

1 **SENATE FLOOR VERSION**

2 April 10, 2019

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 2665

6 By: Wallace, Roberts (Sean),
7 Kannady, McBride and Lepak
8 of the House

9 and

10 Leewright, Murdock and
11 Montgomery of the Senate

12 **[revenue and taxation - Pass-Through Entity Tax**
13 **Equity Act of 2019 - codification -**

14 **emergency]**

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 2355.1P-1 of Title 68, unless
18 there is created a duplication in numbering, reads as follows:

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

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

24 As used in this act:

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

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

8 3. "Indirect member" means, with respect to any particular
9 electing pass-through entity, an individual, fiduciary, or entity
10 that (i) owns an interest in a pass-through entity other than the
11 electing pass-through entity and (ii) has been allocated items of
12 Oklahoma income, gain, loss or deduction that the electing pass-
13 through entity included in computing its tax pursuant to the
14 provisions of the Pass-Through Entity Tax Equity Act of 2019;

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

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

23 6. "Pass-through entity" means a general partnership, a limited
24 partnership, a limited liability partnership, a limited liability

1 limited partnership, a limited liability company, or a corporation,
2 if any of the enumerated entity's items of income, gain, loss, and
3 deduction, as applicable, are subject to being included on another
4 person's return for federal income tax purposes under Subchapter K
5 or Subchapter S of the Internal Revenue Code.

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

9 A. It is hereby declared to be the purpose of the Pass-Through
10 Entity Tax Equity Act of 2019 to establish a revenue-neutral
11 mechanism to provide a more fair and simplified taxation of pass-
12 through entities and their members in this state while maintaining
13 revenue levels for support of general governmental functions of the
14 State of Oklahoma.

15 B. All monies collected pursuant to the provisions of
16 subsection A of Section 2358 of Title 68 of the Oklahoma Statutes
17 shall be apportioned in the same manner as provided in paragraph 1
18 of Section 2352 of Title 68 of the Oklahoma Statutes if the tax is
19 computed based upon a distribution made to one or more individuals,
20 trusts and estates and shall be apportioned in the same manner as
21 provided in paragraph 2 of Section 2352 of Title 68 of the Oklahoma
22 Statutes if the tax is computed based upon a distribution to a
23 corporation or to a pass-through entity as such term is defined in
24 Section 2 of this act.

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

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

7 1. With regard to each member of an electing pass-through
8 entity, the electing pass-through entity shall multiply such
9 member's Oklahoma distributive share of the electing pass-through
10 entity's Oklahoma net entity income for the tax year by:

11 a. the highest Oklahoma marginal income tax rate levied
12 on the taxable income of natural persons pursuant to
13 Section 2355 of Title 68 of the Oklahoma Statutes if
14 the member is an individual, trust, or estate,

15 b. six percent (6%) if the member is classified as a
16 corporation pursuant to the Internal Revenue Code, and
17 is not classified as an S corporation,

18 c. six percent (6%) if the member is a pass-through
19 entity,

20 d. six percent (6%) if the member is a financial
21 institution subject to tax imposed pursuant to the
22 provisions of Section 2370 of Title 68 of the Oklahoma
23 Statutes, and

24

1 e. the highest Oklahoma marginal income tax rate that
2 would be applicable to any item of the electing pass-
3 through entity's income or gain without the election
4 made pursuant to subsection F of this section, if the
5 member is an organization described in Section 2359 of
6 Title 68 of the Oklahoma Statutes; and

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

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

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

20 D. If the pass-through entity election results in a net entity
21 loss for Oklahoma income tax purposes in any tax year, the net
22 entity loss may be carried back and carried forward by the electing
23 pass-through entity for Oklahoma income tax purposes as set forth in
24

1 subparagraph b of paragraph 3 of subsection A of Section 2358 of
2 this title.

