

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 HOUSE BILL 1375

By: Boatman of the House

5 and

6 **Rader** of the Senate

7
8
9 AS INTRODUCED

10 [revenue and taxation - computation of Oklahoma
11 taxable income and adjusted gross income -
12 apportionment computations - capital investment -
13 effective date]

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

17 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2358, as
18 amended by Section 2, Chapter 341, O.S.L. 2022 (68 O.S. Supp. 2022,
19 Section 2358), is amended to read as follows:

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

24

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

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

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

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

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

24

1 b. For carryovers and carrybacks to taxable years
2 beginning after December 31, 1980, the amount of any
3 net operating loss deduction allowed for the taxable
4 year shall be an amount equal to the aggregate of the
5 Oklahoma net operating loss carryovers and carrybacks
6 to such year. Oklahoma net operating losses shall be
7 separately determined by reference to Section 172 of
8 the Internal Revenue Code, 26 U.S.C., Section 172, as
9 modified by the Oklahoma Income Tax Act, Section 2351
10 et seq. of this title, and shall be allowed without
11 regard to the existence of a federal net operating
12 loss. For tax years beginning after December 31,
13 2000, and ending before January 1, 2008, the years to
14 which such losses may be carried shall be determined
15 solely by reference to Section 172 of the Internal
16 Revenue Code, 26 U.S.C., Section 172, with the
17 exception that the terms "net operating loss" and
18 "taxable income" shall be replaced with "Oklahoma net
19 operating loss" and "Oklahoma taxable income". For
20 tax years beginning after December 31, 2007, and
21 ending before January 1, 2009, years to which such
22 losses may be carried back shall be limited to two (2)
23 years. For tax years beginning after December 31,
24 2008, the years to which such losses may be carried

1 back shall be determined solely by reference to
2 Section 172 of the Internal Revenue Code, 26 U.S.C.,
3 Section 172, with the exception that the terms "net
4 operating loss" and "taxable income" shall be replaced
5 with "Oklahoma net operating loss" and "Oklahoma
6 taxable income".

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

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

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

22 (1) where such property has acquired a nonunitary
23 business or commercial situs apart from the
24 domicile of the taxpayer such income shall be

1 allocated in accordance with such business or
2 commercial situs; interest income from
3 investments held to generate working capital for
4 a unitary business enterprise shall be included
5 in apportionable income; a resident trust or
6 resident estate shall be treated as having a
7 separate commercial or business situs insofar as
8 undistributed income is concerned, but shall not
9 be treated as having a separate commercial or
10 business situs insofar as distributed income is
11 concerned,

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

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

13 (3) income from such property which is required to be
14 allocated pursuant to the provisions of paragraph
15 5 of this subsection shall be allocated as herein
16 provided;

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

22 d. In the case of a manufacturing or processing
23 enterprise the business of which in Oklahoma consists
24 solely of marketing its products by:

1 (1) sales having a situs without this state, shipped
2 directly to a point from without the state to a
3 purchaser within the state, commonly known as
4 interstate sales,

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

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

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

1 a licensed public warehouse, the principal business of
2 which is warehousing merchandise for the public;

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

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

1 Commissioners, or such other form as may be
2 prescribed in lieu thereof,

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

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

9 5. ~~The~~

10 a. Except as otherwise provided by subparagraph b or c of
11 this paragraph, for taxable years beginning not later
12 than December 31, 2023, the net income or loss
13 remaining after the separate allocation in paragraph 4
14 of this subsection, being that which is derived from a
15 unitary business enterprise, shall be apportioned to
16 this state on the basis of the arithmetical average of
17 three factors consisting of property, payroll and
18 sales or gross revenue enumerated as ~~subparagraphs a,~~
19 ~~b and c of this paragraph~~ divisions (1), (2) and (3)
20 of subparagraph d of this paragraph. Net income or
21 loss as used in this paragraph includes that derived
22 from patent or copyright royalties, purchase
23 discounts, and interest on accounts receivable
24 relating to or arising from a business activity, the

1 income from which is apportioned pursuant to this
2 subsection, including the sale or other disposition of
3 such property and any other property used in the
4 unitary enterprise. Deductions used in computing such
5 net income or loss shall not include taxes based on or
6 measured by income. ~~Provided, for~~

