

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3088

By: Hilbert of the House

and

Hall of the Senate

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8
9
10 COMMITTEE SUBSTITUTE

11 [revenue and taxation - income tax credit - adoption
12 expenses - codification - effective date]

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14
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2357.601 of Title 68, unless
18 there is created a duplication in numbering, reads as follows:

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

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

9 B. For taxable years beginning on or after January 1, 2023,
10 there shall be allowed a credit against the tax imposed pursuant to
11 Section 2355 of Title 68 of the Oklahoma Statutes for nonrecurring
12 adoption expenses paid by a resident individual taxpayer in
13 connection with:

- 14 1. The adoption of a minor; or
- 15 2. A proposed adoption of a minor which did not result in a
16 decreed adoption.

17 C. The amount of the tax credit authorized by this section
18 shall be equal to ten percent (10%) of the qualified expenses but
19 the credit amount shall not exceed Two Thousand Dollars (\$2,000.00)
20 per calendar year with respect to single filing status or married
21 filing separate income tax returns and shall not exceed Four
22 Thousand Dollars (\$4,000.00) per calendar year with respect to
23 married filing joint return filing status.

24

1 D. The Tax Commission shall promulgate rules to implement the
2 provisions of this section which shall contain a specific list of
3 nonrecurring adoption expenses which may be presumed to qualify for
4 the tax credit. The Tax Commission shall prescribe necessary
5 requirements for verification.

6 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2358, is
7 amended to read as follows:

8 Section 2358. For all tax years beginning after December 31,
9 1981, taxable income and adjusted gross income shall be adjusted to
10 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
11 as required by this section.

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

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

20 2. There shall be deducted amounts included in such income that
21 the state is prohibited from taxing because of the provisions of the
22 Federal Constitution, the State Constitution, federal laws or laws
23 of Oklahoma.

24

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

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

12 b. For carryovers and carrybacks to taxable years
13 beginning after December 31, 1980, the amount of any
14 net operating loss deduction allowed for the taxable
15 year shall be an amount equal to the aggregate of the
16 Oklahoma net operating loss carryovers and carrybacks
17 to such year. Oklahoma net operating losses shall be
18 separately determined by reference to Section 172 of
19 the Internal Revenue Code, 26 U.S.C., Section 172, as
20 modified by the Oklahoma Income Tax Act, Section 2351
21 et seq. of this title, and shall be allowed without
22 regard to the existence of a federal net operating
23 loss. For tax years beginning after December 31,
24 2000, and ending before January 1, 2008, the years to

1 which such losses may be carried shall be determined
2 solely by reference to Section 172 of the Internal
3 Revenue Code, 26 U.S.C., Section 172, with the
4 exception that the terms "net operating loss" and
5 "taxable income" shall be replaced with "Oklahoma net
6 operating loss" and "Oklahoma taxable income". For
7 tax years beginning after December 31, 2007, and
8 ending before January 1, 2009, years to which such
9 losses may be carried back shall be limited to two (2)
10 years. For tax years beginning after December 31,
11 2008, the years to which such losses may be carried
12 back shall be determined solely by reference to
13 Section 172 of the Internal Revenue Code, 26 U.S.C.,
14 Section 172, with the exception that the terms "net
15 operating loss" and "taxable income" shall be replaced
16 with "Oklahoma net operating loss" and "Oklahoma
17 taxable income".

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

- 23 a. Income from real and tangible personal property, such
24 as rents, oil and mining production or royalties, and

1 gains or losses from sales of such property, shall be
2 allocated in accordance with the situs of such
3 property;

4 b. Income from intangible personal property, such as
5 interest, dividends, patent or copyright royalties,
6 and gains or losses from sales of such property, shall
7 be allocated in accordance with the domiciliary situs
8 of the taxpayer, except that:

9 (1) where such property has acquired a nonunitary
10 business or commercial situs apart from the
11 domicile of the taxpayer such income shall be
12 allocated in accordance with such business or
13 commercial situs; interest income from
14 investments held to generate working capital for
15 a unitary business enterprise shall be included
16 in apportionable income; a resident trust or
17 resident estate shall be treated as having a
18 separate commercial or business situs insofar as
19 undistributed income is concerned, but shall not
20 be treated as having a separate commercial or
21 business situs insofar as distributed income is
22 concerned,

23 (2) for taxable years beginning after December 31,
24 2003, capital or ordinary gains or losses from

