CHAPTER 50. INCOME

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CHAPTER 50. INCOME

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CHAPTER 50. INCOME

SUBCHAPTER 1. GENERAL PROVISIONS

710:50-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to income.

710:50-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Commission" means the Oklahoma Tax Commission.

"OTC" means the Oklahoma Tax Commission.

"OTC Form" means a form required by the Oklahoma Income Tax Code.

710:50-1-3. Taxpayer assistance [REVOKED]

710:50-1-4. Confidentiality

(a) **Inquiry.** Information can be given only to the taxpayer/taxpayers named on the return.

(b) **Address correction.** A written notification is required from the taxpayer/taxpayers for an address correction.

(c) **Social Security Number correction.** If an incorrect Social Security Number has been used in filing an individual return, a written statement is required from the taxpayer showing the correct Social Security Number and the taxpayer's name.

710:50-1-5. Public records

The annual list of persons making and filing an Oklahoma income tax return shall be made available for public inspection in the Taxpayer Resource Center during the normal working hours of the Tax Commission. [**See:** 68 O.S. §§ 205(D), 2385.20]

[**Source:** Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-1-6. Requests for copies of income tax returns and associated documents

The Tax Commission will provide, to any taxpayer or to his designated representative, copies of the taxpayer's return and/or accompanying documents in accordance with the procedures set out in this Section.

(1) Requests shall be made either in writing, to the Income Tax Accounts Division, or in person at the Taxpayer Resource Center.

(2) If the request is in writing it must be signed by the taxpayer involved, or if the request is from a taxpayer's representative it must be accompanied by an authorization signed by the taxpayer.

(3) If the request is in person the taxpayer must have a valid identification, or in the case of a taxpayer's representative the representative must have an authorization signed by the taxpayer.

[**Source:** Amended at 15 Ok Reg 2811, eff 6-25-98]

710:50-1-7. Requests for copies of income tax returns

(a) To obtain a copy of a previously filed Oklahoma income tax return, submit Form 599 to: Oklahoma Tax Commission Oklahoma City, OK 73194. Include the following information:

(1) Tax year(s) requested;

(2) Social Security Number (SSN) or Employer Identification Number (EIN); and

(3) For joint income tax returns, provide both SSNs or EINs.

(b) The copying fees are $5.00 per copy for each Oklahoma return and an additional $2.00 for each certified copy. Full payment, made payable to the Oklahoma Tax Commission, must be included with the request. Enter the SSN or EIN and “Form 599 Request” on the check or money order.

[**Source:** Amended at 42 Ok Reg 2126, eff 7-15-25; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

SUBCHAPTER 3. RETURNS AND REPORTS

PART 1. GENERAL INFORMATION

710:50-3-1. Who must file an Oklahoma individual income tax return

(a) **Resident taxpayers**. Effective for tax year 2017 and subsequent tax years, every resident individual taxpayer with the following filing status shall file an Oklahoma individual income tax return if their gross income exceeds the following amounts:

(1) Taxpayers filing as married joint, $14,700.00;

(2) Taxpayers filing as single or married separate, $7,350.00;

(3) Taxpayers filing as head of household, $10,350.00; and

(4) Taxpayers filing as a qualifying widow with a dependent child, $13,700.00.

(b) **Part-year resident taxpayer**. Every part-year resident, during the period of residency, has the same filing requirements as a resident individual. During the period of non-residency, an Oklahoma return is required if the Oklahoma part-year resident has gross income from Oklahoma sources of $1,000.00 or more.

(c) **Non-resident taxpayer**. Every non-resident with Oklahoma source gross income of $1,000.00 or more is required to file an Oklahoma income tax return.

(d) **Gross income**. "**Gross income**" means all the income received in the form of money, goods, property, and services including any income from sources

outside the United States or from the sale of taxpayer's main home. Gross income does not include any social security benefits unless:

(1) Taxpayer's filing status is married filing separate and taxpayer lived with a spouse at any time during the tax year; or

(2) One-half of taxpayer's social security benefits plus other gross income is in excess of $25,000.00 ($32,000.00 if filing status is married filing joint).

(e) **Taxpayers not required to file a federal return**. Resident individuals not required to file a federal income tax return must attach a completed federal income tax return to the Oklahoma income tax return to show how adjusted gross income and deductions were determined, if their gross income is more than their adjusted gross income.

[**Source:** Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-3-2. Verification of joint reports or returns

Pursuant to Sections 245 and 2368(H) of the Oklahoma Statutes, Income Tax Returns filed jointly must be signed by both parties.

710:50-3-3. Due dates; timely filing of returns

(a) Income tax returns of individuals are due on the 15th day of the fourth month following the close of the taxable year unless the returns are filed electronically. If the individual income tax returns are filed electronically, the returns are due on the 20th day of the fourth month following the close of the taxable year. This change to the due date will be effective for tax year 2007 returns and subsequent tax years.

(b) If the Internal Revenue Code provides for a later due date for returns of individual filers, the Oklahoma income tax returns may be filed by the later due date and will be considered timely filed. This change to the due date will be effective for tax year 2007 returns and subsequent tax years.

(c) To be considered timely filed, income tax returns are to be filed with and received by the Oklahoma Tax Commission at 123 Robert S. Kerr Ave, Oklahoma City, Ok. 73102 on or before the statutory filing date. However, dates placed on returns by the Oklahoma Tax Commission corresponding to postmarks that indicate timely mailing will be accepted as timely filed. In the case of electronically filed returns, any payment of taxes due on the 20th day of the fourth month following the close of the taxable year must also be remitted electronically in order to be considered timely paid. If balances due on electronically filed returns are not remitted to the Oklahoma Tax Commission electronically, penalty and interest will accrue from the 15th day of the fourth month following the close of the taxable year.

[**Source:** Amended at 19 Ok Reg 2056, eff 7-1-08; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-3-4. Extension of time for filing returns

A valid extension of time in which to file a federal income tax return automatically extends the due date of the Oklahoma income tax return unless

an Oklahoma liability is owed. A copy of the federal extension must be attached to the Oklahoma return. If the due date for filing the federal return is not extended or if an Oklahoma liability is owed, an extension of time to file the Oklahoma return may be granted only by filing OTC Form 504. Ninety percent (90%) of the tax liability must be paid by the original due date of the return to obtain a valid extension of time to file and avoid penalty charges for late payment. Interest will be charged from the original due date of the return.

[**Source:** Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 41 Ok Reg 1638, eff 8-11-24]

710:50-3-5. Withholding certificate

(a) Where the W-2 shows Oklahoma wages and withholding in error, the taxpayer must attach a letter, from the person or entity that issued the W-2, stating the correct Oklahoma wages and withholding.

(b) When the taxpayer is unable to obtain the original W-2 from the employer, a copy of the Federal substitute wage statement filed with the Federal Return shall be filed with the Oklahoma Return. This statement shall show Oklahoma withholdings. [**See:** 68 O.S. §2385.17]

710:50-3-6. Amended returns for individuals

(a) If a resident taxpayer is required or elects to file an individual amended Oklahoma income tax return for tax years prior to 2013, OTC Form 511X must be submitted. For tax years 2013 and subsequent, if a resident taxpayer is required or elects to amend an individual Oklahoma income tax return, OTC Form 511 must be used and the appropriate box indicating that the return is an amended return must be marked.

(b) Part-year residents and nonresidents must use OTC Form 511NR and indicate the return is an amended return by marking the appropriate box.

(c) Whenever an individual Oklahoma income tax return is amended, items listed in (1) through (3) of this subsection should be attached or an explanation if the item is not applicable:

(1) A copy of the amended federal income tax return, or a copy of the Federal Form 1040X, or Federal Form 1045,

(2) Proof that Internal Revenue Service has accepted the claim, such as a copy of the statement of adjustment, any correspondence from Internal Revenue Service, or a copy of the deposit slip of the federal refund,

(3) Supporting documents for any adjustments to federal adjusted gross income to support each final adjusted amount.

(d) When an individual taxpayer wishes to file or is required to file amended returns for more than one year, an amended return must be completed for each year an amendment is made. No amended return may encompass more than one single year. [**See:** 68 O.S. 2368]

[**Source:** Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 16 Ok Reg 2646, eff 6-25-99; Amended at 18 Ok Reg 2810, eff 6-25-01, Amended at 22 Ok Reg 1534, eff 6-11-05; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-3-7. Duplicate returns

If a refund is not processed in a reasonable amount of time, a duplicate Income Tax Return should not be filed until the taxpayer is advised to do so by a representative of the Oklahoma Tax Commission.

[**Source:** Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-3-8. Adjustments by the Internal Revenue Service

(a) If any taxpayer's Federal Income Tax Return is adjusted, an Amended Oklahoma Income Tax Return must be filed within one year. All supporting documentation must be enclosed with an Oklahoma Amended Income Tax Return for the tax year involved. Upon request, the taxpayer must furnish a complete copy of the Federal Income Tax Return, including all schedules, to enable the Tax Commission to determine the correct Oklahoma tax. A recomputation of taxable income under I.R.C. § 1341(a)(5)(B) shall constitute an adjustment to taxable income for the year the income was initially received.

(b) The Commission has two (2) years from the date the return or notice was filed to make an assessment or refund and not thereafter, unless a waiver is agreed to and signed by the Commission and the taxpayer.

(c) In the event of failure by a taxpayer to comply with the requirement set out in (a) of this Section, the statute of limitations is tolled until the Amended Oklahoma Income Tax Return is actually furnished.

(d) When the Internal Revenue Service changes the Federal Income Tax Return by issuing its final determination, the Tax Commission shall have the authority to audit each and every item of income, deduction, credit or any other matter related to the return, where such items or matters relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government, even if such items or matters were not affected by revisions made in such final determination. Where such items or matters do not relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government, the Tax Commission shall be bound by the revisions made in such final determination. [**See:** 68 O.S. § 2375]

[**Source:** Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 13 Ok Reg 3105, eff 7-11-96; Amended at 18 Ok Reg 2810, eff 6-25-01, Amended at 22 Ok Reg 1534, eff 6-11-05; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-3-9. Amended Oklahoma return under federal claim of right adjustment

(a) Section 1341 of the Internal Revenue Code allows taxpayers who make repayments of income which were received under claim of right in a prior year to take a federal deduction or claim a federal tax credit for the taxable year in which the repayment was made. The Oklahoma Income Tax Code contains no parallel claim of right provision which would allow a credit or deduction in the year of repayment. [**See** OTC Order No. 89-11-14-10 (Precedential) and OTC Order No. 91-02-22-013 (Precedential).]