3 E. Notwithstanding paragraph 2 of subsection C of Section 2368
4 of Title 68 of the Oklahoma Statutes, a nonresident individual who
5 is a member of an electing pass-through entity is not required to
6 file an Oklahoma income tax return, if, for the taxable year, the
7 only source of income allocable or apportionable to this state for
8 the member, or, if a joint income tax return is filed, the member
9 and his or her spouse, is from one or more electing pass-through
10 entities, and each electing pass-through entity files and pays the
11 taxes due under this section.

12 F. Any entity required to file an Oklahoma partnership income
13 tax return or an Oklahoma S corporation income tax return may elect
14 to become an electing pass-through entity. The election shall be
15 made on such form and in such manner as the Oklahoma Tax Commission
16 may prescribe, and any election under this subsection shall have
17 priority over and revoke any election to file a composite Oklahoma
18 partnership return or requirement of a Subchapter S corporation to
19 report and pay tax on behalf of a nonresident shareholder for the
20 same tax year.

21 G. Pursuant to procedures prescribed by the Tax Commission, if
22 the amount of tax required to be paid by a pass-through entity
23 pursuant to the provisions of this section is not paid when due, the
24 Oklahoma Tax Commission may revoke the pass-through entity's

1 election under subsection F of this section effective for the first
2 year for which the tax is not paid.

3 H. The election authorized by the provisions of this section
4 shall be made pursuant to procedures prescribed by the Tax
5 Commission and shall be filed (i) within sixty (60) days of
6 enactment and pursuant to procedures prescribed by the Oklahoma Tax
7 Commission for any income tax year beginning on or after January 1,
8 2019, and prior to January 1, 2020, or (ii) for any income tax year
9 beginning on or after January 1, 2020, at any time during the
10 preceding tax year or two (2) months and fifteen (15) days after the
11 beginning of the tax year. Any such election shall be binding until
12 revoked pursuant to procedures prescribed by the Tax Commission.
13 The effective date of a revocation (i) made within two (2) months
14 and fifteen (15) days of the electing pass-through entity's taxable
15 year shall be the first day of such taxable year and (ii) made
16 during the electing pass-through entity's taxable year but after
17 such fifteenth day shall be effective on the first day of the
18 following taxable year. No election made by a pass-through entity
19 with respect to income tax to be paid by such entity using the
20 calculations prescribed by this section shall be binding on any
21 other pass-through entity, and each pass-through entity shall be
22 able to make an election under the provisions of this act
23 independently.

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1 SECTION 5. AMENDATORY 68 O.S. 2011, Section 2358, as
2 last amended by Section 1, Chapter 9, 2nd Extraordinary Session,
3 O.S.L. 2018 (68 O.S. Supp. 2018, Section 2358), is amended to read
4 as follows:

5 Section 2358. For all tax years beginning after December 31,
6 1981, taxable income and adjusted gross income shall be adjusted to
7 arrive at Oklahoma taxable income and Oklahoma adjusted gross income
8 as required by this section.

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

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

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

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

23 a. For carryovers and carrybacks to taxable years
24 beginning before January 1, 1981, the amount of any

1 net operating loss deduction allowed to a taxpayer for
2 federal income tax purposes shall be reduced to an
3 amount which is the same portion thereof as the loss
4 from sources within this state, as determined pursuant
5 to this section and Section 2362 of this title, for
6 the taxable year in which such loss is sustained is of
7 the total loss for such year;

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

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

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

- 19 a. Income from real and tangible personal property, such
20 as rents, oil and mining production or royalties, and
21 gains or losses from sales of such property, shall be
22 allocated in accordance with the situs of such
23 property;

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

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

20 (2) for taxable years beginning after December 31,
21 2003, capital or ordinary gains or losses from
22 the sale of an ownership interest in a publicly
23 traded partnership, as defined by Section 7704(b)
24 of the Internal Revenue Code ~~of 1986, as amended,~~

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

- 22 (3) income from such property which is required to be
23 allocated pursuant to the provisions of paragraph
24

1 5 of this subsection shall be allocated as herein
2 provided;

