discharge of an  
22 obligation by a creditor of the taxpayer incurred to finance the  
23 production of agricultural products.

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

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

15       b. In taxable years beginning after December 31, 2004,  
16 each taxpayer shall be allowed a deduction for  
17 contributions to accounts established pursuant to the  
18 Oklahoma College Savings Plan Act. The maximum annual  
19 deduction shall equal the amount of contributions to  
20 all such accounts plus any contributions to such  
21 accounts by the taxpayer for prior taxable years after  
22 December 31, 2004, which were not deducted, but in no  
23 event shall the deduction for each tax year exceed Ten  
24 Thousand Dollars (\$10,000.00) for each individual

1 taxpayer or Twenty Thousand Dollars (\$20,000.00) for  
2 taxpayers filing a joint return. Any amount of a  
3 contribution that is not deducted by the taxpayer in  
4 the year for which the contribution is made may be  
5 carried forward as a deduction from income for the  
6 succeeding five (5) years. For taxable years  
7 beginning after December 31, 2005, deductions may be  
8 taken for contributions and rollovers made during a  
9 taxable year and up to April 15 of the succeeding  
10 year, or the due date of a taxpayer's state income tax  
11 return, excluding extensions, whichever is later.  
12 Provided, a deduction for the same contribution may  
13 not be taken for two (2) different taxable years.

14 c. In taxable years beginning after December 31, 2006,  
15 deductions for contributions made pursuant to  
16 subparagraph b of this paragraph shall be limited as  
17 follows:

18 (1) for a taxpayer who qualified for the five-year  
19 carryforward election and who takes a rollover or  
20 nonqualified withdrawal during that period, the  
21 tax deduction otherwise available pursuant to  
22 subparagraph b of this paragraph shall be reduced  
23 by the amount which is equal to the rollover or  
24 nonqualified withdrawal, and

1 (2) for a taxpayer who elects to take a rollover or  
2 nonqualified withdrawal within the same tax year  
3 in which a contribution was made to the  
4 taxpayer's account, the tax deduction otherwise  
5 available pursuant to subparagraph b of this  
6 paragraph shall be reduced by the amount of the  
7 contribution which is equal to the rollover or  
8 nonqualified withdrawal.

9 d. If a taxpayer elects to take a rollover on a  
10 contribution for which a deduction has been taken  
11 pursuant to subparagraph b of this paragraph within  
12 one (1) year of the date of contribution, the amount  
13 of such rollover shall be included in the adjusted  
14 gross income of the taxpayer in the taxable year of  
15 the rollover.

16 e. If a taxpayer makes a nonqualified withdrawal of  
17 contributions for which a deduction was taken pursuant  
18 to subparagraph b of this paragraph, such nonqualified  
19 withdrawal and any earnings thereon shall be included  
20 in the adjusted gross income of the taxpayer in the  
21 taxable year of the nonqualified withdrawal.

22 f. As used in this paragraph:  
23  
24

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

4 (a) a qualified withdrawal,

5 (b) a withdrawal made as a result of the death  
6 or disability of the designated beneficiary  
7 of an account,

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

16 (d) a rollover or change of designated  
17 beneficiary as permitted by subsection F of  
18 Section 3970.7 of Title 70 of Oklahoma  
19 Statutes, and

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

23 18. For taxable years beginning after December 31, 2005,  
24 retirement benefits received by an individual from any component of

1 the Armed Forces of the United States in an amount not to exceed the  
2 greater of seventy-five percent (75%) of such benefits or Ten  
3 Thousand Dollars (\$10,000.00) shall be exempt from taxable income  
4 but in no case less than the amount of the exemption provided by  
5 paragraph 14 of this subsection.

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

- 13 a. in the taxable year beginning January 1, 2007, twenty  
14 percent (20%) of such benefits shall be exempt,
- 15 b. in the taxable year beginning January 1, 2008, forty  
16 percent (40%) of such benefits shall be exempt,
- 17 c. in the taxable year beginning January 1, 2009, sixty  
18 percent (60%) of such benefits shall be exempt,
- 19 d. in the taxable year beginning January 1, 2010, eighty  
20 percent (80%) of such benefits shall be exempt, and
- 21 e. in the taxable year beginning January 1, 2011, and  
22 subsequent taxable years, one hundred percent (100%)  
23 of such benefits shall be exempt.

24



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

13        b. An individual may claim this deduction only once, and  
14          the deduction may be claimed only for unreimbursed  
15          expenses that are incurred by the individual and  
16          related to the organ donation of the individual.

17        c. The Oklahoma Tax Commission shall promulgate rules to  
18          implement the provisions of this paragraph which shall  
19          contain a specific list of expenses which may be  
20          presumed to qualify for the deduction. The Tax  
21          Commission shall prescribe necessary requirements for  
22          verification.

23        21. For taxable years beginning after December 31, 2009, there  
24          shall be exempt from taxable income any amount received by the

1 beneficiary of the death benefit for an emergency medical technician  
2 or a registered emergency medical responder provided by Section 1-  
3 2505.1 of Title 63 of the Oklahoma Statutes.