1 the sale of an ownership interest in a publicly
2 traded partnership, as defined by Section 7704(b)
3 of the Internal Revenue Code, shall be allocated
4 to this state in the ratio of the original cost
5 of such partnership's tangible property in this
6 state to the original cost of such partnership's
7 tangible property everywhere, as determined at
8 the time of the sale; if more than fifty percent
9 (50%) of the value of the partnership's assets
10 consists of intangible assets, capital or
11 ordinary gains or losses from the sale of an
12 ownership interest in the partnership shall be
13 allocated to this state in accordance with the
14 sales factor of the partnership for its first
15 full tax period immediately preceding its tax
16 period during which the ownership interest in the
17 partnership was sold; the provisions of this
18 division shall only apply if the capital or
19 ordinary gains or losses from the sale of an
20 ownership interest in a partnership do not
21 constitute qualifying gain receiving capital
22 treatment as defined in subparagraph a of
23 paragraph 2 of subsection F of this section,
24

1 (3) income from such property which is required to be
2 allocated pursuant to the provisions of paragraph
3 5 of this subsection shall be allocated as herein
4 provided;

5 c. Net income or loss from a business activity which is
6 not a part of business carried on within or without
7 the state of a unitary character shall be separately
8 allocated to the state in which such activity is
9 conducted;

10 d. In the case of a manufacturing or processing
11 enterprise the business of which in Oklahoma consists
12 solely of marketing its products by:

13 (1) sales having a situs without this state, shipped
14 directly to a point from without the state to a
15 purchaser within the state, commonly known as
16 interstate sales,

17 (2) sales of the product stored in public warehouses
18 within the state pursuant to "in transit"
19 tariffs, as prescribed and allowed by the
20 Interstate Commerce Commission, to a purchaser
21 within the state,

22 (3) sales of the product stored in public warehouses
23 within the state where the shipment to such
24 warehouses is not covered by "in transit"

1 tariffs, as prescribed and allowed by the
2 Interstate Commerce Commission, to a purchaser
3 within or without the state,

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

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

19 (1) except as otherwise provided by division (2) of
20 this subparagraph, taxable income of an insurance
21 company for a taxable year shall be apportioned
22 to this state by multiplying such income by a
23 fraction, the numerator of which is the direct
24 premiums written for insurance on property or

1 risks in this state, and the denominator of which
2 is the direct premiums written for insurance on
3 property or risks everywhere. For purposes of
4 this subsection, the term "direct premiums
5 written" means the total amount of direct
6 premiums written, assessments and annuity
7 considerations as reported for the taxable year
8 on the annual statement filed by the company with
9 the Insurance Commissioner in the form approved
10 by the National Association of Insurance
11 Commissioners, or such other form as may be
12 prescribed in lieu thereof,

13 (2) if the principal source of premiums written by an
14 insurance company consists of premiums for
15 reinsurance accepted by it, the taxable income of
16 such company shall be apportioned to this state
17 by multiplying such income by a fraction, the
18 numerator of which is the sum of (a) direct
19 premiums written for insurance on property or
20 risks in this state, plus (b) premiums written
21 for reinsurance accepted in respect of property
22 or risks in this state, and the denominator of
23 which is the sum of (c) direct premiums written
24 for insurance on property or risks everywhere,

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

19 5. The net income or loss remaining after the separate
20 allocation in paragraph 4 of this subsection, being that which is
21 derived from a unitary business enterprise, shall be apportioned to
22 this state on the basis of the arithmetical average of three factors
23 consisting of property, payroll and sales or gross revenue
24 enumerated as subparagraphs a, b and c of this paragraph. Net

1 income or loss as used in this paragraph includes that derived from
2 patent or copyright royalties, purchase discounts, and interest on
3 accounts receivable relating to or arising from a business activity,
4 the income from which is apportioned pursuant to this subsection,
5 including the sale or other disposition of such property and any
6 other property used in the unitary enterprise. Deductions used in
7 computing such net income or loss shall not include taxes based on
8 or measured by income. Provided, for corporations whose property
9 for purposes of the tax imposed by Section 2355 of this title has an
10 initial investment cost equaling or exceeding Two Hundred Million
11 Dollars (\$200,000,000.00) and such investment is made on or after
12 July 1, 1997, or for corporations which expand their property or
13 facilities in this state and such expansion has an investment cost
14 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)
15 over a period not to exceed three (3) years, and such expansion is
16 commenced on or after January 1, 2000, the three factors shall be
17 apportioned with property and payroll, each comprising twenty-five
18 percent (25%) of the apportionment factor and sales comprising fifty
19 percent (50%) of the apportionment factor. The apportionment
20 factors shall be computed as follows:

- 21 a. The property factor is a fraction, the numerator of
22 which is the average value of the taxpayer's real and
23 tangible personal property owned or rented and used in
24 this state during the tax period and the denominator

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

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

16 (2) Property owned by the taxpayer is valued at its
17 original cost. Property rented by the taxpayer
18 is valued at eight times the net annual rental
19 rate. Net annual rental rate is the annual
20 rental rate paid by the taxpayer, less any annual
21 rental rate received by the taxpayer from
22 subrentals,

23 (3) The average value of property shall be determined
24 by averaging the values at the beginning and

1 ending of the tax period but the Oklahoma Tax
2 Commission may require the averaging of monthly
3 values during the tax period if reasonably
4 required to reflect properly the average value of
5 the taxpayer's property;

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

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

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

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

16 (1) Sales of tangible personal property have a situs
17 in this state if the property is delivered or
18 shipped to a purchaser other than the United
19 States government, within this state regardless
20 of the FOB point or other conditions of the sale;
21 or the property is shipped from an office, store,
22 warehouse, factory or other place of storage in
23 this state and (a) the purchaser is the United
24 States government or (b) the taxpayer is not

1 doing business in the state of the destination of
2 the shipment.

3 (2) In the case of a railroad or interurban railway
4 enterprise, the numerator of the fraction shall
5 not be less than the allocation of revenues to
6 this state as shown in its annual report to the
7 Corporation Commission.

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

16 (4) In the case of an oil, gasoline or gas pipeline
17 enterprise, the numerator of the fraction shall
18 be either the total of traffic units of the
19 enterprise within Oklahoma or the revenue
20 allocated to Oklahoma based upon miles moved, at
21 the option of the taxpayer, and the denominator
22 of which shall be the total of traffic units of
23 the enterprise or the revenue of the enterprise
24 everywhere as appropriate to the numerator. A

1 "traffic unit" is hereby defined as the
2 transportation for a distance of one (1) mile of
3 one (1) barrel of oil, one (1) gallon of gasoline
4 or one thousand (1,000) cubic feet of natural or
5 casinghead gas, as the case may be.

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

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

21 6. For calendar years 1997 and 1998, the owner of a new or
22 expanded agricultural commodity processing facility in this state
23 may exclude from Oklahoma taxable income, or in the case of an
24 individual, the Oklahoma adjusted gross income, fifteen percent

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

22 For purposes of this paragraph:

- 23 a. "Agricultural commodity processing facility" means
24 building, structures, fixtures and improvements used

1 or operated primarily for the processing or production
2 of marketable products from agricultural commodities.
3 The term shall also mean a dairy operation that
4 requires a depreciable investment of at least Two
5 Hundred Fifty Thousand Dollars (\$250,000.00) and which
6 produces milk from dairy cows. The term does not
7 include a facility that provides only, and nothing
8 more than, storage, cleaning, drying or transportation
9 of agricultural commodities, and

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

- 12 (1) the processing of agricultural commodities,
13 including receiving or storing agricultural
14 commodities, or the production of milk at a dairy
15 operation,
16 (2) transporting the agricultural commodities or
17 product before, during or after the processing,
18 or
19 (3) packaging or otherwise preparing the product for
20 sale or shipment.

21 7. Despite any provision to the contrary in paragraph 3 of this
22 subsection, for taxable years beginning after December 31, 1999, in
23 the case of a taxpayer which has a farming loss, such farming loss
24 shall be considered a net operating loss carryback in accordance

1 with and to the extent of the Internal Revenue Code, 26 U.S.C.,
2 Section 172(b)(G). However, the amount of the net operating loss
3 carryback shall not exceed the lesser of:

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

9 8. In taxable years beginning after December 31, 1995, all
10 qualified wages equal to the federal income tax credit set forth in
11 26 U.S.C.A., Section 45A, shall be deducted from taxable income.
12 The deduction allowed pursuant to this paragraph shall only be
13 permitted for the tax years in which the federal tax credit pursuant
14 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
15 paragraph, "qualified wages" means those wages used to calculate the
16 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