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

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

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

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

20 (3) sales of the product stored in public warehouses
21 within the state where the shipment to such
22 warehouses is not covered by "in transit"
23 tariffs, as prescribed and allowed by the
24

1 Interstate Commerce Commission, to a purchaser
2 within or without the state,
3 the Oklahoma net income shall, at the option of the
4 taxpayer, be that portion of the total net income of
5 the taxpayer for federal income tax purposes derived
6 from the manufacture and/or processing and sales
7 everywhere as determined by the ratio of the sales
8 defined in this section made to the purchaser within
9 the state to the total sales everywhere. The term
10 "public warehouse" as used in this subparagraph means
11 a licensed public warehouse, the principal business of
12 which is warehousing merchandise for the public;

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

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

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

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

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

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

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

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

1 real and tangible personal property everywhere owned
2 or rented and used during the tax period.

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

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

22 (3) The average value of property shall be determined
23 by averaging the values at the beginning and
24 ending of the tax period but the Oklahoma Tax

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

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

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

23 (2) In any case the numerator of the fraction shall
24 include a portion of such expenditures in

1 connection with itinerant employees, such as
2 traveling salespersons, in this state only a part
3 of the time, in the proportion that time spent in
4 Oklahoma bears to total time spent in furtherance
5 of the enterprise by such employees;

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

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

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

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

14 (4) In the case of an oil, gasoline or gas pipeline
15 enterprise, the numerator of the fraction shall
16 be either the total of traffic units of the
17 enterprise within Oklahoma or the revenue
18 allocated to Oklahoma based upon miles moved, at
19 the option of the taxpayer, and the denominator
20 of which shall be the total of traffic units of
21 the enterprise or the revenue of the enterprise
22 everywhere as appropriate to the numerator. A
23 "traffic unit" is hereby defined as the
24 transportation for a distance of one (1) mile of

1 one (1) barrel of oil, one (1) gallon of gasoline
2 or one thousand (1,000) cubic feet of natural or
3 casinghead gas, as the case may be.

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

23 In any case where the apportionment of the three factors
24 prescribed in this paragraph attributes to Oklahoma a portion of net

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

19 6. For calendar years 1997 and 1998, the owner of a new or
20 expanded agricultural commodity processing facility in this state
21 may exclude from Oklahoma taxable income, or in the case of an
22 individual, the Oklahoma adjusted gross income, fifteen percent
23 (15%) of the investment by the owner in the new or expanded
24 agricultural commodity processing facility. For calendar year 1999,

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

20 For purposes of this paragraph:

- 21 a. "Agricultural commodity processing facility" means
22 building, structures, fixtures and improvements used
23 or operated primarily for the processing or production
24 of marketable products from agricultural commodities.

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

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

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

19 7. Despite any provision to the contrary in paragraph 3 of this
20 subsection, for taxable years beginning after December 31, 1999, in
21 the case of a taxpayer which has a farming loss, such farming loss
22 shall be considered a net operating loss carryback in accordance
23 with and to the extent of the Internal Revenue Code, 26 U.S.C.,
24

1 Section 172(b) (G). However, the amount of the net operating loss
2 carryback shall not exceed the lesser of:

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

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

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

22 10. For taxable years beginning on or after January 1, 2010,
23 there shall be added to Oklahoma taxable income an amount equal to
24 the amount of deferred income not included in such taxable income

1 pursuant to Section 108(i)(1) of the Internal Revenue Code of 1986
2 as amended by Section 1231 of the American Recovery and Reinvestment
3 Act of 2009 (P.L. No. 111-5). There shall be subtracted from
4 Oklahoma taxable income an amount equal to the amount of deferred
5 income included in such taxable income pursuant to Section 108(i)(1)
6 of the Internal Revenue Code ~~of 1986, as amended~~ by Section 1231 of
7 the American Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

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

1 Section 2 of this act. Notwithstanding the application of this
2 paragraph, the adjusted tax basis of any ownership interest in a
3 pass-through entity for purposes of Section 2351 et seq. of this
4 title shall be equal to its adjusted tax basis for federal income
5 tax purposes.