(b) If a taxpayer receives a credit under I.R.C. § 1341(a)(5) on its federal income tax return for the year in which the repayment was made, Oklahoma will recognize a recomputation of federal adjusted gross income for the year(s) the income was initially received under claim of right. This recomputation allows the taxpayer to amend its Oklahoma return(s) for the year(s) the income was initially received to exclude from federal adjusted gross income the amount of income repaid. Taxpayer must attach to its amended return(s) a claim of right worksheet showing the recomputation of adjusted gross income for the year(s) in which the income was initially received. [**See** OTC Order No. 94-02-24-010.]
(c) When a taxpayer's federal taxable income is recomputed for a prior year as described in (b) of this Section, an amended Oklahoma income tax return for the year(s) in which the income was initially received must be filed within one (1) year from the date the federal return claiming the Section 1341 credit was filed.

[**Source:** Added at 34 Ok Reg 2065, eff 9-11-17]

PART 3. LIABILITY; PENALTIES

710:50-3-20. Person liable; definition

The phrase "Any person, or any member of any firm or association, or any official, agent or employee of any corporation..." shall include, but not be limited to, the person who, in the normal course of business, is responsible for the daily accounting or recordkeeping, reporting, preparation of financial statements, custodian of records, or who has supervisory responsibility for any of the persons or duties described. These terms shall also include all officers or directors involved to any extent in the daily operation of the business, or in any way with the management of the business or financial decision making process. It shall also include any person filing an Oklahoma Income Tax Return, or, in the determination of a filing requirement, any person who the Commission has reason to believe is required to file an Oklahoma Income Tax Return. [**See:** 68 O.S. §§206, 243]

710:50-3-21. Penalty for filing insufficient or spurious information; no response to impermissible inquiries

(a) For the purposes of this Subchapter, a return shall be considered to be in "not processible form" if it does not contain sufficient information to properly determine the accuracy and correctness of any and all claims. This is intended to include all applicable schedules from Federal Income Tax Returns, or any other documentary evidence deemed necessary by the Tax Commission to properly administer or enforce any state tax law. This may also include any statements or claims that the taxpayer is not subject to tax, that Federal Reserve Notes do not carry the same value as dollars, assertions of 5th Amendment Rights, the substitution of the word "Object" or "Objection" for any number required on any income tax form, or any other similar claim or scheme.
(b) It shall be the policy of the Tax Commission to not respond to telephone inquiries or correspondence from a taxpayer which contains questions of a

nature, or state a position, which, if included in, or on, an Income Tax Return, would subject the taxpayer to penalty imposed by Statute. [**See:** 68 O.S. §247]

710:50-3-22. Commission may compel information, books, records

The Tax Commission may request or demand, and the taxpayer, or its duly authorized agent or representative, shall furnish, any information the Tax Commission shall deem necessary to determine the amount of any income tax liability or the requirement to file any tax return, whether such return shall indicate an amount of tax due or not. [**See:** 68 O.S. §248]

710:50-3-23. Penalty for fraud

(a) The 50% penalty for fraud imposed by statute is computed on the amount of tax determined to be due, and is in addition to any other penalties which may be imposed by law.

(b) The following action or inaction by the taxpayer may result in the imposition of a penalty of 50% for fraud:

(1) Continued failure to file Oklahoma Income Tax Returns;

(2) Filing false tax returns;

(3) Filing frivolous tax returns;

(4) Other action or inaction tending to evidence an intent to defraud the State or evade tax. However, evidence of fraud by the taxpayer is not limited to the factors listed in this Section.

(c) In cases where a return has not been filed, and an assessment is based on information furnished to the Commission by the Internal Revenue Service indicating the imposition of a penalty for Negligence, Fraud, Failure to File, or Substantial Understatement of Income, the taxpayer's failure to file an Oklahoma Income Tax Return is evidence of fraud with the intent to evade tax. [**See:** 68 O.S. §2375(E)]

710:50-3-24. Failure to file; evidence of fraud; criminal prosecution

(a) Failure to file an Oklahoma income tax return, when the files and records of the Commission indicate a prior knowledge of the requirement to file an income tax return, shall be evidence of intent to defraud the state and evade the payment of taxes.

(b) Any attempt by the Commission to collect any tax, penalty or interest which may be due in a case where a return which was required to be filed, and which was not filed within the time required, shall not be deemed to be an action taken in lieu of prosecution, but rather an action taken in addition to any prosecution for the violation of state tax laws.

(c) In cases where the Commission deems it appropriate, violators of the state tax laws may be prosecuted as provided by law. [**See:** 68 O.S. §§240.1, 241, 2377]

710:50-3-25. Additional penalty for criminal violations

The penalty imposed by statute for a criminal violation of the Oklahoma Income Tax Code shall be based on the amount of tax, penalties, and interest

determined in criminal action to be due. For collection purposes, this penalty shall not be recomputed as additional interest continues to accrue, but shall remain the same as was computed at the time it was imposed. [**See:** 68 O.S. §259]

PART 5. FILING STATUS; ELECTIONS; ACCOUNTING PERIODS AND METHODS

710:50-3-35. Filing status and elections

For the purpose of determining any income tax liability, a taxpayer's filing status, and any elections, such as itemized deductions (subject to the limitations in OAC 710:50-15-50), shall be the same as on the Federal Income Tax Return. In cases where no return has been filed, any information made available by the I.R.S., whether a Revenue Agents Report (R.A.R.), or other related return information, shall constitute the filing status and elections for the purpose of the determination, assessment, and collection of any Oklahoma Income Tax liability.

[**Source:** Amended at 34 Ok Reg 81, eff 09-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-3-36. Residency

(a) An Oklahoma resident is a person domiciled in this state. "Domicile" is the place established as a person's true, fixed, and permanent home. A domicile, once established, remains until a new one is established.
(b) One is presumed to retain his Oklahoma residency if he has:
(1) An Oklahoma Homestead Exemption;
(2) His family remains in Oklahoma;
(3) He retains an Oklahoma drivers license;
(4) He intends to return to Oklahoma; or
(5) He has not abandoned his Oklahoma residence.

[**Source:** Amended at 14 Ok Reg 2699, eff 6-26-97]

710:50-3-37. Military residency

If a taxpayer was a resident of Oklahoma at the time of entrance into military service, assignment to duty outside Oklahoma does not, of itself, change the state of residence. An Oklahoma Income Tax Return should be filed as a resident of Oklahoma until such time as a permanent residence in another state is established.

710:50-3-38. Nonresidents; who must file

(a) A nonresident is required to file an Oklahoma Income Tax Return Form 511NR if $1,000.00 of gross receipts is from Oklahoma sources.
(b) A return is required to establish a loss year, even though gross receipts may be less than $1,000.00.
(c) Employees of interstate carriers (including railroads) are only subject to state income tax of the state of residence of said employee. [**See:** 49 U.S.C.A. §§ 11502 and 14503]

[**Source:** Amended at 17 Ok Reg 2669, eff 6-25-00]

710:50-3-39. Part-year resident

An Oklahoma Income Tax Return Form 511NR must be completed and filed by those individuals who move into or out of the State of Oklahoma during the year.

[**Source:** Amended at 17 Ok Reg 2669, eff 6-25-00]

710:50-3-40. Husbands and wives

(a) **Filing methods of married taxpayers, where one is resident and the other is non-resident.** Married taxpayers who file a joint federal return, where one spouse is an Oklahoma resident (civilian or military), and the other is a nonresident civilian (non-military), must file using one of the following methods:

(1) **File as Oklahoma residents, married, filing separately.** The Oklahoma resident, filing a joint Federal return with a nonresident civilian spouse, may file their Oklahoma return as "married, filing separately". If the nonresident civilian spouse has an Oklahoma filing requirement, OTC Form 511NR is to be utilized for filing purposes, using "married, filing separately" rate charts, and reporting only the nonresident civilian's income and deductions. The resident spouse will file on OTC Form 511, using the "married, filing separately" rates, and reporting only his or her income and deductions. OTC Form 574 "Allocation of Income and Deductions" must be filed with the return(s).

(2) **File as though both spouses were residents.** The spouses may file as if both the resident and the nonresident civilian were Oklahoma residents, on OTC Form 511, using the "married, filing jointly" filing status, and reporting all the income. A tax credit (OTC Form 511TX) may be used to claim credit for taxes paid to the other state, if applicable, under this method. A statement should be attached to the return stating that the nonresident is filing as a resident for tax purposes only.

(b) **When (a)(1) and (a)(2) do not apply.** The filing methods described in (a) of this Section do not apply if either spouse is a part-year resident, or an Oklahoma resident (civilian or military) files a joint Federal return with a nonresident military spouse. In these instances, they must use the same filing status as used on the Federal income tax return. In these instances, OTC Form 511NR shall be completed and must include all Oklahoma source income of both spouses in the "Oklahoma" amount column.

[**Source:** Amended at 17 Ok Reg 2669, eff 6-25-00; Amended at 21 Ok Reg 2571, eff 6-25-04]

710:50-3-41. Deceased taxpayer

If a taxpayer died during the tax year (or following year before filing a return for the tax year), the executor, administrator or surviving spouse must file an Oklahoma income tax return for the decedent.

[**Source:** Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-3-42. Exempt organizations

Generally an organization exempt from Federal income taxation is exempt from Oklahoma income taxation. [**See:** 68 O.S. §2359]

710:50-3-43. Charitable organization and solicitor registration [REVOKED]

[**Source:** Revoked at 14 Ok Reg 2699, eff 6-26-97]

710:50-3-44. Accounting periods and methods

The taxpayer must use the same accounting periods and methods as used for Federal Income Tax purposes. There must be an Oklahoma Income Tax Return filed for every Federal Return filed, using the same period as used on the Federal Return. The taxpayer may not combine two or more Federal short periods into one Oklahoma Return.

710:50-3-45. Verification of signatures on electronically-filed returns

(a) **General provisions.** Section 2368 of the Oklahoma Statutes requires that any return must be verified by a written declaration that it is made under penalties of perjury and further, authorizes the Tax Commission to promulgate rules to provide procedures for verification of signatures on returns which are filed electronically.

(b) **Authentication.** For Oklahoma income tax purposes, the Tax Commission will permit a taxpayer to sign any electronically-filed return pursuant to the Oklahoma Income Tax Code using any electronic signature method authorized by the Internal Revenue Service (IRS). Use of an electronic signature will only be allowed on a joint federal/state return or a linked electronically-filed return and will not be allowed on a state-only or unlinked return.

(c) **Verification.** For purposes of verifying the information provided by a taxpayer filing electronically, as required by Section 2368 of the Oklahoma Income Tax Code, completion of the electronic filing process operated by the Internal Revenue Service, shall serve as verification of the information provided by the taxpayer during the transmission.