23 10. For taxable years beginning on or after January 1, 2010,
24 there shall be added to Oklahoma taxable income an amount equal to

1 the amount of deferred income not included in such taxable income
2 pursuant to Section 108(i)(1) of the Internal Revenue Code of 1986
3 as amended by Section 1231 of the American Recovery and Reinvestment
4 Act of 2009 (P.L. No. 111-5). There shall be subtracted from
5 Oklahoma taxable income an amount equal to the amount of deferred
6 income included in such taxable income pursuant to Section 108(i)(1)
7 of the Internal Revenue Code by Section 1231 of the American
8 Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

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

1 and "member" shall be defined in the same manner as prescribed by
2 Section 2355.1P-2 of this title. Notwithstanding the application of
3 this paragraph, the adjusted tax basis of any ownership interest in
4 a pass-through entity for purposes of Section 2351 et seq. of this
5 title shall be equal to its adjusted tax basis for federal income
6 tax purposes.

7 B. 1. The taxable income of any corporation shall be further
8 adjusted to arrive at Oklahoma taxable income, except those
9 corporations electing treatment as provided in subchapter S of the
10 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
11 2365 of this title, deductions pursuant to the provisions of the
12 Accelerated Cost Recovery System as defined and allowed in the
13 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
14 Section 168, for depreciation of assets placed into service after
15 December 31, 1981, shall not be allowed in calculating Oklahoma
16 taxable income. Such corporations shall be allowed a deduction for
17 depreciation of assets placed into service after December 31, 1981,
18 in accordance with provisions of the Internal Revenue Code, 26
19 U.S.C., Section 1 et seq., in effect immediately prior to the
20 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
21 basis for all such assets placed into service after December 31,
22 1981, calculated in this section shall be retained and utilized for
23 all Oklahoma income tax purposes through the final disposition of
24 such assets.

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

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

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

20 C. 1. For taxable years beginning after December 31, 1987, the
21 taxable income of any corporation shall be further adjusted to
22 arrive at Oklahoma taxable income for transfers of technology to
23 qualified small businesses located in Oklahoma. Such transferor
24 corporation shall be allowed an exemption from taxable income of an

1 amount equal to the amount of royalty payment received as a result
2 of such transfer; provided, however, such amount shall not exceed
3 ten percent (10%) of the amount of gross proceeds received by such
4 transferor corporation as a result of the technology transfer. Such
5 exemption shall be allowed for a period not to exceed ten (10) years
6 from the date of receipt of the first royalty payment accruing from
7 such transfer. No exemption may be claimed for transfers of
8 technology to qualified small businesses made prior to January 1,
9 1988.

10 2. For purposes of this subsection:

11 a. "Qualified small business" means an entity, whether
12 organized as a corporation, partnership, or
13 proprietorship, organized for profit with its
14 principal place of business located within this state
15 and which meets the following criteria:

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

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

21 (3) Not a subsidiary or affiliate of the transferor
22 corporation;

23 b. "Technology" means a proprietary process, formula,
24 pattern, device or compilation of scientific or

1 technical information which is not in the public
2 domain;

3 c. "Transferor corporation" means a corporation which is
4 the exclusive and undisputed owner of the technology
5 at the time the transfer is made; and

6 d. "Gross proceeds" means the total amount of
7 consideration for the transfer of technology, whether
8 the consideration is in money or otherwise.

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

17 2. As used in this subsection:

18 a. "qualifying gains receiving capital treatment" means
19 the amount of net capital gains, as defined in Section
20 1222(11) of the Internal Revenue Code, included in the
21 federal income tax return of the corporation, estate
22 or trust that result from:

23 (1) the sale of real property or tangible personal
24 property located within Oklahoma that has been

1 directly or indirectly owned by the corporation,
2 estate or trust for a holding period of at least
3 five (5) years prior to the date of the
4 transaction from which such net capital gains
5 arise,

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

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

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

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

13 d. "direct" means the taxpayer directly owns the asset,
14 and

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

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

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

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

1 E. The Oklahoma adjusted gross income of any individual
2 taxpayer shall be further adjusted as follows to arrive at Oklahoma
3 taxable income:

4 1. a. In the case of individuals, there shall be added or
5 deducted, as the case may be, the difference necessary
6 to allow personal exemptions of One Thousand Dollars
7 (\$1,000.00) in lieu of the personal exemptions allowed
8 by the Internal Revenue Code.