7 b. For all taxable years beginning on or after January 1,
8 2024, qualifying corporations may elect to use a
9 single sales factor apportionment comprising sales as
10 one hundred percent (100%) of the apportionment or the
11 corporation may elect to compute Oklahoma taxable
12 income using the apportionment methodology in which
13 each of the three factors in subparagraph d of this
14 paragraph is equally weighted and an arithmetical
15 average of the three factors is determined as
16 otherwise provided by this paragraph. A qualifying
17 corporation is one whose property for purposes of the
18 tax imposed by Section 2355 of this title has an
19 initial cumulative investment cost equaling or
20 exceeding ~~Two Hundred Million Dollars~~
21 ~~(\$200,000,000.00)~~ One Hundred Million Dollars
22 (\$100,000,000.00) over three years and such investment
23 is made on or after ~~July 1, 1997,~~ January 1, 2018, or
24 ~~for corporations~~ a corporation which ~~expand~~ expands

1 their property or facilities or which makes
2 improvements or upgrades or any combination of such
3 expenditures which shall be valued at the original
4 costs, prior to federal adjustments, at the time of
5 acquisition by the corporation and adjusted by
6 subsequent capital additions or improvements thereto
7 and partial disposition thereof, by reason of sale,
8 exchange or abandonment, in this state and such
9 expansion ~~has,~~ improvements, upgrades or expenditures
10 have an investment cost equaling or exceeding ~~Two~~
11 ~~Hundred Million Dollars (\$200,000,000.00)~~ One Hundred
12 Million Dollars (\$100,000,000.00) over a period not to
13 exceed three (3) years, and such expansion,
14 improvements, upgrades, or any combination of such
15 expenditures is commenced on or after ~~January 1, 2000,~~
16 ~~the three factors shall be apportioned with property~~
17 ~~and payroll, each comprising twenty-five percent (25%)~~
18 ~~of the apportionment factor and sales comprising fifty~~
19 ~~percent (50%) of the apportionment factor~~ January 1,
20 2018. ~~The~~ As used in this subparagraph, investments,
21 improvements, or expenditures shall include but not be
22 limited to:
23 (1) Expenditures for intangible drilling costs, as
24 defined in Internal Revenue Code Section 263(c),

1 without regard to whether such intangible
2 drilling costs are capitalized or expensed for
3 federal income tax purposes, and

4 (2) Track structure expenditures, as defined in
5 Internal Revenue Procedure 2001-46, without
6 regard to whether such track costs are
7 capitalized or expensed for federal income tax
8 purposes.

9 c. For any other corporation, for taxable years beginning
10 on or after January 1, 2024, Oklahoma taxable income
11 shall be computed using a single sales factor
12 comprising one hundred percent (100%) of the
13 apportionment and the corporation shall not use an
14 arithmetic average of the three factors consisting of
15 property, payroll, and sales. For the applicable tax
16 years, the apportionment factors shall be computed as
17 follows and for corporations required to use the
18 single sales factor the provisions of subparagraph d
19 of this paragraph shall be used to determine Oklahoma
20 taxable income as provided therein.

21 d. For corporations required or electing to use a single
22 sales factor apportionment, the provisions of division
23 (3) of this subparagraph shall be used to determine
24 Oklahoma taxable income as provided therein. For the

1 applicable tax years, or for qualifying corporations
2 electing the three-factor apportionment, the
3 apportionment factors shall be computed as follows:

4 a.

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

13 ~~(1)~~

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

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

4 ~~(2)~~

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

12 ~~(3)~~

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

21 ~~b.~~

22 (2) The payroll factor is a fraction, the numerator
23 of which is the total compensation for services
24 rendered in the state during the tax period, and

1 the denominator of which is the total
2 compensation for services rendered everywhere
3 during the tax period. "Compensation", as used
4 in this ~~subsection~~ division means those paid-for
5 services to the extent related to the unitary
6 business but does not include officers' salaries,
7 wages and other compensation.

8 ~~(1)~~

9 (a) In the case of a transportation enterprise,
10 the numerator of the fraction shall include
11 a portion of such expenditure in connection
12 with employees operating equipment over a
13 fixed route, such as railroad employees,
14 airline pilots, or bus drivers, in this
15 state only a part of the time, in the
16 proportion that mileage traveled in Oklahoma
17 bears to total mileage traveled by such
18 employees,

19 ~~(2)~~

20 (b) In any case the numerator of the fraction
21 shall include a portion of such expenditures
22 in connection with itinerant employees, such
23 as traveling salespersons, in this state
24 only a part of the time, in the proportion

1 that time spent in Oklahoma bears to total
2 time spent in furtherance of the enterprise
3 by such employees;

4 e.