6 B. 1. The taxable income of any corporation shall be further
7 adjusted to arrive at Oklahoma taxable income, except those
8 corporations electing treatment as provided in subchapter S of the
9 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section
10 2365 of this title, deductions pursuant to the provisions of the
11 Accelerated Cost Recovery System as defined and allowed in the
12 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,
13 Section 168, for depreciation of assets placed into service after
14 December 31, 1981, shall not be allowed in calculating Oklahoma
15 taxable income. Such corporations shall be allowed a deduction for
16 depreciation of assets placed into service after December 31, 1981,
17 in accordance with provisions of the Internal Revenue Code, 26
18 U.S.C., Section 1 et seq., in effect immediately prior to the
19 enactment of the Accelerated Cost Recovery System. The Oklahoma tax
20 basis for all such assets placed into service after December 31,
21 1981, calculated in this section shall be retained and utilized for
22 all Oklahoma income tax purposes through the final disposition of
23 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 ~~of~~
11 ~~1986, as amended~~, based upon the amount and filing
12 status prescribed by such Code for purposes of filing
13 federal individual income 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 ~~of 1986, as amended~~, 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 c. 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. In taxable years beginning after December 31, 1999, for an
24 individual engaged in production agriculture who has filed a

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

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

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

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

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

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

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

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

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

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

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

5 f. As used in this paragraph:

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

9 (a) a qualified withdrawal,

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

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

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

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

4 18. For taxable years beginning after December 31, 2005,
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 of this subsection.

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

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

22 c. The Oklahoma Tax Commission shall promulgate rules to
23 implement the provisions of this paragraph which shall
24 contain a specific list of expenses which may be

1 presumed to qualify for the deduction. The Tax
2 Commission shall prescribe necessary requirements for
3 verification.

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

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

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

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

1 deducted on the federal return is limited, taxable income on the
2 state return shall be increased only by the amount actually deducted
3 after any such limitations are applied.

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

9 2. As used in this subsection:

10 a. "qualifying gains receiving capital treatment" means
11 the amount of net capital gains, as defined in Section
12 1222(11) of the Internal Revenue Code, included in an
13 individual taxpayer's federal income tax return that
14 result from:

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

21 (2) the sale of stock or the sale of a direct or
22 indirect ownership interest in an Oklahoma
23 company, limited liability company, or
24 partnership where such stock or ownership

1 interest has been directly or indirectly owned by
2 the individual taxpayer for a holding period of
3 at least two (2) years prior to the date of the
4 transaction from which the net capital gains
5 arise, or

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

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

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

7 d. "direct" means the individual taxpayer directly owns
8 the asset,

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

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

1 it for an uninterrupted period of not less than
2 five (5) years.

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

23 f. "Oklahoma proprietorship business enterprise" means a
24 business enterprise whose income and expenses have

1 been reported on Schedule C or F of an individual
2 taxpayer's federal income tax return, or any similar
3 successor schedule published by the Internal Revenue
4 Service and whose primary headquarters have been
5 located in Oklahoma for at least three (3)
6 uninterrupted years prior to the date of the
7 transaction from which the net capital gains arise.

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

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

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

22 b. the term "captive real estate investment trust" means
23 a real estate investment trust, the shares or
24 beneficial interests of which are not regularly traded

1 on an established securities market and more than
2 fifty percent (50%) of the voting power or value of
3 the beneficial interests or shares of which are owned
4 or controlled, directly or indirectly, or
5 constructively, by a single entity that is:

6 (1) treated as an association taxable as a
7 corporation under the Internal Revenue Code ~~of~~
8 ~~1986, as amended~~, and

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

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

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

20 (1) any real estate investment trust as defined in
21 paragraph a of this subsection other than a
22 "captive real estate investment trust", or

23 (2) any qualified real estate investment trust
24 subsidiary under Section 856(i) of the Internal

1 Revenue Code ~~of 1986, as amended~~, other than a
2 qualified REIT subsidiary of a "captive real
3 estate investment trust", or

