



State of Oklahoma  
**Oklahoma Capital Gain Deduction**  
 for the Nonresident Shareholder Whose Income  
 Is Reported on Form 512-S, Part 1  
 (Qualifying Assets Held for the Applicable Holding Period)

FORM **561-S** 2021

Corporate Name as Shown on Return	Federal Employer Identification Number
Name of Nonresident Shareholder	Social Security Number/Federal Employer Identification Number

Enter the Date(s) the Nonresident Shareholder Acquired Ownership in the S Corporation:

**1. List qualifying Oklahoma capital gains and losses, not included on lines 2 and 3 below.**

A1. Description of Property:	B. Date Acquired (mm/dd/yy)	C. Date Sold or Disposed (mm/dd/yy)	D. Proceeds (Sales Price)	E. Cost or Other Basis Minus Adjustments to Gain or Loss	Shareholder's Share
A2. Oklahoma Location/Address or Federal ID Number:					F. Gain or (Loss) Allocated / Apportioned to Oklahoma
A3. Type of property sold: (see instructions)					

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2. Qualifying Oklahoma capital gain from installment sales reported on Federal Schedule D, line 11. (Provide a copy of Federal Form 6252.) Type of property sold (See instructions) ..... <input type="text"/> .....	2	
3. Qualifying Oklahoma net capital gain or (loss) from like-kind exchanges reported on Federal Schedule D, line 12. (Provide a copy of Federal Form 8824.) Type of property sold (See instructions) ..... <input type="text"/> .....	3	
4. Qualifying Oklahoma net capital gain. Add amounts in column F on lines 1, 2 and 3..... (If zero or less, enter "0".)	4	
5. Nonresident shareholder's share of the net capital gain apportioned and/or allocated to Oklahoma .....	5	
6. <b>Oklahoma Capital Gain Deduction.</b> Enter the smaller of lines 4 or 5 here and on Form 512-S, Part 1, line 1b. (Do not enter less than zero.).....	6	

**Provide Federal Form 1120S, Schedule D and Form(s) 8949.**

## Oklahoma Capital Gain Deduction for the Nonresident Shareholder Whose Income is reported on Form 512-S, Part 1

68 Oklahoma Statutes (OS) Sec. 2358 and Rule 710:50-15-48

### General Information

Taxpayers can deduct qualifying gains receiving capital gain treatment that are included in Federal income. "Qualifying gains receiving capital treatment" means the amount of net capital gains, as defined under Internal Revenue Code Section 1222(11). The qualifying gain must result from:

1. The sale of real or tangible personal property located within Oklahoma that has been owned for at least five uninterrupted years prior to the date of the transaction that gave rise to the capital gain;
2. The sale of stock or an ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been owned for at least three uninterrupted years (two for individuals) prior to the date of the transaction that gave rise to the capital gain; or
3. The sale of real property, tangible personal property or intangible personal property located within Oklahoma as part of the sale of all or substantially all of the assets of an Oklahoma company, limited liability company, or partnership where such property has been directly or indirectly owned by such entity or owned by the owners of such entity, and used in or derived from such entity for a period of at least three uninterrupted years (two for individuals) prior to the date of the transaction that gave rise to the capital gain.

An Oklahoma company, limited liability company, or partnership is an entity whose primary headquarters has been located in Oklahoma for at least three uninterrupted years prior to the date of sale.

### **Pass-through entities...**

Capital gain from qualifying property, as described above, held by a pass-through entity (PTE) is eligible for the Oklahoma capital gain deduction, provided the person has been a member of the PTE for an uninterrupted period of the applicable three (two for individuals) or five years and the PTE has held the asset for not less than the applicable three (two for individuals) or five uninterrupted years prior to the date of the transaction that created the capital gain. The type of asset sold, as shown in 1-3 above, determines whether the applicable number of uninterrupted years is three (two for individuals) or five. The PTE must provide supplemental information to the member identifying the pass-through of qualifying capital gains.

**NOTE:** If you are a member, either directly or indirectly, of an electing PTE the capital gain/loss from the PTE that is covered by the election pursuant to the provisions of the Pass-Through Entity Act of 2019 is not entered on this form to compute your Oklahoma Capital Gain Deduction. The gain/loss will be entered on the PTE's Oklahoma Capital Gain Deduction form, Form 561-PTE.

### **Installment sales...**

Qualifying gains included in Federal distributable income for the current year that are derived from installment sales are eligible for exclusion, provided the appropriate holding periods are met.