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

20 c. There shall be allowed an additional exemption of One
21 Thousand Dollars (\$1,000.00) for each taxpayer or
22 spouse who is sixty-five (65) years of age or older at
23 the close of the tax year based upon the filing status
24 and federal adjusted gross income of the taxpayer.

1 Taxpayers with the following filing status may claim
2 this exemption if the federal adjusted gross income
3 does not exceed:

4 (1) Twenty-five Thousand Dollars (\$25,000.00) if
5 married and filing jointly;

6 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)
7 if married and filing separately;

8 (3) Fifteen Thousand Dollars (\$15,000.00) if single;
9 and

10 (4) Nineteen Thousand Dollars (\$19,000.00) if a
11 qualifying head of household.

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

- 20 2. a. For taxable years beginning on or before December 31,
21 2005, in the case of individuals who use the standard
22 deduction in determining taxable income, there shall
23 be added or deducted, as the case may be, the
24 difference necessary to allow a standard deduction in

1 lieu of the standard deduction allowed by the Internal
2 Revenue Code, in an amount equal to the larger of
3 fifteen percent (15%) of the Oklahoma adjusted gross
4 income or One Thousand Dollars (\$1,000.00), but not to
5 exceed Two Thousand Dollars (\$2,000.00), except that
6 in the case of a married individual filing a separate
7 return such deduction shall be the larger of fifteen
8 percent (15%) of such Oklahoma adjusted gross income
9 or Five Hundred Dollars (\$500.00), but not to exceed
10 the maximum amount of One Thousand Dollars
11 (\$1,000.00).

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

- 20 (1) Three Thousand Dollars (\$3,000.00), if the filing
21 status is married filing joint, head of household
22 or qualifying widow; or
23 (2) Two Thousand Dollars (\$2,000.00), if the filing
24 status is single or married filing separate.

1 c. For the taxable year beginning on January 1, 2007, and
2 ending December 31, 2007, in the case of individuals
3 who use the standard deduction in determining taxable
4 income, there shall be added or deducted, as the case
5 may be, the difference necessary to allow a standard
6 deduction in lieu of the standard deduction allowed by
7 the Internal Revenue Code, in an amount equal to:

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

11 (2) Four Thousand One Hundred Twenty-five Dollars
12 (\$4,125.00) for a head of household; or

13 (3) Two Thousand Seven Hundred Fifty Dollars
14 (\$2,750.00), if the filing status is single or
15 married filing separate.

16 d. For the taxable year beginning on January 1, 2008, and
17 ending December 31, 2008, in the case of individuals
18 who use the standard deduction in determining taxable
19 income, there shall be added or deducted, as the case
20 may be, the difference necessary to allow a standard
21 deduction in lieu of the standard deduction allowed by
22 the Internal Revenue Code, in an amount equal to:

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

4 (2) Four Thousand Eight Hundred Seventy-five Dollars
5 (\$4,875.00) for a head of household, or

6 (3) Three Thousand Two Hundred Fifty Dollars
7 (\$3,250.00), if the filing status is single or
8 married filing separate.

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

16 (1) Eight Thousand Five Hundred Dollars (\$8,500.00),
17 if the filing status is married filing joint or
18 qualifying widow, or

19 (2) Six Thousand Three Hundred Seventy-five Dollars
20 (\$6,375.00) for a head of household, or

21 (3) Four Thousand Two Hundred Fifty Dollars
22 (\$4,250.00), if the filing status is single or
23 married filing separate.
24

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

4 f. For taxable years beginning on or after January 1,
5 2010, and ending on December 31, 2016, in the case of
6 individuals who use the standard deduction in
7 determining taxable income, there shall be added or
8 deducted, as the case may be, the difference necessary
9 to allow a standard deduction equal to the standard
10 deduction allowed by the Internal Revenue Code, based
11 upon the amount and filing status prescribed by such
12 Code for purposes of filing federal individual income
13 tax returns.

14 g. For taxable years beginning on or after January 1,
15 2017, in the case of individuals who use the standard
16 deduction in determining taxable income, there shall
17 be added or deducted, as the case may be, the
18 difference necessary to allow a standard deduction in
19 lieu of the standard deduction allowed by the Internal
20 Revenue Code, as follows:

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

1 (2) Twelve Thousand Seven Hundred Dollars
2 (\$12,700.00) for married filing jointly or
3 qualifying widower with dependent child, and
4 (3) Nine Thousand Three Hundred Fifty Dollars
5 (\$9,350.00) for head of household.