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

14 ~~(1)~~

15 (a) Sales of tangible personal property have a
16 situs in this state if the property is
17 delivered or shipped to a purchaser other
18 than the United States government, within
19 this state regardless of the FOB point or
20 other conditions of the sale; ~~or the~~
21 ~~property is shipped from an office, store,~~
22 ~~warehouse, factory or other place of storage~~
23 ~~in this state and (a) the purchaser is the~~
24 ~~United States government or (b) the taxpayer~~

1 ~~is not doing business in the state of the~~
2 ~~destination of the shipment.~~

3 ~~(2)~~

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

10 ~~(3)~~

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

19 ~~(4)~~

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

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

12 ~~(5)~~

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

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

12 In any case where the apportionment of the three factors
13 prescribed in ~~this paragraph~~ division (1), (2) or (3) of this
14 subparagraph attributes to Oklahoma a portion of net income of the
15 enterprise out of all appropriate proportion to the property owned
16 and/or business transacted within this state, because of the fact
17 that one or more of the factors so prescribed are not employed to
18 any appreciable extent in furtherance of the enterprise; or because
19 one or more factors not so prescribed are employed to a considerable
20 extent in furtherance of the enterprise; or because of other
21 reasons, the Tax Commission is empowered to permit, after a showing
22 by taxpayer that an excessive portion of net income has been
23 attributed to Oklahoma, or require, when in its judgment an
24 insufficient portion of net income has been attributed to Oklahoma,

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

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

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

10 For purposes of this paragraph:

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

24

- 1 (1) the processing of agricultural commodities,
2 including receiving or storing agricultural
3 commodities, or the production of milk at a dairy
4 operation,
- 5 (2) transporting the agricultural commodities or
6 product before, during or after the processing,
7 or
- 8 (3) packaging or otherwise preparing the product for
9 sale or shipment.

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

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

22 8. In taxable years beginning after December 31, 1995, all
23 qualified wages equal to the federal income tax credit set forth in
24 26 U.S.C.A., Section 45A, shall be deducted from taxable income.

1 The deduction allowed pursuant to this paragraph shall only be
2 permitted for the tax years in which the federal tax credit pursuant
3 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this
4 paragraph, "qualified wages" means those wages used to calculate the
5 federal credit pursuant to 26 U.S.C.A., Section 45A.

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

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

22 11. For taxable years beginning on or after January 1, 2019,
23 there shall be subtracted from Oklahoma taxable income or adjusted
24 gross income any item of income or gain, and there shall be added to

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

20 B. 1. The taxable income of any corporation shall be further
21 adjusted to arrive at Oklahoma taxable income, except those
22 corporations electing treatment as provided in subchapter S of the
23 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
24 2365 of this title, deductions pursuant to the provisions of the

1 Accelerated Cost Recovery System as defined and allowed in the
2 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
3 Section 168, for depreciation of assets placed into service after
4 December 31, 1981, shall not be allowed in calculating Oklahoma
5 taxable income. Such corporations shall be allowed a deduction for
6 depreciation of assets placed into service after December 31, 1981,
7 in accordance with provisions of the Internal Revenue Code, 26
8 U.S.C., Section 1 et seq., in effect immediately prior to the
9 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
10 basis for all such assets placed into service after December 31,
11 1981, calculated in this section shall be retained and utilized for
12 all Oklahoma income tax purposes through the final disposition of
13 such assets.

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

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

1 for depreciation accounts between that reported to the Internal
2 Revenue Service and that reported to Oklahoma.

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

9 C. 1. For taxable years beginning after December 31, 1987, the
10 taxable income of any corporation shall be further adjusted to
11 arrive at Oklahoma taxable income for transfers of technology to
12 qualified small businesses located in Oklahoma. Such transferor
13 corporation shall be allowed an exemption from taxable income of an
14 amount equal to the amount of royalty payment received as a result
15 of such transfer; provided, however, such amount shall not exceed
16 ten percent (10%) of the amount of gross proceeds received by such
17 transferor corporation as a result of the technology transfer. Such
18 exemption shall be allowed for a period not to exceed ten (10) years
19 from the date of receipt of the first royalty payment accruing from
20 such transfer. No exemption may be claimed for transfers of
21 technology to qualified small businesses made prior to January 1,
22 1988.