[**Source:** Added at 17 Ok Reg 2669, eff 6-25-00; Amended at 27 Ok Reg 2281, eff 7-11-2010; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-3-46. Electronic filing requirement for tax return preparers

All individual income tax returns, prepared by a specified tax return preparer and filed after December 31, 2010, shall be filed electronically. The term "specified tax return preparer" has the same meaning as provided in Section 6011 of the Internal Revenue Code of 1986, as amended. *The preparation of a substantial part of a return or a claim for refund is deemed to be the preparation of the entire return or claim for refund.* [68 O.S. § 2385]

[**Source:** Added at 21 Ok Reg 2571, eff 6-25-04; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-3-47. Pass-Through Entity Tax Equity Act of 2019

(a) An entity that is required to file either an Oklahoma partnership income tax return or an Oklahoma Subchapter S corporate income tax return may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years. [68 O.S. § 2355.IP-1 et seq.]

(b) The election to pay income tax at the entity level may be made either by filing OTC Form 586 as a stand-alone form or by filing OTC Form 586 with the pass-through entity's (PTE) income tax return. The Tax Commission will send an acknowledgement letter to each PTE that files a pass-through entity election. Each electing PTE must provide its shareholders, partners, or members, with a copy of the Tax Commission acknowledgment letter.

(1) **Election made by filing OTC Form 586 as a stand-alone form.** A PTE election may be made by a qualifying PTE at any time during the preceding tax year or two (2) months and fifteen (15) days after the beginning of the current tax year by filing OTC Form 586 as a stand-alone form. Each year, the shareholder, partner, or member of the electing PTE must include a copy of the Tax Commission acknowledgement letter with the Oklahoma income tax return of the shareholder, partner or member.

(2) **Election made on the qualifying PTE's Oklahoma income tax return.** Beginning with tax year 2024, an election may be made by a qualifying PTE on the Oklahoma income tax return of the qualifying PTE prior to but not later than the due date of the applicable income tax return, including any extension. Each qualifying PTE making the election on their Oklahoma income tax return must include OTC Form 586 with the return. For the tax year the election is made, the shareholder, partner or member of the electing PTE must include a copy of OTC Form 586 of the electing PTE which has been signed by a partner, member, or corporate officer who is authorized to sign and file the electing PTE income tax return. Returns of shareholders, partners or members filed in subsequent years must include a copy of the Tax Commission acknowledgement letter.

(c) For income distributed to estates, trusts or individuals, electing entities are taxed at the highest marginal individual income tax rate. For income distributed to corporations, electing entities are taxed at the corporate income tax rate. [68 O.S. §2355]

(d) Oklahoma income or losses the electing PTE included in computing its tax will not be used to calculate the Oklahoma taxable income of the partners, members or shareholders of the electing entity.

(e) For tax years beginning on or after January 1, 2020, estimated tax payments shall be required of an electing PTE as provided in 68 O.S. § 2385.9.

(f) A PTE election is binding until revoked by the electing PTE or by the Oklahoma Tax Commission.

(1) An electing PTE may revoke the election by filing OTC Form 586. The effective date of a PTE's revocation of an election made within two (2) months and fifteen (15) days of the electing PTE's taxable year shall be the first day of such taxable year. If the revocation is made after this time period, the revocation is effective on the first day of the following taxable year.

(2) If the amount of tax required to be paid by an electing PTE is not paid when due, the Oklahoma Tax Commission may, in its discretion, revoke the PTE's election effective for the first year for which the tax is not paid.

[**Source:** Added at 38 Ok Reg 1527, eff 9-1-21; Amended at 42 Ok Reg 2126, eff 7-15-25]

PART 7. OTHER REQUIRED REPORTING

710:50-3-50. Reports required from persons making payments to taxpayers

(a) Oklahoma law requires persons making payments totaling $750 or more annually, to taxpayers to file a report. The required report is to include payments required to be reported by the Internal Revenue Service, unless specifically excluded by the Commission. [**See:** 68 O.S. § 2369(A)]

(b) Reports may be required in the case of payments of interest upon bonds which are exempt from Federal Taxation, but which are not specifically excluded from Oklahoma Taxation. Any broker transacting any business for any person or individual subject to Oklahoma tax may be required to report the name and address of each person or individual transacting business, a description of the business transacted, and such specific details as the Tax Commission shall deem necessary to determine the true tax liability of any taxpayer. Such reports shall be in a form and manner as the Tax Commission shall require. [**See:** 68 O.S. §§ 2358(A)(1), 2369(B)]

(c) Reports are required for production payments as follows:

(1) Although reports for production payments may not have been made previously, they may be required for any time period, regardless of any recordkeeping requirements. [**See:** 68 O.S. § 2369(D)(4)]

(2) Requirements for the method of reporting production payments shall be set by the Commission as it deems appropriate. Failure of the Commission to notify any person or corporation of its obligation to make a report required by statute shall not relieve that person or corporation of its obligation to do so.

(3) For the purposes of 68 O.S. 2369(D)(4), a report shall be defined as that required for each recipient of payments as defined in 710:50-3-52.

(4) Income taxes withheld pursuant to 68 O.S. § 2385.26 shall be reported to the taxpayer on either IRS Form 1099 or Oklahoma Tax Commission Form 500-A.

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-3-51. Production payments

(a) Amounts of production payments necessitating the reporting requirements of 68 O.S. 2369 may be determined by the Commission as it deems appropriate. Under no circumstances shall this amount be less than that required by the Internal Revenue Service.

(b) Reports of production payments shall be made in such a form as the Commission shall prescribe and shall be due to the Oklahoma Tax Commission no later than February 28 for reporting production payments for the preceding

calendar year.
(c) Prior to the issuance of an order to withhold production payments, the Commission shall notify any taxpayer deemed to be delinquent that they are required to file an Income Tax Return and that the records of the Commission do not indicate that a return has been filed. This notice shall be deemed to be a demand for the filing of an Oklahoma Income Tax Return. [**See:** 68 O.S. § 2369(D)]
(d) Failure of the taxpayer to file a return as required by 710:50-3-50 shall result in an assessment against the taxpayer of an amount determined by information furnished by persons making payments to the taxpayer. This assessment shall be made in accordance with the provisions of the Uniform Tax Procedure Code, and mailed to the address of the taxpayer, as reported by the persons making payments to the taxpayer. In the event the taxpayer does not protest this assessment or pay the taxes due within the time allowed, a tax warrant shall be issued. [**See:** 68 O.S. § 221]
(e) At such time as an assessment becomes final, a notice shall be mailed to the taxpayer. [**See:** 68 O.S. § 2369(D)(3)]

[**Source:** Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-3-52. "Reports," "records" defined

(a) For the purposes of assessing penalties set out for refusal or failure to file, the "reports" required by statute from persons making production payments means each record, containing the information concerning each individual recipient of payments.
(b) The term "record" shall mean each document, if reported on Oklahoma Form 500-A, as amended, or Federal Form 1099, or each individual recipient, if reported on magnetic media or listed on a "computer listing".
(c) The term "report" or "record" does not refer cumulatively to all payments made, if made to more than one single recipient. Furthermore, each corporation, if a part of a consolidated group, must separately report for purposes of this subsection, regardless of their filing status for Income Tax Returns.

[**Source:** Amended at 16 Ok Reg 2646, eff 6-25-99; Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-3-53. Income tax withholding - oil and gas royalties

(a) Effective for royalty payments made on or after October 1, 2000 and before July 1, 2006, any remitter who distributes revenue to a non-resident royalty interest owner is required to deduct and withhold Oklahoma income tax from each payment being made with respect to production of oil and gas in Oklahoma. The amount of income tax to be withheld is six and three-fourth's percent (6.75%) of the gross royalty amount paid. Effective for royalty payments made on or after July 1, 2006, the rate of withholding for any remitter who distributes revenue to a non-resident royalty interest owner is the highest Oklahoma marginal individual income tax rate with respect to production of oil and gas in Oklahoma

(b) For purposes of this Section, "remitter" means any person who distributes revenue to royalty interest owners; "gross royalty" means that amount which is reported for federal income tax purposes on IRS Form 1099; "non-resident royalty interest owner" means any person who is not a current or permanent resident of Oklahoma who retains a non-working interest in oil or gas production; and "oil" and "gas" shall have the meaning as the terms are defined in 68 O.S. § 1001.2. Oil and gas royalty payments made to publicly-traded partnerships as defined by Section 7704 (b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes or its publicly-traded partnership affiliates are not subject to the withholding requirement in subsection (a).
(c) Remitters are required to file an Oklahoma Nonresident Royalty Withholding Tax Return and pay the Oklahoma income tax withheld on a quarterly basis, pursuant to this subsection:

(1) For royalty payments made during January, February, and March, the amount withheld is due no later than April 30;

(2) For royalty payments made during April, May, and June, the amount withheld is due no later than July 30;

(3) For royalty payments made during July, August, and September, the amount withheld is due no later than October 30; and

(4) For royalty payments made during October, November, and December, the amount withheld is due no later than January 30 of the following year.

(d) The remitter is also required to provide non-resident individual royalty owners and the Oklahoma Tax Commission an annual written statement showing the name of the remitter, to whom the royalty was paid, the amount of the royalty payment and the amount of Oklahoma income tax withheld. Further, the statement must also furnish the royalty owner's name, address, and social security number or Federal Employer Identification Number. This annual filing with the Oklahoma Tax Commission may be done separately, or in conjunction with the annual reporting requirement under 68 O.S. § 2369, if applicable to the remitter.
(e) Any non-resident royalty interest owner from whom an amount is withheld pursuant to the provisions of this Section, and who files an Oklahoma income tax return is entitled to a credit for the amount withheld. If the amount withheld is greater than the tax due, the non-resident royalty interest owner will be entitled to a refund of the amount of the overpayment.
(f) If the non-resident royalty interest owner is a pass-through entity, the pass-through entity shall allocate the non-resident royalty withholding to its partners, shareholders or members in the same manner as the royalty income.

[**Source:** Added at 18 Ok Reg 2810, eff 6-25-01; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 35 Ok Reg 2066, eff 9-14-18; Amended at 36 Ok Reg 1216, eff 8-11-19; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-3-54. Income tax withholding for pass-through entities

(a) **General provisions.** Generally, any pass-through entity that makes a distribution to a non-resident member is required to deduct and withhold

Oklahoma income tax from distributions of taxable income being made with respect to Oklahoma source income.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Member"** means:

(A) A shareholder of a Subchapter S Corporation;
(B) A partner in a general partnership;
(C) A partner in a limited partnership;
(D) A partner in a limited liability partnership;
(E) A member of a limited liability company; or,
(F) A beneficiary of a trust.

(2) **"Non-resident"** means an individual who is not a resident of, or domiciled in, this state; a business entity which does not have a commercial domicile in this state; or a trust which is not organized in this state.