4 (3) any Listed Australian Property Trust (meaning an
5 Australian unit trust registered as a "Managed
6 Investment Scheme" under the Australian
7 Corporations Act in which the principal class of
8 units is listed on a recognized stock exchange in
9 Australia and is regularly traded on an
10 established securities market), or an entity
11 organized as a trust, provided that a Listed
12 Australian Property Trust owns or controls,
13 directly or indirectly, seventy-five percent
14 (75%) or more of the voting power or value of the
15 beneficial interests or shares of such trust, or

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

20 (a) at least seventy-five percent (75%) of the
21 entity's total asset value at the close of
22 its taxable year is represented by real
23 estate assets, as defined in Section

24 856(c) (5) (B) of the Internal Revenue Code ~~of~~

1 ~~1986, as amended~~, thereby including shares
2 or certificates of beneficial interest in
3 any real estate investment trust, cash and
4 cash equivalents, and U.S. Government
5 securities,

6 (b) the entity receives a dividend-paid
7 deduction comparable to Section 561 of the
8 Internal Revenue Code ~~of 1986, as amended~~,
9 or is exempt from entity level tax,

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

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

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

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

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

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

22 Section 2365. The Except as otherwise provided for in the Pass-
23 Through Entity Tax Equity Act of 2019, the provisions, applicable to
24 the taxation of income of corporations and stockholders, electing

1 treatment as provided in subchapter S of the Internal Revenue Code,
2 shall apply to taxpayers as provided under this act. A corporation
3 having an election in effect under subchapter S of the Internal
4 Revenue Code shall not be subject to the Oklahoma income tax on
5 corporations and for tax years beginning after December 31, 1996,
6 shall not be subject to the tax imposed by subsection A of Section
7 2370 of this title, and the shareholders of such corporation shall
8 include in their taxable incomes their proportionate part of the
9 federal income of such corporation, subject to the modifications as
10 set forth in Sections 2358, 2362 and 2370.2 of this title, in the
11 same manner and to the same extent as provided by the Internal
12 Revenue Code. However, if any of the shareholders of such
13 corporation are nonresidents during any part of the taxable year of
14 the corporation, such corporation shall be taxable for such year on
15 that part of the income of the corporation, as determined pursuant
16 to Sections 2358, 2362 and 2370.2 of this title, allocable to the
17 shares of stock owned by such nonresident unless (i) the corporation
18 files with its return for such year an agreement executed by each
19 nonresident stockholder stating that such nonresident will file an
20 Oklahoma income tax return which will include in the adjusted gross
21 income of such nonresident that portion of the Oklahoma taxable
22 income of the corporation allocable to the interest of the
23 nonresident in such corporation, or (ii) the corporation has made a
24 valid election pursuant to the provisions of the Pass-Through Entity

1 Tax Equity Act of 2019 and has paid the applicable tax. For
2 purposes of this section, the term "corporation" shall include
3 state-chartered banks, state and federal savings associations and
4 national banking associations that have total assets of Three
5 Billion Dollars (\$3,000,000,000.00) or less and that are organized
6 pursuant to the laws of this state, or the United States, or are
7 located or doing business in this state.

8 SECTION 7. AMENDATORY 68 O.S. 2011, Section 2368, as
9 last amended by Section 1, Chapter 225, O.S.L. 2018 (68 O.S. Supp.
10 2018, Section 2368), is amended to read as follows:

11 Section 2368. A. For tax years ending before January 1, 2017,
12 the following individuals shall each make a return stating
13 specifically the taxable income and, where necessary, the adjusted
14 gross income and the adjustments provided in Section 2351 et seq. of
15 this title to arrive at Oklahoma taxable income and, where
16 necessary, Oklahoma adjusted gross income:

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

21 2. ~~Every~~ Except as otherwise provided for in the Pass-Through
22 Entity Tax Equity Act of 2019, every resident individual having a
23 gross income, or gross receipts, for the taxable year in an amount
24

1 sufficient to require the filing of a federal income tax return, if
2 married and living with husband or wife.