- 6 3. a. In the case of resident and part-year resident
7 individuals having adjusted gross income from sources
8 both within and without the state, the itemized or
9 standard deductions and personal exemptions shall be
10 reduced to an amount which is the same portion of the
11 total thereof as Oklahoma adjusted gross income is of
12 adjusted gross income. To the extent itemized
13 deductions include allowable moving expense, proration
14 of moving expense shall not be required or permitted
15 but allowable moving expense shall be fully deductible
16 for those taxpayers moving within or into Oklahoma and
17 no part of moving expense shall be deductible for
18 those taxpayers moving without or out of Oklahoma.
19 All other itemized or standard deductions and personal
20 exemptions shall be subject to proration as provided
21 by law.
- 22 b. For taxable years beginning on or after January 1,
23 2018, the net amount of itemized deductions allowable
24 on an Oklahoma income tax return, subject to the

1 provisions of paragraph 24 of this subsection, shall
2 not exceed Seventeen Thousand Dollars (\$17,000.00).
3 For purposes of this subparagraph, charitable
4 contributions and medical expenses deductible for
5 federal income tax purposes shall be excluded from the
6 amount of Seventeen Thousand Dollars (\$17,000.00) as
7 specified by this subparagraph.

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

20 5. a. Before July 1, 2010, the first One Thousand Five
21 Hundred Dollars (\$1,500.00) received by any person
22 from the United States as salary or compensation in
23 any form, other than retirement benefits, as a member
24

1 of any component of the Armed Forces of the United
2 States shall be deducted from taxable income.

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

9 c. Whenever the filing of a timely income tax return by a
10 member of the Armed Forces of the United States is
11 made impracticable or impossible of accomplishment by
12 reason of:

13 (1) absence from the United States, which term
14 includes only the states and the District of
15 Columbia;

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

18 (3) confinement in a hospital within the United
19 States for treatment of wounds, injuries or
20 disease,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 account established pursuant to Sections 2621 through 2623 of Title
2 63 of the Oklahoma Statutes shall be exempt from taxable income.

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

15 13. a. ~~In taxable years beginning after December 31, 2002,~~
16 ~~nonrecurring adoption expenses paid by a resident~~
17 ~~individual taxpayer in connection with:~~
18 ~~(1) the adoption of a minor, or~~
19 ~~(2) a proposed adoption of a minor which did not~~
20 ~~result in a decreed adoption,~~
21 ~~may be deducted from the Oklahoma adjusted gross~~
22 ~~income.~~

23
24

- 1 ~~b. The deductions for adoptions and proposed adoptions~~
2 ~~authorized by this paragraph shall not exceed Twenty~~
3 ~~Thousand Dollars (\$20,000.00) per calendar year.~~
- 4 ~~e. The Tax Commission shall promulgate rules to implement~~
5 ~~the provisions of this paragraph which shall contain a~~
6 ~~specific list of nonrecurring adoption expenses which~~
7 ~~may be presumed to qualify for the deduction. The Tax~~
8 ~~Commission shall prescribe necessary requirements for~~
9 ~~verification.~~
- 10 ~~d. "Nonrecurring adoption expenses" means adoption fees,~~
11 ~~court costs, medical expenses, attorney fees and~~
12 ~~expenses which are directly related to the legal~~
13 ~~process of adoption of a child including, but not~~
14 ~~limited to, costs relating to the adoption study,~~
15 ~~health and psychological examinations, transportation~~
16 ~~and reasonable costs of lodging and food for the child~~
17 ~~or adoptive parents which are incurred to complete the~~
18 ~~adoption process and are not reimbursed by other~~
19 ~~sources. The term "nonrecurring adoption expenses"~~
20 ~~shall not include attorney fees incurred for the~~
21 ~~purpose of litigating a contested adoption, from and~~
22 ~~after the point of the initiation of the contest,~~
23 ~~costs associated with physical remodeling, renovation~~
24 ~~and alteration of the adoptive parents' home or~~

1 ~~property, except for a special needs child as~~
2 ~~authorized by the court.~~