(3) **"Pass-through entity"** means:

(A) A corporation that is treated as a Subchapter S Corporation under the Internal Revenue Code;
(B) A general partnership;
(C) A limited partnership;
(D) A limited liability partnership;
(E) A trust; or,
(F) A limited liability company that is not taxed as a corporation for federal income tax purposes. [68 O.S. § 2385.29]

(4) **"Pass-through entity"** does not include an entity which is disregarded for income tax purposes under the Internal Revenue Code.

(c) **Subchapter S Corporations; general, limited, or limited liability partnerships; limited liability companies.** In the case of Subchapter S Corporations; general, limited, or limited liability partnerships; and limited liability companies, withholding is required on the Oklahoma portion of the taxable income distributed to each non-resident member at the highest Oklahoma marginal individual income tax rate. In the case of Subchapter S Corporations paying the tax on behalf of non-resident shareholders (68 O.S. § 2365) or partnerships filing composite returns on behalf of non-resident partners, the non-resident members withholding can be claimed on the return filed by the Subchapter S Corporation or the partnership.

(d) **Trusts.** For trusts, withholding is required on the Oklahoma portion of the taxable income distributed to each beneficiary of the trust at the highest Oklahoma marginal individual income tax rate.

(e) **Non-resident members not subject to withholding.** The following persons and organizations are not subject to required withholding by a pass-through entity:

(1) Persons, other than individuals, who are exempt from federal income tax;

(2) Organizations granted an exemption under Section 501(c)(3) of the Internal Revenue Code;

(3) Insurance companies subject to the Oklahoma gross premium income tax

and therefor exempt from Oklahoma income tax pursuant to 68 O.S. § 2359(C); and

(4) Non-resident members who have submitted a Nonresident Member Withholding Exemption Affidavit to the pass-through entity and which pass-through entity has submitted the affidavit information on behalf of the member to the Tax Commission. In the affidavit, the non-resident member agrees to be subject to the personal jurisdiction of the Tax Commission in the courts of this state for the purpose of determining and collecting any Oklahoma taxes, including estimated tax payments, together with any related interest and penalties. See (k) of this Section for the procedure to be followed in filing the affidavit.

(A) For non-resident partners included in a composite partnership return under *OAC* 710:50-19-1 and filing a Nonresident Member Withholding Exemption Affidavit, the inclusion of the partner's income within the composite partnership return will satisfy the requirements contained in the affidavit.

(B) For non-resident shareholders filing a Nonresident Member Withholding Exemption Affidavit and electing not to file Oklahoma income tax returns under 68 O.S. § 2365, inclusion of the non-resident shareholder's income in the Subchapter S corporate income tax return will satisfy the requirements contained in the affidavit.

(C) For non-resident beneficiaries included in a trust return and filing a Nonresident Member Withholding Exemption Affidavit, the inclusion of the beneficiary's income within the trust return will satisfy the requirements contained in the affidavit.

(f) **When pass-through entities are not required to withhold.** Withholding is not required in the following instances:

(1) When an entity is not required to file a federal income tax return, or properly elects out of such duty;

(2) When a pass-through entity is making distributions of income not subject to Oklahoma income tax;

(3) When a pass-through entity has withheld tax on royalty interest income pursuant to 68 O.S. § 2385.25 et seq.;

(4) When a pass-through entity is making distributions to another pass-through entity. Provided however, the exception set out in this paragraph does not relieve the lower-tiered pass-through entity from the duty to withhold on distributions it makes which are not otherwise exempt;

(5) When a pass-through entity is a publicly traded partnership, as defined by Section 7704(b) of the Internal Revenue Code, and is treated as a partnership for purposes of the Internal Revenue Code. Provided the publicly traded partnership has agreed to file an annual information return reporting the name, address, taxpayer identification number, and other information requested by the Tax Commission of each unit-holder with an income in the state in excess of Five Hundred Dollars ($500.00);

(6) When a distribution made by a pass-through entity has been determined

to be not subject to the provisions of this Section by the Commission; or

(7) When a pass-through entity that is required to file either an Oklahoma partnership income tax return or an Oklahoma Subchapter S corporate income tax return makes an election to pay income tax at the entity level pursuant to the Pass-Through Entity Tax Equity Act of 2019. [68 O.S. § 2355.IP-1 et seq.]

(g) **Due dates for payment of pass-through entity withholding.** Pass-through entities that withhold income tax on distributions of taxable income to non-resident members are required to remit the amount of tax withheld from each non-resident member on or before the due date of the pass-through entity's income tax return, including extensions. Any pass-through entity that can reasonably expect the total amount of income tax withheld from all non-resident members to exceed Five Hundred Dollars ($500.00) for the taxable year must make quarterly estimated tax payments. Oklahoma Nonresident Distributed Income Estimated Withholding Tax Report is to be used to remit the quarterly estimated tax payments. The required estimated tax payments are due on or before the last day of the month after the end of the calendar quarter and must be made in equal quarterly installments. The total of the required quarterly estimated tax payments is the lesser of seventy percent (70%) of the withholding tax that must be withheld for the current taxable year, or one hundred percent (100%) of the withholding tax withheld for the previous taxable year. Any pass-through entity that can reasonably expect the total amount of tax withheld from all non-resident members to be less than Five Hundred Dollars ($500.00) for the taxable year may, *at their option*, make quarterly estimated tax payments.

(h) **Required reports.** The pass-through entity is required to provide non-resident members and the Oklahoma Tax Commission an annual written statement showing the name of the pass-through entity, to whom the distribution was paid, the amount of taxable income distributed, and the amount of Oklahoma income tax withheld. Further, the statement must also furnish the non-resident member's name, address, and social security number or Federal Employer Identification Number. To accomplish this:

(1) Each pass-through entity must provide non-resident members with Oklahoma Tax Commission Form 500-B on or before the due date of the pass-through entity's income tax return, including extensions. Copies of OTC Form 500-B, along with OTC Form 501, must be sent to the Oklahoma Tax Commission by the same date.

(2) Each pass-through entity must file with the Oklahoma Tax Commission the appropriate income tax withholding return on or before the due date of the pass-through entity's income tax return, including extensions.

(3) Each non-resident member must enclose a copy of OTC Form 500-B with the Oklahoma income tax return as verification for this withholding.

(i) **Non-resident members entitled to credit, or refund, from Oklahoma income taxes paid.** Any non-resident member from whom an amount is withheld pursuant to the provisions of this Section, and who files an Oklahoma income tax return is entitled to a credit for the amount withheld. If the amount withheld is

greater than the tax due, the non-resident member will be entitled to a refund of the amount of the overpayment.

(j) **Pass-through entities must register.** Pass-through entities that make distributions subject to Oklahoma withholding must register with the Oklahoma Tax Commission.

(k) **Affidavit filing procedures.** Non-resident members who elect to file a Nonresident Member Withholding Exemption Affidavit agreeing to be subject to the personal jurisdiction of the Tax Commission in the courts of this state for the purpose of determining and collecting any Oklahoma taxes, including estimated tax payments, and any related interest and penalties, must remit the affidavit to the appropriate pass-through entity. The pass-through entity is to retain the affidavit and the Oklahoma Tax Commission by the due date of the required annual tax return of the pass-through entity.

(1) **Content.** The name, address, and social security number or federal identification number of the non-resident member having signed an affidavit. All pass-through entities are required to file the non-resident member affidavit information on a CD with the Oklahoma Tax Commission.

(2) **Format.** The format for filing the CD will be in either a spreadsheet format (i.e. Excel) or a database format (i.e. dbf or Access) or a Delimited Text File.

(3) **Waiver.** Pass-through entities may obtain a waiver from the CD filing requirement if the pass-through entity can demonstrate that a hardship would result if it were required to file on a CD. Direct waiver requests to the Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194.

[**Source:** Added at 21 Ok Reg 2571, eff 6-25-04, Amended at 22 Ok Reg 1534, eff 6-11-05; Amended at 29 Ok Reg 1468, eff 6-25-12; Amended at 38 Ok Reg 1527, eff 9-1-21; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-3-55. Reporting the transfer or allocation of a tax credit

(a) **General provisions.** The transfer or allocation of any tax credit authorized pursuant to the provisions of Title 68 of the Oklahoma Statutes, except as otherwise provided in this Section, shall be reported to the Tax Commission.

(b) **Exceptions**. This Section shall not apply to the following tax credits:

(1) Sales Tax Relief Credit (68 O.S. § 5011)
(2) Low Income Property Tax Relief Credit (68 O.S § 2907)
(3) Earned Income Tax Credit (68 O.S. § 2357.43)
(4) Child Care/Child Tax Credit (68 O.S. § 2357)
(5) Credit for Taxes Paid to another State (68 O.S. § 2357)

(c) **Report**. The transfer or allocation of any tax credit, on or after July 1, 2011, shall be reported to the Tax Commission (OTC Form 569) by the entity transferring or allocating the credit. Said form shall be filed on or before the twentieth day of the second month after the tax year in which an act occurs which allows the tax credit to eventually be claimed.

(d) **Transferable credits**. If the credit is transferable, the report shall state:

(1) Name of the taxpayer and taxpayer identification number to whom the credit is transferred;

(2) Tax type;
(3) Amount of credit;
(4) Statutory or other legal authority which forms the basis for the credit; and
(5) Any other information the Tax Commission may require.

(e) **Allocable credits**. If the credit is allocated, the report shall state:
(1) Identity of the shareholder, partner or member of the pass-through entity to whom the credit is allocated;
(2) Taxpayer identification number of the shareholder, partner or member of the pass-through entity to whom the credit is allocated;
(3) Whether the shareholder, partner or member of the pass-through entity to whom the credit is allocated is a pass-through entity;
(4) Tax type;
(5) Amount of credit;
(6) Statutory or other legal authority which forms the basis for the credit; and
(7) Any other information the Tax Commission may require.

(f) **Failure to file report**. If a taxpayer claims a credit on any state tax return that was not previously reported to the Tax Commission, pursuant to this Section, the Tax Commission shall disallow the credit and recompute the applicable tax liability including any penalty and interest; provided, upon the filing of the report, the credit shall be allowed.

[**Source:** Added at 29 Ok Reg 1468, eff 6-25-12]

PART 9. "INNOCENT SPOUSE" RELIEF PROCEDURE

710:50-3-60. Relief of spouse from Oklahoma income tax liability on joint Oklahoma income tax return

If a joint Oklahoma income tax return was filed on which there is, or there is subsequently determined to be, a liability attributable to income or activity for one spouse, the other spouse may be relieved of the liability for the Oklahoma income tax, including interest and penalty, if the spouse requesting relief can establish, by a preponderance of the evidence, that:

(1) The liability is attributable to the income or business activity of the non-requesting spouse; and

(2) It would be inequitable to hold the requesting spouse liable for the tax liability. Factors, not all-inclusive, which may be considered in determining whether it would be inequitable to hold the requesting spouse liable are:

(A) Whether the requesting spouse received a benefit, such as a lavish gift, increased standard of living or additional money from the nonpayment of tax;

(B) Whether the spouse requesting relief has been deserted, divorced, separated, or widowed;

(C) Business background or education of the requesting spouse;

(D) Involvement of the requesting spouse in the financial affairs of the family; and

(E) Involvement of the requesting spouse in the business or transaction

giving rise to the tax liability.