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

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

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

13 1. Each shall make a return; or

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

17 C. 1. For tax years beginning on or after January 1, 2017,
18 every resident individual whose gross income from both within and
19 outside of Oklahoma exceeds the sum of the standard deduction and
20 personal exemption allowed in Section 2358 of this title shall file
21 an Oklahoma income tax return. Resident individuals not required to
22 file a federal income tax return must attach a completed federal
23 income tax return to the Oklahoma income tax return to show how
24 adjusted gross income and deductions were determined, if their gross

1 income is more than their adjusted gross income. The Oklahoma
2 income tax return must show the taxable income and, where necessary,
3 the adjusted gross income and modifications required by Section 2351
4 et seq. of this title, and any other information the Tax Commission
5 may require.

6 2. ~~Every~~ Except as otherwise provided for in the Pass-Through
7 Entity Tax Equity Act of 2019, every nonresident individual having
8 Oklahoma gross income for the taxable year of One Thousand Dollars
9 (\$1,000.00) or more shall file an Oklahoma income tax return.

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

14 E. Every partnership shall make a return for each taxable year,
15 stating the taxable income and the adjustments to arrive at Oklahoma
16 income. The Oklahoma return shall include a schedule showing the
17 distribution to partners of the various items of income as per the
18 federal return and the adjustments required by Section 2351 et seq.
19 of this title for Oklahoma. The return shall be signed by one of
20 the partners. ~~If~~ Except for partnerships making an election
21 pursuant to the provisions of the Pass-Through Entity Tax Equity Act
22 of 2019, if a partnership has elected pursuant to the provisions of
23 Section 761 of the Internal Revenue Code, or any provision
24 comparable thereto, not to file partnership income tax returns, that

1 partnership shall not be required to file an Oklahoma partnership
2 return. The Oklahoma Tax Commission shall promulgate rules for
3 purposes of partnership returns when multiple partners would
4 otherwise be required to file a nonresident return. The rules shall
5 provide a specific number of partners in a partnership above which a
6 composite return may be filed. The return shall be in such form as
7 prescribed by the Tax Commission.

8 F. Every corporation shall make a return for each taxable year
9 stating the taxable income and the adjustments provided in Section
10 2351 et seq. of this title to arrive at Oklahoma taxable income. In
11 addition, corporations electing subchapter S treatment pursuant to
12 the Internal Revenue Code and Section 2351 et seq. of this title,
13 shall include a schedule showing the distribution to shareholders of
14 the various items of income as per the federal return and the
15 adjustments for Oklahoma. All corporation returns shall be signed
16 by the president, vice president, or other principal officer and the
17 corporate seal impressed. In cases where receivers, trustees in
18 bankruptcy, or assignees are operating the property or business of
19 corporations, such receivers, trustees, or assignees shall make a
20 return for such corporations in the same manner and form as
21 corporations are required to make returns. Any tax due on the basis
22 of such returns made by receivers, trustees, or assignees shall be
23 collected in the same manner as if collected from the corporations
24 of whose business or property they have custody and control.

1 G. Every resident estate and trust shall make a return for each
2 taxable year stating the taxable income and the adjustments to
3 arrive at Oklahoma taxable income. Every nonresident estate or
4 trust having Oklahoma taxable income as provided in Section 2362 of
5 this title shall make a return for each taxable year stating the
6 taxable income and the adjustments to arrive at Oklahoma taxable
7 income. The Oklahoma return shall include a schedule showing the
8 distribution to beneficiaries, if any, of the various items of
9 income as per the federal return and the adjustments for Oklahoma.
10 The fiduciary shall be responsible for making the return and the
11 return shall be signed by the fiduciary, or by one fiduciary if
12 there is more than one. The Tax Commission shall promulgate rules
13 for purposes of estate and trust returns when multiple returns would
14 otherwise be required of nonresident beneficiaries of estates or
15 trusts. The return shall be in such form as prescribed by the Tax
16 Commission.