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

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

16 24. For taxable years beginning on or after January 1, 2016,  
17 taxable income shall be increased by any amount of state and local  
18 sales or income taxes deducted under 26 U.S.C., Section 164 of the  
19 Internal Revenue Code. If the amount of state and local taxes  
20 deducted on the federal return is limited, taxable income on the  
21 state return shall be increased only by the amount actually deducted  
22 after any such limitations are applied.

23 25. For taxable years beginning after December 31, 2020, each  
24 taxpayer shall be allowed a deduction for contributions to accounts

1 established pursuant to the Achieving a Better Life Experience  
2 (ABLE) Program as established in Section 4001.1 et seq. of Title 56  
3 of the Oklahoma Statutes. For any tax year, the deduction provided  
4 for in this paragraph shall not exceed Ten Thousand Dollars  
5 (\$10,000.00) for an individual taxpayer or Twenty Thousand Dollars  
6 (\$20,000.00) for taxpayers filing a joint return. Any amount of  
7 contribution not deducted by the taxpayer in the tax year for which  
8 the contribution is made may be carried forward as a deduction from  
9 income for up to five (5) tax years. Deductions may be taken for  
10 contributions made during the tax year and through April 15 of the  
11 succeeding tax year, or through the due date of a taxpayer's state  
12 income tax return excluding extensions, whichever is later.  
13 Provided, a deduction for the same contribution may not be taken in  
14 more than one (1) tax year.

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

20 2. As used in this subsection:

21 a. "qualifying gains receiving capital treatment" means  
22 the amount of net capital gains, as defined in Section  
23 1222(11) of the Internal Revenue Code, included in an  
24

1 individual taxpayer's federal income tax return that  
2 result from:

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

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

18 (3) the sale of real property, tangible personal  
19 property or intangible personal property located  
20 within Oklahoma as part of the sale of all or  
21 substantially all of the assets of an Oklahoma  
22 company, limited liability company, or  
23 partnership or an Oklahoma proprietorship  
24 business enterprise where such property has been

1 directly or indirectly owned by such entity or  
2 business enterprise or owned by the owners of  
3 such entity or business enterprise for a period  
4 of at least two (2) years prior to the date of  
5 the transaction from which the net capital gains  
6 arise,

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

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

19 d. "direct" means the individual taxpayer directly owns  
20 the asset,

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

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

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

1 included in the chain of ownership has been a  
2 member, partner or shareholder of the pass-  
3 through entity in the tier immediately below it  
4 for an uninterrupted period of not less than two  
5 (2) years. For purposes of this division,  
6 uninterrupted ownership prior to July 1, 2007,  
7 shall be included in the determination of the  
8 required holding period prescribed by this  
9 division, and

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

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

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

6            a. the term "real estate investment trust" or "REIT"  
7                means the meaning ascribed to such term in Section 856  
8                of the Internal Revenue Code,

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

- 17                (1) treated as an association taxable as a  
18                        corporation under the Internal Revenue Code, and  
19                (2) not exempt from federal income tax pursuant to  
20                        the provisions of Section 501(a) of the Internal  
21                        Revenue Code.

22                The term shall not include a real estate investment  
23                trust that is intended to be regularly traded on an  
24                established securities market, and that satisfies the



1 requirements of Section 856(a) (5) and (6) of the U.S.  
2 Internal Revenue Code by reason of Section 856(h) (2)  
3 of the Internal Revenue Code,

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

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

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

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

1 (75%) or more of the voting power or value of the  
2 beneficial interests or shares of such trust, or  
3 (4) any Qualified Foreign Entity, meaning a  
4 corporation, trust, association or partnership  
5 organized outside the laws of the United States  
6 and which satisfies the following criteria:  
7 (a) at least seventy-five percent (75%) of the  
8 entity's total asset value at the close of  
9 its taxable year is represented by real  
10 estate assets, as defined in Section  
11 856(c) (5) (B) of the Internal Revenue Code,  
12 thereby including shares or certificates of  
13 beneficial interest in any real estate  
14 investment trust, cash and cash equivalents,  
15 and U.S. Government securities,  
16 (b) the entity receives a dividend-paid  
17 deduction comparable to Section 561 of the  
18 Internal Revenue Code, or is exempt from  
19 entity level tax,  
20 (c) the entity is required to distribute at  
21 least eighty-five percent (85%) of its  
22 taxable income, as computed in the  
23 jurisdiction in which it is organized, to  
24

1 the holders of its shares or certificates of  
2 beneficial interest on an annual basis,  
3 (d) not more than ten percent (10%) of the  
4 voting power or value in such entity is held  
5 directly or indirectly or constructively by  
6 a single entity or individual, or the shares  
7 or beneficial interests of such entity are  
8 regularly traded on an established  
9 securities market, and  
10 (e) the entity is organized in a country which  
11 has a tax treaty with the United States.

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

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

1 estate investment trust. For purposes of this subsection, a real  
2 estate investment trust becomes a real estate investment trust on  
3 the first day it has both met the requirements of Section 856 of the  
4 Internal Revenue Code and has elected to be treated as a real estate  
5 investment trust pursuant to Section 856(c)(1) of the Internal  
6 Revenue Code.

7 SECTION 2. This act shall become effective November 1, 2022.

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9 58-2-11131 MAH 03/18/22

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