[**Source:** Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96]

710:50-3-61. Docketing of request for relief [REVOKED]

[**Source:** Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96; Revoked at 38 Ok Reg 1527, eff 9-1-21]

710:50-3-62. Initial review, determination of recommendation

The Income Tax Accounts Division will review all requests for relief and the supporting documentation and will make a recommendation that the Tax Commission grant the requested relief if the documentation has established that the liability is attributable to the income or business activity of the non-requesting spouse and that to hold the requesting spouse liable for the deficiency for the tax year involved would be inequitable.

[**Source:** Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96]

710:50-3-63. Procedure upon adverse recommendation

If the Income Tax Accounts Division does not intend to recommend that the Commission grant the requesting spouse relief, the Division shall notify the requesting spouse of the recommendation. The notification letter shall state prominently that should the applicant wish to pursue the request, the applicant should do so by contacting the Income Tax Accounts Division, in writing, within thirty days of the mailing of the notification. Failure of the applicant to pursue the request within thirty days of the mailing of the notification shall constitute grounds for the denial of relief.

[**Source:** Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96]

710:50-3-64. Presentation of relief request to Commission

(a) All requests for relief, whether recommended or not, shall be presented to the Commission at a regularly scheduled meeting. The Income Tax Accounts Division shall set forth the facts in writing, have the request placed on the Commission's docket, and notify the applicant of the day the request will be heard by the Commission. The applicant may appear before the Commission and present documentary evidence and testimony in the form of affidavit(s).

(b) No hearing other than the appearance at a regularly scheduled meeting of the Commission will be held. No transcript of the appearance before the Commission will be prepared.

(c) Should the applicant desire a transcription or recording of taxpayer's appearance before the Commission, the applicant will need to contact a certified court reporter, and make the necessary arrangements for the presence of the reporter at the Commission meeting, and the cost thereof. The cost of transcribing will be borne by the applicant, who must furnish the original of the transcript to the Commission.

[**Source:** Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96]

710:50-3-65. "Preponderance of the evidence" defined

For purposes of implementing Section 2361 of Title 68 of the Oklahoma Statutes and the rules set out in this Part, "preponderance of the evidence" means the evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; evidence which as a whole shows that the fact sought to be proved is more probable than not.

[**Source:** Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96]

SUBCHAPTER 5. AUDIT AND ASSESSMENT
PART 1. AUDITS

710:50-5-1. Oklahoma travel law on out-of-state audits [REVOKED]

[**Source:** Revoked at 16 Ok Reg 2646, eff 6-25-99]

PART 3. ASSESSMENTS

710:50-5-10. Assessment procedure; assessment based upon information derived from Internal Revenue Service

(a) Assessments shall be made in accordance with the Uniform Tax Procedure Code. The income information furnished by the I.R.S. shall be that upon which any tax liability is computed. Unless otherwise indicated in the Revenue Agent's Report (R.A.R.), all income is considered to be from Oklahoma sources, as are all deductions and credit, to the extent that they are allowed by Oklahoma Statute. The taxpayer is considered to be, or to have been an Oklahoma resident during the year or years examined by the I.R.S. by virtue of the fact that the results of the examination are disclosed to the Commission by the I.R.S. The assessment shall be mailed to the address shown on the R.A.R. or the last known address of the taxpayer.

(b) In cases where returns have not been previously filed by the taxpayer, the Tax Commission may, in its discretion and in the alternative to assessing taxes, demand that the taxpayer file a return as required. For the purpose of this Section, the determination that the taxpayer was, in fact, required to file an Oklahoma Tax Return shall be based on the information furnished by the I.R.S.

710:50-5-11. Protests of assessments [REVOKED]

[**Source:** Revoked at 38 Ok Reg 1527, eff 9-1-21]

710:50-5-12. Limitation of time for assessment

(a) There shall be no assessment of any income tax after the expiration of 3 years from the date the return was required to be filed or the date the return was filed, whichever period expires latest. To determine when a return was filed, the Commission shall rely on its files and records, unless the taxpayer can furnish

satisfactory evidence that the return was, in fact, filed.
(b) When no return has been filed, or where it is determined that a false or fraudulent report or return has been filed, the Commission may, at any time, compute, determine, and assess the estimated amount of tax due from any information in its possession.

710:50-5-13. Exceptions to statute of limitations

(a) When the Internal Revenue Service and the taxpayer have consented in writing to an extension prior to the time allowed in 68 O.S. §223, the Tax Commission may assess or refund income tax, as imposed under Title 68, any time prior to the expiration of time agreed upon.
(b) The Oklahoma Tax Commission may make assessment or refund after the expiration of time allowed in 68 O.S. §223 if corrections or changes are made by the Internal Revenue Service. The taxpayer shall notify the Oklahoma Tax Commission within one (1) year after such change or correction is made by the Internal Revenue Service and the Oklahoma Tax Commission shall, within two (2) years from the date of notification by the taxpayer, make such assessment or refund, unless a waiver between the taxpayer and the Oklahoma Tax Commission has been agreed to and signed. Failure to notify the Oklahoma Tax Commission of such changes shall cause the statute of limitations to be tolled.
(c) The Commission shall have the authority to audit each and every item of taxable income, expense, credit or any other matter related to the return where such items are matters of allocation and/or apportionment between Oklahoma and some other state even if such items were not affected by revisions made by the Internal Revenue Service. Where items are not matters of allocation and/or apportionment between Oklahoma and some other state, the Commission shall be bound by the consequences of the assessment of income tax or refund of income tax made by the Internal Revenue Service after the amount of such net income has been finally ascertained.
(d) Certain claims of military personnel, under conditions described in 68 O.S. § 2358 may not be barred by the 3-year limitation.
(e) There is no statute of limitation for paying an established liability or for a liability on an unfiled return.

[**Source:** Amended at 10 Ok Reg 3837, eff 7-12-93; Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94]

SUBCHAPTER 7. REMITTANCES

710:50-7-1. Payment of tax

Individuals filing a joint Oklahoma Income Tax Return are both jointly and individually liable for the payment of any taxes due. [**See:** 26 U.S.C.A §6013]

710:50-7-2. Application of payments [REVOKED]

[**Source:** Revoked at 32 Ok Reg 1354, eff 8-27-15]

SUBCHAPTER 9. REFUNDS

710:50-9-1. Refunds

If the total of amounts withheld and/or Oklahoma estimated tax payments exceeds the figure computed for Oklahoma Income Tax liability, a refund may be due the taxpayers.

710:50-9-2. Statute of limitations on refunds

When an original income tax return has been filed, the statute of limitations for filing a claim for a refund of an overpayment of income tax in Oklahoma is generally three (3) years from the due date of the tax return, including any extensions of time for filing, or two (2) years from the date the tax was paid, whichever is later. If an original return has not been filed, the statute of limitations for filing a claim for a refund of an overpayment of income tax in Oklahoma is two (2) years from the date the tax was paid. A refund that is "barred by statute" cannot be used as payment on any delinquent account or applied to estimated tax. Exceptions to the statute of limitations set out in 710:50-5-13 also apply to certain refund situations. [See**:** 68 O.S. §2373]

[**Source:** Amended at 41 Ok Reg 1638, eff 8-11-24]

710:50-9-3. Interest on refunds

(a) **Returns filed prior to January 1, 2004.** For returns filed on or after January 1, 1987, and before January 1, 2004, interest will be paid on income tax refunds that are not processed within ninety (90) days from the date a processible return is filed or due, whichever is later, at the same rate of interest specified for delinquent tax payments.

(b) **Returns filed on or after January 1, 2004 and before January 2, 2010.** In the case of returns filed on or after January 1, 2004 and before January 2, 2010, a taxpayer will be entitled to interest paid at the same rate specified for delinquent tax payments if the refund is not paid to the taxpayer within the following time periods:

(1) For electronically-filed returns, thirty (30) days from the date a processible return is filed or due, whichever is later; and,

(2) For all other returns, one hundred fifty (150) days from the date a processible return is filed or due, whichever is later.

(c) **Returns filed after January 1, 2010 and before July 1, 2016**. For returns filed after January 1, 2010 and before July 1, 2016, a taxpayer will be entitled to interest paid at the same rate specified for delinquent tax payments if the refund is not paid to the taxpayer within the following time periods:

(1) For electronically-filed returns, twenty (20) days from the date a processible return is filed, and

(2) For all other returns, ninety (90) days from the date a processible return is filed.

(d) **Returns filed June 30, 2016 and before May 7, 2021**. For returns filed after June 30, 2016, a taxpayer will be entitled to interest paid at the same rate

specified for delinquent tax payments if the refund is not paid to the taxpayer within the following time periods:

(1) For electronically-filed returns, forty-five (45) days from the date a processible return is filed, and

(2) For all other returns, ninety (90) days from the date a processible return is filed.

(e) **Returns filed after May 6, 2021**. For returns filed after May 6, 2021, a taxpayer will be entitled to interest paid at the same rate specified for delinquent tax payments if the refund is not paid to the taxpayer within the following time periods:

(1) For electronically-filed returns, forty-five (45) days from the date a processible return is filed or due, whichever is later, and

(2) For all other returns, ninety (90) days from the date a processible return is filed or due, whichever is later.

(f) **Processible return**. To be "processible", all information on the return, including the computations, must be correct and all documents required by the Tax Commission must be included. In the case of an amended Oklahoma income tax return with a federal adjusted gross income change, the return must be accompanied by documentation to substantiate that the I.R.S. accepted the requested change. [**See:** 68 O.S. § 217(H)]

(g) **Exceptions.** Alternative statutory provisions apply in the following instances:

(1) Interest will not be paid on refunds that are intercepted for state or federal agencies. See provisions of Subchapter 11 of this Chapter. [**See:** 68 O.S. § 217(H)]

(2) In the event of litigation, interest will be paid in accordance with 68 O.S. §2374.