23 2. For purposes of this subsection:
24

1 a. "Qualified small business" means an entity, whether
2 organized as a corporation, partnership, or
3 proprietorship, organized for profit with its
4 principal place of business located within this state
5 and which meets the following criteria:

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

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

11 (3) Not a subsidiary or affiliate of the transferor
12 corporation;

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

17 c. "Transferor corporation" means a corporation which is
18 the exclusive and undisputed owner of the technology
19 at the time the transfer is made; and

20 d. "Gross proceeds" means the total amount of
21 consideration for the transfer of technology, whether
22 the consideration is in money or otherwise.

23 D. 1. For taxable years beginning after December 31, 2005, the
24 taxable income of any corporation, estate or trust, shall be further

1 adjusted for qualifying gains receiving capital treatment. Such
2 corporations, estates or trusts shall be allowed a deduction from
3 Oklahoma taxable income for the amount of qualifying gains receiving
4 capital treatment earned by the corporation, estate or trust during
5 the taxable year and included in the federal taxable income of such
6 corporation, estate or trust.

7 2. As used in this subsection:

8 a. "qualifying gains receiving capital treatment" means
9 the amount of net capital gains, as defined in Section
10 1222(11) of the Internal Revenue Code, included in the
11 federal income tax return of the corporation, estate
12 or trust that result from:

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

20 (2) the sale of stock or on the sale of an ownership
21 interest in an Oklahoma company, limited
22 liability company, or partnership where such
23 stock or ownership interest has been directly or
24 indirectly owned by the corporation, estate or

1 trust for a holding period of at least three (3)
2 years prior to the date of the transaction from
3 which the net capital gains arise, or

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

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

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

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

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

5 e. "indirect" means the taxpayer owns an interest in a
6 pass-through entity (or chain of pass-through
7 entities) that sells the asset that gives rise to the
8 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, or partnership, the deduction
2 described in this subsection shall not apply
3 unless the pass-through entity that makes the
4 sale has held the stock or ownership interest or
5 the assets for not less than three (3)
6 uninterrupted years prior to the date of the
7 transaction that created the capital gain, and
8 each pass-through entity included in the chain of
9 ownership has been a member, partner or
10 shareholder of the pass-through entity in the
11 tier immediately below it for an uninterrupted
12 period of not less than three (3) years.

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

16 1. a. In the case of individuals, there shall be added or
17 deducted, as the case may be, the difference necessary
18 to allow personal exemptions of One Thousand Dollars
19 (\$1,000.00) in lieu of the personal exemptions allowed
20 by the Internal Revenue Code.

21 b. There shall be allowed an additional exemption of One
22 Thousand Dollars (\$1,000.00) for each taxpayer or
23 spouse who is blind at the close of the tax year. For
24 purposes of this subparagraph, an individual is blind

1 only if the central visual acuity of the individual
2 does not exceed 20/200 in the better eye with
3 correcting lenses, or if the visual acuity of the
4 individual is greater than 20/200, but is accompanied
5 by a limitation in the fields of vision such that the
6 widest diameter of the visual field subtends an angle
7 no greater than twenty (20) degrees.

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

- 16 (1) Twenty-five Thousand Dollars (\$25,000.00) if
17 married and filing jointly;
- 18 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)
19 if married and filing separately;
- 20 (3) Fifteen Thousand Dollars (\$15,000.00) if single;
21 and
- 22 (4) Nineteen Thousand Dollars (\$19,000.00) if a
23 qualifying head of household.
24

1 Provided, for taxable years beginning after December
2 31, 1999, amounts included in the calculation of
3 federal adjusted gross income pursuant to the
4 conversion of a traditional individual retirement
5 account to a Roth individual retirement account shall
6 be excluded from federal adjusted gross income for
7 purposes of the income thresholds provided in this
8 subparagraph.