### Specific Instructions

**Note:** Complete a separate Form 561-S for each nonresident shareholder whose income is reported on Form 512-S, Part 1. The total from all Forms 561-S will be entered on Form 512-S, Part 1, line 1b.

### **Lines 1-3: Type of Property Sold**

Enter the number in the box that corresponds to the type of property sold:

1. The sale of stock in a qualified Oklahoma corporation.
2. The sale of an ownership interest in a qualified Oklahoma company, limited liability company, or partnership.
3. The sale of qualified real property located within Oklahoma.
4. The sale of qualified tangible personal property located within Oklahoma.
5. The sale of qualified intangible personal property located within Oklahoma as part of the sale of all or substantially all of the assets of an Oklahoma company, limited liability company or partnership.
99. For lines 2 and 3, enter a 99 if the net gain/loss is from the sale of more than one type of property.

## Oklahoma Capital Gain Deduction for the Nonresident Shareholder Whose Income is reported on Form 512-S, Part 1

68 OS Sec. 2358 and Rule 710:50-15-48

### Specific Instructions - continued

**Lines 1-4** are used to determine the qualifying Oklahoma net capital gain of a nonresident shareholder whose income is reported on Form 512-S, Part 1, those who did not file a nonresident shareholder agreement (Form 512-SA). Based on the type of asset sold, the nonresident must have been a shareholder of the S corporation for an uninterrupted period of the applicable three (two for individuals) or five years. The qualifying Oklahoma net capital gain is the total of such nonresident shareholder's share of long-term gains from qualifying Oklahoma property minus the long-term losses from qualifying Oklahoma property that were allocated or apportioned to Oklahoma.

**Line 5** is the total of the nonresident shareholder's share of the net capital gain. Net capital gain is the excess of the net long-term capital gain over the net short-term capital loss allocated or apportioned to Oklahoma for the nonresident whose income is reported on Form 512-S, Part 1. The Oklahoma Capital Gain Deduction cannot exceed this amount.

**Note:** If less than 100% of a capital gain or loss has been apportioned to Oklahoma, include only such portion in Column F. For example: on Form 512-S, Part 4, an S corporation apportions 43% of the capital gain/loss to Oklahoma (based on the apportionment formula). Include 43% of the gain/loss attributable to the nonresident shareholder whose income is reported on Form 512-S, Part 1, and who has met the holding period. However, if 100% of the gain/loss was allocated to Oklahoma, then include 100% of the gain/loss attributable to such nonresident shareholder.

**Line 1:** List the nonresident shareholder's share of the qualifying Oklahoma capital gains and losses from the Federal Form(s) 8949, Part II or from Federal Schedule D, line 8a. Provide a copy of Form(s) 1099-B if the qualifying Oklahoma capital gain or loss is reported on Federal Schedule D, line 8a. In Column A, line A1 enter the description of the property as shown on Federal Form 8949, Column a or on Form 1099-B. On line A2, enter either the Oklahoma location/address of the real or tangible personal property sold or the Federal Identification Number of the company, limited liability company or partnership whose stock or ownership interest was sold. Complete Columns B through E using the information from Federal Form 8949, Columns b through g or from Form 1099-B. In Column F enter the nonresident shareholder's share of the qualifying Oklahoma capital gain or loss allocated or apportioned to Oklahoma. Do not include gains and losses reported on Form 561-S lines 2 and 3.

**Line 2:** If Federal Form 6252 was used to report the installment method for gain on the sale of eligible property on the Federal return, compute the capital gain deduction using the nonresident shareholder's share of the current year's taxable portion of the installment payment allocated or apportioned to Oklahoma. Provide Federal Form 6252. The capital gain from an installment sale is eligible for the Oklahoma capital gain deduction provided the property was held by the S corporation for the appropriate holding period as of the date sold. The nonresident shareholder must also have been a shareholder in the S corporation for the appropriate holding period as of the date sold.

**Line 3:** Enter the nonresident shareholder's share of the qualifying Oklahoma net capital gain or loss reported on Federal Schedule D, line 12 that was allocated or apportioned to Oklahoma. Provide a copy of the Federal Form 8824.

**Line 5:** For the nonresident shareholder whose income is reported on Form 512-S, Part 1, enter their share of the net capital gain apportioned and allocated to Oklahoma. The term "net capital gain" means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year. If there is a net capital loss, enter zero.