(3) In the case of refunds made to recover taxes illegally collected on bonus payments from oil and gas leases located on tax exempt Indian lands interest at six percent (6%) per annum will be calculated from the date of payment by the taxpayer, until the date the refund is issued. [**See:** 68 O.S. § 2373]

[**Source:** Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 16 Ok Reg 2646, eff 6-25-99, Amended at 22 Ok Reg 1536, eff 6-11-05; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 34 Ok Reg 81, eff 09-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-9-4. Refunds returned by postal service [REVOKED]

[**Source:** Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 18 Ok Reg 2810, eff 6-25-01; Revoked at 34 Ok Reg 2065, eff 9-11-17]

710:50-9-5. Distribution of refunds [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2811, eff 6-25-98]

710:50-9-6. Refunds less than $1.00

The Commission will not issue refund vouchers for income tax overpayments

of less than $1.00. The Commission likewise will not enforce the collection of a tax due of less than $1.00.

710:50-9-7. Refund vouchers void after 90 days

(a) Refunds issued for overpayment of income tax become void ninety (90) days after issuance. In the case of an income tax refund warrant which has not been presented for payment within the ninety (90) days, a reissue of the refund warrant may be requested from the Tax Commission. Such an income tax refund warrant may be reissued for a like amount up to three (3) years from the date of the issuance of the original warrant. [**See:** 68 O.S. § 2385.16]
(b) Refunds not claimed at the end of three years from the date of issuance will be turned over to the Unclaimed Property section of the State Treasurer's Office.

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01, Amended at 22 Ok Reg 1537, eff 6-11-05]

710:50-9-8. Reissued vouchers for deceased taxpayer refunds or lost, stolen or forged vouchers

(a) Income tax refunds which are issued in the name of a deceased taxpayer who is not represented by an executor or executrix may be returned to the Oklahoma Tax Commission for reissuance in the name of the claimant, upon a determination that the claimant is the proper recipient. OTC Form 507, along with a separate letter setting out the facts and signed by the claimant, must accompany any such claim.
(b) Claims for refunds that have been lost in the clearing process may be submitted to the State Treasurer's Office for reissue. Upon notification by the State Treasurer, the Tax Commission will reissue the voucher in the name of the taxpayer and forward to the holder in due course.
(c) Refund vouchers which have become lost, stolen or forged will be reissued by the Tax Commission after the taxpayer has properly executed an affidavit setting out the facts, and upon approval by the State Treasurer's office.

[**Source:** Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 26 Ok Reg 2330, eff 6-25-09]

710:50-9-9. Different spouse refunds [REVOKED]

[Revoked at 22 Ok Reg 1534, eff 6-11-05]

710:50-9-10. Checkoff program

(a) **Checkoff program.** The Oklahoma Income Tax Checkoff Program provides a taxpayer with the opportunity to make a financial gift to a variety of Oklahoma organizations from a tax refund due.
(b) **Expiration of a checkoff category.** All income tax checkoffs provided for in state statute shall expire four (4) years after enactment, unless reauthorized by the Legislature. [**See**: 68 O.S. § 2368.18]

[Added at 22 Ok Reg 1537, eff 6-11-05; Amended at 34 Ok Reg 2065, eff 9-11-17]

SUBCHAPTER 11. INTERCEPT OF REFUNDS

710:50-11-1. Refunds may be intercepted [REVOKED]

[**Source:** Revoked at 22 Ok Reg 1537, eff 6-11-05]

710:50-11-2. Notice to taxpayer [REVOKED]

[**Source:** Amended at 21 Ok Reg 2571, eff 6-25-04, Revoked at 22 Ok Reg 1537, eff 6-11-05]

710:50-11-3. Notice of protest [REVOKED]

[**Source:** Amended at 21 Ok Reg 2571, eff 6-25-04, Revoked at 22 Ok Reg 1537, eff 6-11-05]

710:50-11-4. Joint returns intercept [REVOKED]

[**Source:** Revoked at 22 Ok Reg 1537, eff 6-11-05]

710:50-11-4.1. Definition of a qualifying entity

For purposes of this subchapter, a qualifying entity shall mean a:

(1) State agency;

(2) Municipal court;

(3) District court;

(4) Public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes;

(5) District attorney seeking to collect unpaid court-ordered monetary obligations; or

(6) The designee of an entity described in paragraphs (1) through (5) of this subsection. [**See**: 68 O.S. §205.2(A)]

[**Source:** Added at 33 Ok Reg 1068, eff 8-25-16]

710:50-11-5. Refunds shall be intercepted

(a) Prior to payment of any refund, the Tax Commission shall deduct from any state refund due to a taxpayer the amount of delinquent state tax, penalty, and interest thereon, which the taxpayer owes pursuant to any state tax law. [**See:** 68 O.S. § 205.2(F)]

(b) Property tax relief payments (68 O.S. § 2906), sales tax relief payments (68 O.S. § 5011), and Parental Choice Tax Credit payments (70 O.S. § 28-101) are not subject to the provisions of this Subchapter.

[**Source:** Added at 22 Ok Reg 1537, eff 6-11-05; Amended at 42 Ok Reg 2126, eff 7-15-25]

710:50-11-6. Priority of claims; procedures

(a) The Tax Commission shall have first priority over all qualified entities when the Tax Commission is collecting a debt, court fines and costs, or final judgment. Subsequent to the Tax Commission priority, a claim filed by the Department of Human Services for the collection of child support and spousal support shall have priority over all other claims filed pursuant to this Subchapter. Priority in

multiple claims by other qualified entities pursuant to the provisions of this Section shall be in the order in which the Tax Commission receives the claim from the qualified entities required by (b) of this Section. [**See:** 68 O.S. § 205.2(G)]
(b) A qualified entity seeking to collect a debt, unpaid court fines and costs, or final judgment of at least Fifty Dollars ($50.00) from an individual who has filed a state income tax return may file a claim with the Tax Commission, requesting that the amount owed to the qualified entity be deducted from any state income tax refund due to that individual. The claim shall be filed electronically in a form prescribed by the Tax Commission and shall contain information necessary to identify the person owing the debt, including the full name and Social Security Number of the debtor. [**See:** 68 O.S. § 205.2(B)]
(c) Upon receiving a claim from a qualified entity, the Tax Commission shall deduct the claim amount, plus collection expenses as provided in OAC 710:50-11-11, from the tax refund due the debtor and transfer the amount to the qualified entity. Provided, the Tax Commission need not report available funds of less than Fifty Dollars ($50.00).
(d) The Tax Commission has established a central computerized record keeping system to implement the identification of such debtors and may, upon the proper establishment of a claim by a referring agency, intercept a taxpayer's Oklahoma Income Tax Refund and deliver over the proceeds to the referring agency to satisfy the debtor's or defendant's obligations.

[**Source:** Added at 22 Ok Reg 1538, eff 6-11-05; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16]; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-11-7. Notice to taxpayer

(a) The referring qualified entity to whom a debt is owed must notify the taxpayer/debtor of an income tax refund intercept.
(b) The qualified entity shall send notice to the debtor by regular mail at the last-known address of the debtor as shown by the records of the Tax Commission when seeking to collect a debt not reduced to final judgment. The qualified entity shall send notice to the judgment debtor or defendant by first class mail at the last-known address of the judgment debtor or defendant as shown by the records of the Tax Commission when seeking to collect a final judgment or unpaid court fines and costs. The Tax Commission shall provide in an agreed electronic format to the Department of Human Services the amount withheld by the Tax Commission, the home address and the Social Security number of the taxpayer. The notice shall state:

(1) That a claim has been filed with the Tax Commission for any portion of the tax refund due to the debtor or defendant which would satisfy the debt, unpaid court fines and costs, or final judgment in full or in part;
(2) The basis for the claim;
(3) That the Tax Commission has deducted an amount from the refund and remitted it to the qualified entity;

(4) That the debtor or defendant has the right to contest the claim by sending a written request to the qualified entity for a hearing to protest the claim and if the debtor or defendant fails to apply for a hearing within sixty (60) days of the date of mailing of the notice, the debtor or defendant shall be deemed to have waived the opportunity to contest the claim. If the claim was filed by the Department of Human Services, the notice shall state that the debtor must contest the claim by sending a written request to the Department within thirty (30) days after the date of mailing of the notice; and,

(5) That a collection expense of five percent (5%) of the gross proceeds owed to the qualified entity has been charged to the debtor or defendant and withheld from the refund.

(c) If the qualified entity determines that a refund is due the taxpayer, the qualified entity shall reimburse the amount claimed plus the five percent (5%) collection expense to the taxpayer. The qualified entity may request reimbursement of the two percent (2%) collection expense retained by the Tax Commission. The request shall be made within ninety (90) days of the reimbursement to the taxpayer. If timely requested, the Tax Commission will make reimbursement to the qualified entity within ninety (90) days of the request.

[**Source:** Added at 22 Ok Reg 1538, eff 6-11-05; Amended at Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-11-8. Post intercept notice [REVOKED]

[**Source:** Added at 22 Ok Reg 1538, eff 6-11-05; Revoked at 28 Ok Reg 935, eff 6-1-11]

710:50-11-9. Joint returns intercept

(a) The Tax Commission will intercept a refund from a joint income tax return to offset a past due obligation if either spouse is legally responsible for the past due obligation.

(b) In the case of a joint return, the notice shall state:

(1) The name of the taxpayer named in the return, against whom no debt, no unpaid court fines and costs, or final judgment is claimed;

(2) The fact that a debt, unpaid court fines and costs, or final judgment is not claimed against the taxpayer;

(3) The fact that the taxpayer is entitled to receive a refund if it is due, regardless of the debt, court fines and costs, or final judgment asserted against debtor or defendant; and,

(4) That in order to obtain the refund due, the taxpayer must apply, in writing, for a hearing with the qualified entity named in the notice within sixty (60) days after the date of the mailing of the notice. If the claim was filed by the Department of Human Services, the notice shall state that the taxpayer must apply, in writing, for a hearing with the Department within thirty (30) days after the date of the mailing of the notice. Tax Commission Form 505 can

only be used to claim the refund when the Tax Commission is the agency claiming that a debt is owed.