- 9 2. a. For taxable years beginning on or before December 31,
10 2005, in the case of individuals who use the standard
11 deduction in determining taxable income, there shall
12 be added or deducted, as the case may be, the
13 difference necessary to allow a standard deduction in
14 lieu of the standard deduction allowed by the Internal
15 Revenue Code, in an amount equal to the larger of
16 fifteen percent (15%) of the Oklahoma adjusted gross
17 income or One Thousand Dollars (\$1,000.00), but not to
18 exceed Two Thousand Dollars (\$2,000.00), except that
19 in the case of a married individual filing a separate
20 return such deduction shall be the larger of fifteen
21 percent (15%) of such Oklahoma adjusted gross income
22 or Five Hundred Dollars (\$500.00), but not to exceed
23 the maximum amount of One Thousand Dollars
24 (\$1,000.00).

1 b. For taxable years beginning on or after January 1,
2 2006, and before January 1, 2007, in the case of
3 individuals who use the standard deduction in
4 determining taxable income, there shall be added or
5 deducted, as the case may be, the difference necessary
6 to allow a standard deduction in lieu of the standard
7 deduction allowed by the Internal Revenue Code, in an
8 amount equal to:

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

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

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

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

24

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

3 (3) Two Thousand Seven Hundred Fifty Dollars
4 (\$2,750.00), if the filing status is single or
5 married filing separate.

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

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

16 (2) Four Thousand Eight Hundred Seventy-five Dollars
17 (\$4,875.00) for a head of household, or

18 (3) Three Thousand Two Hundred Fifty Dollars
19 (\$3,250.00), if the filing status is single or
20 married filing separate.

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

1 may be, the difference necessary to allow a standard
2 deduction in lieu of the standard deduction allowed by
3 the Internal Revenue Code, in an amount equal to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 13. a. In taxable years beginning before January 1, 2005,
24 retirement benefits not to exceed the amounts

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

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

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

- 1 (2) in the taxable year beginning January 1, 2007,
2 the qualifying amount shall be Fifty Thousand
3 Dollars (\$50,000.00) or less if the filing status
4 is single, head of household, or married filing
5 separate, or One Hundred Thousand Dollars
6 (\$100,000.00) or less if the filing status is
7 married filing jointly or qualifying widow,
- 8 (3) in the taxable year beginning January 1, 2008,
9 the qualifying amount shall be Sixty-two Thousand
10 Five Hundred Dollars (\$62,500.00) or less if the
11 filing status is single, head of household, or
12 married filing separate, or One Hundred Twenty-
13 five Thousand Dollars (\$125,000.00) or less if
14 the filing status is married filing jointly or
15 qualifying widow,
- 16 (4) in the taxable year beginning January 1, 2009,
17 the qualifying amount shall be One Hundred
18 Thousand Dollars (\$100,000.00) or less if the
19 filing status is single, head of household, or
20 married filing separate, or Two Hundred Thousand
21 Dollars (\$200,000.00) or less if the filing
22 status is married filing jointly or qualifying
23 widow, and
24

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

4 c. For purposes of this paragraph, "retirement benefits"
5 means the total distributions or withdrawals from the
6 following:

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

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

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

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

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

23 (6) lump-sum distributions from a retirement plan
24 which satisfies the requirements of Section

1 402(e) of the Internal Revenue Code, 26 U.S.C.,
2 Section 402(e).

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

18 14. In taxable years beginning after December 31, 1999, for an
19 individual engaged in production agriculture who has filed a
20 Schedule F form with the taxpayer's federal income tax return for
21 such taxable year, there shall be excluded from taxable income any
22 amount which was included as federal taxable income or federal
23 adjusted gross income and which consists of the discharge of an
24

1 obligation by a creditor of the taxpayer incurred to finance the
2 production of agricultural products.

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

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

17 b. In taxable years beginning after December 31, 2004,
18 each taxpayer shall be allowed a deduction for
19 contributions to accounts established pursuant to the
20 Oklahoma College Savings Plan Act. The maximum annual
21 deduction shall equal the amount of contributions to
22 all such accounts plus any contributions to such
23 accounts by the taxpayer for prior taxable years after
24 December 31, 2004, which were not deducted, but in no

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

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

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

1 by the amount which is equal to the rollover or
2 nonqualified withdrawal, and

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

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

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

24 f. As used in this paragraph:

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 17. 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 13 of this subsection.

6 18. 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 19. 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 20. 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 21. 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 22. 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 23. 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 24. 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, 2023.

8

9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
10 03/02/2023 - DO PASS, As Amended and Coauthored.

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