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

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

21 (1) in taxable years beginning after December 31,
22 2004, and prior to January 1, 2007, the
23 qualifying amount shall be Thirty-seven Thousand
24 Five Hundred Dollars (\$37,500.00) or less if the

1 filing status is single, head of household, or
2 married filing separate, or Seventy-five Thousand
3 Dollars (\$75,000.00) or less if the filing status
4 is married filing jointly or qualifying widow,

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

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

20 (4) in the taxable year beginning January 1, 2009,
21 the qualifying amount shall be One Hundred
22 Thousand Dollars (\$100,000.00) or less if the
23 filing status is single, head of household, or
24 married filing separate, or Two Hundred Thousand

1 Dollars (\$200,000.00) or less if the filing
2 status is married filing jointly or qualifying
3 widow, and

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

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

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

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

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

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

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.~~ 14. In taxable years beginning after December 31, 1999, for
24 an 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.~~ 15. 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.~~ 16.

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

22 b. In taxable years beginning after December 31, 2004,
23 each taxpayer shall be allowed a deduction for
24 contributions to accounts established pursuant to the

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

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

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.~~ 17. For taxable years beginning after December 31, 2005,
5 retirement benefits received by an individual from any component of
6 the Armed Forces of the United States in an amount not to exceed the
7 greater of seventy-five percent (75%) of such benefits or Ten
8 Thousand Dollars (\$10,000.00) shall be exempt from taxable income
9 but in no case less than the amount of the exemption provided by
10 paragraph ~~14~~ 13 of this subsection.

11 ~~19.~~ 18. For taxable years beginning after December 31, 2006,
12 retirement benefits received by federal civil service retirees,
13 including survivor annuities, paid in lieu of Social Security
14 benefits shall be exempt from taxable income to the extent such
15 benefits are included in the federal adjusted gross income pursuant
16 to the provisions of Section 86 of the Internal Revenue Code, 26
17 U.S.C., Section 86, according to the following schedule:

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

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

6 ~~20.~~ 19.

- 7 a. For taxable years beginning after December 31, 2007, a
8 resident individual may deduct up to Ten Thousand
9 Dollars (\$10,000.00) from Oklahoma adjusted gross
10 income if the individual, or the dependent of the
11 individual, while living, donates one or more human
12 organs of the individual to another human being for
13 human organ transplantation. As used in this
14 paragraph, "human organ" means all or part of a liver,
15 pancreas, kidney, intestine, lung, or bone marrow. A
16 deduction that is claimed under this paragraph may be
17 claimed in the taxable year in which the human organ
18 transplantation occurs.
- 19 b. An individual may claim this deduction only once, and
20 the deduction may be claimed only for unreimbursed
21 expenses that are incurred by the individual and
22 related to the organ donation of the individual.
- 23 c. The Oklahoma Tax Commission shall promulgate rules to
24 implement the provisions of this paragraph which shall

1 contain a specific list of expenses which may be
2 presumed to qualify for the deduction. The Tax
3 Commission shall prescribe necessary requirements for
4 verification.

5 ~~21.~~ 20. For taxable years beginning after December 31, 2009,
6 there shall be exempt from taxable income any amount received by the
7 beneficiary of the death benefit for an emergency medical technician
8 or a registered emergency medical responder provided by Section 1-
9 2505.1 of Title 63 of the Oklahoma Statutes.

10 ~~22.~~ 21. For taxable years beginning after December 31, 2008,
11 taxable income shall be increased by any unemployment compensation
12 exempted under Section 85(c) of the Internal Revenue Code, 26
13 U.S.C., Section 85(c) (2009).

14 ~~23.~~ 22. For taxable years beginning after December 31, 2008,
15 there shall be exempt from taxable income any payment in an amount
16 less than Six Hundred Dollars (\$600.00) received by a person as an
17 award for participation in a competitive livestock show event. For
18 purposes of this paragraph, the payment shall be treated as a
19 scholarship amount paid by the entity sponsoring the event and the
20 sponsoring entity shall cause the payment to be categorized as a
21 scholarship in its books and records.

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

1 the Internal Revenue Code. If the amount of state and local taxes
2 deducted on the federal return is limited, taxable income on the
3 state return shall be increased only by the amount actually deducted
4 after any such limitations are applied.