(c) If the taxpayer against whom no debt, no unpaid court fines and costs, or final judgment is claimed fails to apply in writing for a hearing within sixty (60) days after the mailing of the notice, the taxpayer shall have waived his or her right to a refund. If the claim was filed by the Department of Human Services, the notice must state that if the taxpayer fails to apply in writing for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, the taxpayer shall have waived his or her right to a refund. [**See:** 68 O.S. § 205.2(B)(4)]

[**Source:** Added at 22 Ok Reg 1538, eff 6-11-05; Amended at Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-11-10. Nondebtor spouse protest

If the qualified entity asserting the claim receives a written request for hearing from the debtor or taxpayer against whom no debt, no court fines and costs, or final judgment is claimed, the qualified entity shall grant a hearing according to the provisions of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes. It shall be determined at the hearing whether the claimed sum is correct or whether an adjustment to the claim shall be made. Pending final determination at the hearing of the validity of the debt, unpaid court fines and costs, or final judgment asserted by the qualified entity, no action shall be taken in furtherance of the collection of the debt, unpaid court fines and costs, or final judgment. Appeals from actions taken at the hearing shall be in accordance with the provisions of the Administrative Procedures Act. [**See:** 68 O.S. § 205.2(C)]

[**Source:** Added at 22 Ok Reg 1538, eff 6-11-05; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-11-11. Notification after final determination at hearing

(a) Upon final determination at a hearing, as provided for in 710:50-11-10, of the amount of the debt, unpaid court fines and costs, or final judgment, or upon failure of the debtor or taxpayer against whom no debt, no unpaid court fines and costs, or final judgment is claimed to request such a hearing, the qualified entity shall apply the amount of the claim to the debt owed. Any amounts held by the qualified entity in excess of the final determination of the debt and collection expense must be refunded by the qualified entity to the taxpayer. However, if the tax refund due is inadequate to pay the collection expense and debt, unpaid court fines and costs, or final judgment, the balance due the qualified entity shall be a continuing debt or final judgment until paid in full.

(b) Upon receipt of a claim as provided in OAC 710:50-11-6 the Tax Commission shall:

(1) Deduct from the refund five percent (5%) of the gross proceeds owed to the qualified entity and distribute it by retaining two percent (2%) and

transferring three percent (3%) to the qualified entity as an expense of collection. The two percent (2%) retained by the Tax Commission shall be deposited in the Tax Commission Fund;
(2) Transfer the amount of the claimed debt, unpaid court fines and costs, or final judgment or so much thereof as is available to the qualified entity;
(3) Notify the debtor in writing as to how the refund was applied; and,
(4) Refund to the debtor any balance remaining after deducting the collection expense and debt, unpaid court fines and costs, or final judgment. [**See:** 68 O.S. § 205.2(D) and (E)]

[**Source:** Added at 22 Ok Reg 1539, eff 6-11-05; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-11-12. Debts owed to the Internal Revenue Service

The Tax Commission may employ the procedures provided by Section 205.2 of Title 68 in order to collect a debt owed to the Internal Revenue Service. [**See:** 68 O.S. § 205.2(J)]

[**Source:** Added at 22 Ok Reg 1539, eff 6-11-05]

SUBCHAPTER 12. TREASURY OFFSET PROGRAM

710:50-12-1. Purpose

The provisions in this Subchapter have been promulgated to implement and administer, in conjunction with the Internal Revenue Service, the Treasury Offset Program, "TOP" authorized by 26 U.S.C. § 6402(e) and 31 C.F.R. § 285.8.

[**Source:** Added at 22 Ok Reg 1539, eff 6-11-05]

710:50-12-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Debt" means past-due, legally enforceable State income tax obligation unless other indicated.

"Debtor" means a person who owes a state income tax obligation.

"IRS" means the Internal Revenue Service, a bureau of the U.S. Department of the Treasury.

"Past-due, legally enforceable State income tax obligation" means a debt which resulted from:

(A) A judgment rendered by a court of competent jurisdiction, which has determined an amount of State income tax to be due;

(B) A determination after an administrative hearing which has determined an amount of state income tax to be due and which is no longer subject to judicial review; or,

(C) A State income tax assessment (including a self-assessment) which has become final in accordance with State law but not collected, and which has

not been delinquent for more than 10 years.

"Tax refund offset" means withholding or reducing a tax refund overpayment by an amount necessary to satisfy a debt owed by the payee(s).

"Tax refund payment" means any overpayment of Federal taxes to be refunded to the person making the overpayment after the IRS makes the appropriate credits for any liabilities for any Federal tax on the part of the person who made the overpayment.

[**Source:** Added at 22 Ok Reg 1539, eff 6-11-05]

710:50-12-3. Address on federal tax return

TOP will only offset a tax refund payment if the address shown on the Federal tax return for the taxable year of the overpayment is an address within the State seeking the offset.

[**Source:** Added at 22 Ok Reg 1539, eff 6-11-05]

710:50-12-4. Advance notification to debtor

(a) The State is required to provide a written notification to the debtor by certified mail, return receipt requested, informing the debtor that the State intends to refer the debt for collection by tax refund offset. The notice must also give the debtor at least 60 days to present evidence, in accordance with procedures established by the State, that all or part of the debt is not past-due or not legally enforceable.

(b) The State must, in accordance with procedures established by the State, consider any evidence presented by a debtor in response to the notice described in (a) of this Section and determine whether an amount of such debt is past-due and legally enforceable.

(c) Prior to submitting a debt to TOP for collection by tax refund offset, the State must make reasonable efforts to collect the debt. Reasonable efforts include making written demand on the debtor for payment and complying with any other prerequisites to offset established by the State.

[**Source:** Added at 22 Ok Reg 1539, eff 6-11-05]

710:50-12-5. Post-offset notice

(a) When an offset occurs, TOP shall notify the debtor in writing of the following:

(1) The amount and date of the offset and that the purpose of the offset was to satisfy a past-due, legally enforceable State income tax obligation;

(2) The State to which this amount has been paid or credited; and,

(3) A contact point within the State that will handle concerns or questions regarding the offset.

(b) The notice shall also advise any non-debtor spouse who may have filed a joint return with the debtor of the steps which the non-debtor spouse may take in order to secure his or her proper share of the tax refund.

[**Source:** Added at 22 Ok Reg 1540, eff 6-11-05]

710:50-12-6. Offsets on joint returns

If the person filing a joint return with a debtor who owes a past-due, legally enforceable State income tax obligation takes appropriate action to secure his or her proper share of a tax refund from which an offset was made, the IRS will pay the person his or her share of the refund and request that TOP deduct that amount from future amounts payable to the State or that TOP otherwise obtain the funds back from the State. TOP, or the appropriate State, will adjust their debtor records accordingly.

[**Source:** Added at 22 Ok Reg 1540, eff 6-11-05]

710:50-12-7. Fees paid to TOP

The State will pay a fee to TOP to cover the full cost of offsets taken. The fee will be established annually in such amount as TOP determines to be sufficient to reimburse TOP for the full cost of the offset procedure. TOP will deduct the fees from amount collected prior to disposition and transmit a portion of the fees deducted to reimburse the IRS for its share of the cost of administering TOP.
[**Source:** Added at 22 Ok Reg 1540, eff 6-11-05]

SUBCHAPTER 13. ESTIMATED TAX

710:50-13-1. Estimated tax

Taxpayers, resident and non-resident, who have income subject to Oklahoma Income Tax and tax is not withheld on that income, must report and pay Estimated Oklahoma Income Tax.

710:50-13-2. Payment of estimated tax [REVOKED]

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01; Revoked at 32 Ok Reg 1354, eff 8-27-15]

710:50-13-3. Who must make payments of estimated tax; due dates

(a) Payment of estimated income tax must be made by the following:
(1) A single individual whose tax liability for the year is estimated to be $500.00 or more in excess of taxes withheld from wages.
(2) Married individuals whose combined tax liability for the year is estimated to be $500.00 or more in excess of taxes withheld from wages.
(3) A corporation or trust whose tax liability for the year is estimated to be $500.00 or more.

(b) Initial payments of estimated tax should be made by:
(1) Calendar-year taxpayers, no later than April 15th.
(2) Fiscal-year taxpayers, by the fifteenth day of the fourth month following the beginning of the taxable year. [**See:** 68 O.S. § 2385.7]

[**Source:** Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-13-4. Joint declaration of estimated tax [REVOKED]

[**Source:** Revoked at 18 Ok Reg 2810, eff 6-25-01]

710:50-13-5. Estates and farmers; estimated tax not required; farm income described

(a) Estates and farmers are not required to file an Estimated Tax Declaration. A "farmer" is an individual whose Farm Income for the taxable year is at least 2/3 of the individual's gross income for the taxable year. [**See:** 68 O.S. §2385.7]

(b) If an individual qualified as a "farmer," pursuant to the definition set out in subsection (a) for the previous taxable year, that individual shall not be required to qualify for the current taxable year. In no event, however, shall the qualification for the previous taxable year be carried forward for more than one (1) year.

(c) Farm Income includes income received from cultivating the soil or raising or harvesting any agricultural commodity. This includes the income from the operation of a stock, dairy, poultry, fish, bee, fruit or truck farm, plantation, ranch or orchard.

(d) Farm Income does not include gain from sales or income from the lease of farm land and depreciable farm equipment; income received for custom machine work; or oil and gas income. Wages received as an employee of a farm will not be considered "farm income." This includes wages received from a farm corporation even if the taxpayer is a stockholder in the corporation.

(e) Persons qualifying for farm exception shall file OTC Form 511 and include a copy of their Federal Income Tax Return.

[**Source:** Amended at 15 Ok Reg 2811, eff 6-25-98]

710:50-13-6. Payment of estimated tax

(a) OTC Form OW-8-ES (individual) and OTC Form OW-8-ESC (corporations, fiduciaries and partnerships) should be used to report and pay estimated Oklahoma Income Tax. Print or type taxpayer's name, Social Security Number or Federal I.D. Number, address and the amount of the payment on each voucher

(b) Oklahoma Estimated Income Tax is to be paid on or before the following dates: April 15 of the current taxable year, June 15 of the current taxable year, September 15 of the current taxable year, and January 15 of the following taxable year. Fiscal year filers will pay Oklahoma Estimated Income Tax on or before the following dates: the 15th day of the fourth month of the fiscal year, the 15th day of the sixth month of the fiscal year, the 15th day of the ninth month of the fiscal year, and the 15th day of the first month in the succeeding fiscal year. The estimated tax is to be applied to the applicable tax year's Oklahoma Income Tax liability, and may be claimed on the applicable tax year's Oklahoma Income Tax Return.

(c) Refunds will be applied, at the taxpayer's request, to Oklahoma Estimated Income Tax for the following year, on the original return only.

(d) If a taxpayer elects to have an overpayment credited to the following year's Oklahoma Estimated Income Tax in error, the taxpayer may request, in writing,

any or all of the estimated tax payment be refunded to the taxpayer. The request must be filed no later than October 15 of the year in which the refund was to be applied. For example, if a 2015 refund was applied to 2016 estimated tax, the written request for a refund of the estimated tax payment must be received by October 15, 2016.
(e) Provided, however, that when a refund is applied, at the Taxpayer's request, to the following year's Oklahoma Estimated Income Tax and either the Tax Commission or the Internal Revenue Service subsequently determines that additional tax is due for the original tax year, no delinquent interest shall be due on the difference between the original tax paid and the subsequently-determined amount of tax, so long as the refund applied exceeds the additional tax due and the taxpayer makes payment of the additional tax within sixty (60) days of the notice of assessment. In the event that the additional tax due exceeds the refund applied, delinquent interest shall be assessed on the amount of additional tax due from the date the original tax was due, until the total additional tax is paid.
(f) All estimated tax payments should be paid under the Social Security Number listed first on the Oklahoma Income Tax Return.