17 H. 1. All individual returns, except individual returns filed
18 electronically, made on the basis of the calendar year shall be due
19 on or before the fifteenth day of April following the close of the
20 taxable year. Provided, if the Internal Revenue Code provides for a
21 later due date for returns of individuals, the Tax Commission shall
22 accept returns filed by individuals by such date and such returns
23 shall be considered as timely filed.

24

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

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

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

13 5. For tax years beginning before January 1, 2016, fiscal year
14 corporation returns shall be due on or before the fifteenth day of
15 the third month following the close of the fiscal year. For tax
16 years beginning on or after January 1, 2016, fiscal year corporation
17 returns shall be due no later than thirty (30) days after the due
18 date established under the Internal Revenue Code.

19 6. For tax years beginning before January 1, 2016, partnership
20 returns shall be due on or before the fifteenth day of April
21 following the close of the taxable year. For tax years beginning on
22 or after January 1, 2016, partnership returns shall be due no later
23 than thirty (30) days after the due date established under the
24 Internal Revenue Code.

1 7. All estate and trust returns made on the basis of the
2 calendar year shall be due on or before the fifteenth day of April
3 following the close of the taxable year. All estate and trust
4 returns made on the basis of a fiscal year shall be due on or before
5 the fifteenth day of the fourth month following the close of the
6 fiscal year.

7 8. In the case of complete liquidation, or the dissolution, of
8 a corporation the return of such corporation shall be made on or
9 before the fifteenth day of the fourth month following the month in
10 which the corporation is completely liquidated. A corporation which
11 has terminated its business activities, satisfied or made provision
12 for all of its liabilities or has distributed all of its assets,
13 even though not formally dissolved under state law, is deemed to
14 have completely liquidated for purposes of this subsection.

15 I. Returns by individuals, fiduciaries, partnerships,
16 corporations or any other person or entity required, or that may
17 hereafter be required to file a return, shall contain or be verified
18 by a written declaration that such return is made under the
19 penalties of perjury and the fact that any individual's name is
20 signed to a filed return shall be prima facie evidence for all
21 purposes that the return was actually signed by that individual.
22 Provided, the Tax Commission shall promulgate rules to provide
23 procedures for verification of signatures on returns which are filed
24 electronically.

1 J. Every return required by Section 2351 et seq. of this title
2 shall be in such form as the Tax Commission may, from time to time,
3 prescribe. Each return shall be filed with the Tax Commission and
4 forms shall be furnished by the Tax Commission on application
5 therefor, but failure to secure or receive the form of a return
6 prescribed shall not relieve any taxpayer from the obligation of
7 making and filing any return herein required.

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

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

16 Section 2370.2 A Except as otherwise provided for in the Pass-
17 Through Entity Tax Equity Act of 2019, a state banking association
18 or national banking association having an election in effect under
19 subchapter S of the Internal Revenue Code for any tax year beginning
20 after December 31, 1996, in reporting items of income, loss,
21 deductions and credits proportionately to its shareholders for
22 inclusion in their taxable incomes, shall use as a basis items of
23 income, loss, deductions and credits of such banking association as

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1 shown on its federal income tax return, subject to modifications as
2 set forth in Sections 2358 and 2362 of this title.

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

5 Section 2372. Every Except as otherwise provided for in the
6 Pass-Through Entity Tax Equity Act of 2019, every national banking
7 association or state bank, subject to taxation under this act, shall
8 make its return to the Tax Commission at the same time and in the
9 same manner required of other corporations, as specified herein, and
10 except to the manner of computing the net income subject to the tax
11 levied by this act, each shall be subject to all other provisions of
12 this act applicable to such other corporations.

13 ~~SECTION 10. It being immediately necessary for the preservation~~
14 ~~of the public peace, health or safety, an emergency is hereby~~
15 ~~declared to exist, by reason whereof this act shall take effect and~~
16 ~~be in full force from and after its passage and approval.~~

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
18 April 10, 2019 - DO PASS AS AMENDED

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