5 ~~25.~~ 24. For taxable years beginning after December 31, 2020,
6 each taxpayer shall be allowed a deduction for contributions to
7 accounts established pursuant to the Achieving a Better Life
8 Experience (ABLE) Program as established in Section 4001.1 et seq.
9 of Title 56 of the Oklahoma Statutes. For any tax year, the
10 deduction provided for in this paragraph shall not exceed Ten
11 Thousand Dollars (\$10,000.00) for an individual taxpayer or Twenty
12 Thousand Dollars (\$20,000.00) for taxpayers filing a joint return.
13 Any amount of contribution not deducted by the taxpayer in the tax
14 year for which the contribution is made may be carried forward as a
15 deduction from income for up to five (5) tax years. Deductions may
16 be taken for contributions made during the tax year and through
17 April 15 of the succeeding tax year, or through the due date of a
18 taxpayer's state income tax return excluding extensions, whichever
19 is later. Provided, a deduction for the same contribution may not be
20 taken in more than one (1) tax year.

21 F. 1. For taxable years beginning after December 31, 2004, a
22 deduction from the Oklahoma adjusted gross income of any individual
23 taxpayer shall be allowed for qualifying gains receiving capital
24

1 treatment that are included in the federal adjusted gross income of
2 such individual taxpayer during the taxable year.

3 2. As used in this subsection:

4 a. "qualifying gains receiving capital treatment" means
5 the amount of net capital gains, as defined in Section
6 1222(11) of the Internal Revenue Code, included in an
7 individual taxpayer's federal income tax return that
8 result from:

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

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

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

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

20 c. "Oklahoma company," "limited liability company," or
21 "partnership" means an entity whose primary
22 headquarters have been located in Oklahoma for at
23 least three (3) uninterrupted years prior to the date
24

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

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

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

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

22 (2) With respect to sales of stock or ownership
23 interest in or sales of all or substantially all
24 of the assets of an Oklahoma company, limited

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

18 f. "Oklahoma proprietorship business enterprise" means a
19 business enterprise whose income and expenses have
20 been reported on Schedule C or F of an individual
21 taxpayer's federal income tax return, or any similar
22 successor schedule published by the Internal Revenue
23 Service and whose primary headquarters have been
24 located in Oklahoma for at least three (3)

1 uninterrupted years prior to the date of the
2 transaction from which the net capital gains arise.

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

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

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

17 b. the term "captive real estate investment trust" means
18 a real estate investment trust, the shares or
19 beneficial interests of which are not regularly traded
20 on an established securities market and more than
21 fifty percent (50%) of the voting power or value of
22 the beneficial interests or shares of which are owned
23 or controlled, directly or indirectly, or
24 constructively, by a single entity that is:

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

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

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

- 14 (1) any real estate investment trust as defined in
15 paragraph a of this subsection other than a
16 "captive real estate investment trust", or
17 (2) any qualified real estate investment trust
18 subsidiary under Section 856(i) of the Internal
19 Revenue Code, other than a qualified REIT
20 subsidiary of a "captive real estate investment
21 trust", or
22 (3) any Listed Australian Property Trust (meaning an
23 Australian unit trust registered as a "Managed
24 Investment Scheme" under the Australian

1 Corporations Act in which the principal class of
2 units is listed on a recognized stock exchange in
3 Australia and is regularly traded on an
4 established securities market), or an entity
5 organized as a trust, provided that a Listed
6 Australian Property Trust owns or controls,
7 directly or indirectly, seventy-five percent
8 (75%) or more of the voting power or value of the
9 beneficial interests or shares of such trust, or
10 (4) any Qualified Foreign Entity, meaning a
11 corporation, trust, association or partnership
12 organized outside the laws of the United States
13 and which satisfies the following criteria:
14 (a) at least seventy-five percent (75%) of the
15 entity's total asset value at the close of
16 its taxable year is represented by real
17 estate assets, as defined in Section
18 856(c) (5) (B) of the Internal Revenue Code,
19 thereby including shares or certificates of
20 beneficial interest in any real estate
21 investment trust, cash and cash equivalents,
22 and U.S. Government securities,
23 (b) the entity receives a dividend-paid
24 deduction comparable to Section 561 of the

1 Internal Revenue Code, or is exempt from
2 entity level tax,

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

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

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

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

23 4. A real estate investment trust that does not become
24 regularly traded on an established securities market within one (1)

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

13 SECTION 3. This act shall become effective November 1, 2022.

14

15 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
16 03/02/2022 - DO PASS, As Amended and Coauthored.

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