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 21 Ok Reg 2571, eff 6-25-04; Amended at 32 Ok Reg 1354, eff 8-27-15; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-13-7. "Required annual payment" of estimated tax defined

(a) "Required annual payment", as used in this Section, means the lesser of:
(1) Seventy percent (70%) of the tax shown on the return for the taxable year; or
(2) One Hundred percent (100%) of the tax shown on the return for the preceding taxable year of twelve (12) months.
(b) Where income has not been earned evenly throughout the year, the required annual payment of estimated tax may also be computed pursuant to the provisions of 710:50-13-9, 68 O.S. § 2385.9(C), and applicable sections of the Internal Revenue Code.
(c) Interest is levied at 20% per annum, computed per quarter, on any underpayment of the required annual payment of estimated tax.

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-13-8. Interest on underpayment of estimated tax; exceptions

(a) Interest is levied at 20% per annum, for the period of underpayment, on any underpayment of the "required annual payment" of estimated tax, as that term is defined by 68 O.S. § 2385.9(B) and 710:50-13-7.
(b) The amount of the underpayment equals the excess of the required installment over the amount paid on or before the due date of the installment. The period of underpayment runs from the due date of the required installment to the earlier of the fifteenth day of the fourth month, or for corporations, thirty days after the due date for returns established under the Internal Revenue Code, following the close of the taxable year or the date on which the required

installment is paid.

(c) Provided, however, no interest will be added to the tax if:

(1) The tax shown on the return for the taxable year is less than One Thousand Dollars ($1,000.00); or

(2) The taxpayer was an Oklahoma resident throughout the preceding taxable year of twelve (12) months and did not have any liability for tax for the preceding taxable year.

(d) OTC Form OW-8-P is a schedule provided for calculating interest for underestimating and also provides for an exception for fluctuations of income throughout the year.

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-13-9. Estimated tax using annualized income method

(a) Corporate taxpayers whose Oklahoma Taxable Income was not earned evenly throughout the year may use the annualized method as described in this Section, or in the case of individual taxpayers, in accordance with the provisions of the Internal Revenue Code.

(b) The interest for the underpayment of estimated tax is not applicable if the estimated tax paid at the respective installment dates is at least an amount equal to seventy percent (70%) of the tax for the taxable year, computed by placing, on an annualized basis, the Oklahoma taxable income:

(1) For the first three months of the taxable year in the case of the installment due on the 15th day of the fourth month;

(2) For the first three months of the taxable year in the case of the installment due on the 15th day of the sixth month;

(3) For the first six months of the taxable year in the case of the installment due on the 15th day of the ninth month; and

(4) For the first nine months of the taxable year in the case of the installment due on the 15th day of the first month of the succeeding taxable year.

(c) To annualize income, multiply the Oklahoma Taxable Income for the applicable period by 12 and divide by the number of months in the applicable period.

[**Source:** Added at 14 Ok Reg 390, eff 11-27-96 (emergency); Added at 14 Ok Reg 2699, eff 6-26-97; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 28 Ok Reg 935, eff 6-1-11]

710:50-13-10. The return for the taxable year

If an individual taxpayer files an amended return after filing the original return and before the due date for filing the original return, including any extensions, the amended return constitutes "the return for the taxable year" pursuant to 68 O.S. § 2385.13. The amount shown on the amended return is used to determine the amount of underpayment. If the amended return is filed after the due date it is not "the return for the taxable year" for purposes of Section 2385.13. In that case, the tax shown on the amended return will not be used to compute the

amount of underpayment.

[**Source:** Added at 22 Ok Reg 1540, eff 6-11-05]

SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME
PART 1. GENERAL PROVISIONS

710:50-15-1. Oklahoma taxable income

Certain exemptions, deductions and adjustments must be made to Federal taxable income to arrive at Oklahoma taxable income.

710:50-15-2. Application of the Oklahoma Individual Income Tax to Native Americans

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Indian Country"** means and includes formal and informal reservations, dependent Indian communities, and Indian allotments, the Indian titles to which have not been extinguished, whether restricted or held in trust by the United States. [**See:** 18 U.S.C. § 1151]

(2) **"Informal reservations"** means and includes lands held in trust for a tribe by the United States and those portions of a tribe's original reservation which were neither allotted to individual Indians, nor ceded to the United States as surplus land, but were retained by the tribe for use as tribal lands.

(3) **"Dependent Indian communities"** means and refers to a limited category of Indian lands that are neither reservations nor allotments, and that satisfy the following two requirements:

(A) They have been set aside by the federal government for the use of the Indians as Indian land; and,

(B) They are under federal superintendence.

(b) **Instances in which income is exempt.** The income of an enrolled member of a federally recognized Indian tribe shall be exempt from Oklahoma individual income tax when:

(1) The member is living within "Indian Country" under the jurisdiction of the tribe to which the member belongs; and, the income is earned from sources within "Indian Country" under the jurisdiction of the tribe to which the member belongs; or,

(2) The income is compensation paid to an active member of the Armed Forces of the United States, if the member was residing within his tribe's "Indian Country" at the time of entering the Armed Forces of the United States, and the member has not elected to abandon such residence.

(c) **Instances in which income is not exempt.** The income of an enrolled member of a federally recognized Indian tribe shall not be exempt from Oklahoma individual income tax when:

(1) The income is derived from sources outside of "Indian Country", regardless of the taxpayer's residence.

(2) The member resides in Oklahoma, but not within "Indian Country",

regardless of the source of the income.

(3) Either the source of the income or the place of residence is under the jurisdiction of a tribe of which the taxpayer is not a member.

(4) The member claims residence within "Indian Country" primarily by virtue of various Indian health, social, educational, welfare and financial programs. Even though administered by the Tribe within its own service area, these are merely forms of general federal aid, and are not sufficient to support a finding of "Indian Country" for purposes of this Section.

(5) The member claims residence on unrestricted, non-trust property, owned by an Indian Housing Authority. Such property does not fall within the definition of "Indian Country," nor does residence thereon constitute residence within a dependent Indian community.

(d) **Part-time residency.** If an enrolled member of a federally recognized Indian tribe resides within "Indian Country" for a portion of the year, and resides outside "Indian Country" for a portion of the year, such enrolled member shall be taxed based upon where such enrolled member resided when the income in question was earned.

[**Source:** Added at 20 Ok Reg 2811, eff 6-26-03 (emergency); Added at 21 Ok Reg 2571, eff 6-25-04]

PART 3. EXEMPTIONS

710:50-15-30. Additional exemption for 65 or older

(a) There shall be allowed an additional exemption on the Oklahoma Income Tax Return of One Thousand Dollars ($1,000.00) for each taxpayer or spouse who is sixty-five (65) years of age or older at the close of the tax year, based upon the filing status and federal adjusted gross income of the taxpayer. Taxpayers with the following status may claim this exemption if the federal adjusted gross income does not exceed:

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

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

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

(4) Nineteen Thousand Dollars ($19,000.00) if a qualifying head of household. [**See:** 68 O.S. § 2358(E)]

(b) For taxable years beginning after December 31, 1999, amounts included in the calculation of federal adjusted gross income pursuant to the conversion of a traditional Individual Retirement Account to a Roth Individual Retirement Account shall be excluded from federal adjusted gross income for purposes of the income thresholds set out in paragraphs (a)(1) through (a)(4) of this Section.

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-31. Additional exemption for blind

A qualified blind taxpayer shall be allowed an additional exemption on the Oklahoma income tax return. [**See:** 68 O.S. § 2358(E)(1)(b)]

710:50-15-32. Small business incubators incentive

(a) **General provisions.** Certain exemptions for the levy of Oklahoma income tax may be allowed for income earned by qualifying sponsors and tenants pursuant to the provisions of the Small Business Incubators Incentive Act (74 O.S. §5071 et seq.)

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Act"** means the Small Business Incubators Incentives Act (74 O.S. §5071 et seq.).

(2) **"Arm's-length basis"** means that standard under which unrelated parties, each acting in his or her own best interest, would carry out a particular transaction.

(c) **Exemption for sponsors.** For tax years ending before January 1, 2020, income earned by a sponsor from rental fees, service fees or any other form of payment for services provided to a tenant as an operator of an incubator, or for providing funding for such a facility, shall be exempt from state income tax for a period not to exceed ten (10) years from the date of the tenant's occupancy in an incubator. Procedures applicable to sponsors under the Act are as follows:

(1) An approved copy of the Small Business Incubator Incentives Program application must be submitted with the Oklahoma Income Tax Return when it is filed with the Oklahoma Tax Commission.

(2) The amount of exemption will be limited to the net income. If the sponsor is involved in other operations, allocations of overhead applicable to the income must be made on an arm's-length basis.

(3) An audit may be made to verify the income received and expenses relating to the business.

(4) An allowable Oklahoma NOL carryback or carryover shall not include any income or loss attributable to this Section.

(5) Income exempt from income tax is limited to that listed in the Act.

(d) **Exemption for tenants.** Procedures applicable to tenants under the Act are as follows:

(1) The amount of exemption will be limited to the net income. If the tenant is involved in other operations, allocations of overhead applicable to the income must be made on an arm's-length basis.

(2) An audit may be made to verify the income received and expenses relating to the business. If the tenant is organized as either a Subchapter S Corporation or a partnership, the exemption may flow through to the shareholder or partner, as applicable.

(3) An allowable Oklahoma NOL carryback or carryover shall not include any income or loss attributable to this Section which is the result of such operation. [**See:** 74 O.S. §§5075(B), 5078(B)]

(4) The period of income exemption for income earned as a result of activities conducted as an occupant, for tenants of incubators is ten (10) years from the date of occupancy in the incubator. The tenant is not required to be an

occupant of the incubator for the full ten (10) years to receive the exemption, however, the exemption period cannot exceed a total of ten (10) years for any tenant.

(5) For tax years ending before January 1, 2020, the exemption is applicable in years six (6) through ten (10) only if the tenant makes at least seventy-five percent (75%) of its gross sales to buyers located outside of Oklahoma, to buyers whose principal business activity is located outside of Oklahoma, to the federal government, or to buyers in this state if the product or service is resold to an out-of-state customer or buyer for ultimate use. In years six (6) through ten (10), failure of a tenant to achieve the qualifying percentage for the exemption in any single year will not result in disqualification for subsequent years. [**See:** 74 O.S. § 5078]

[**Source:** Added at 10 Ok Reg 3837, eff 7-12-93; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 20 Ok Reg 2165, eff 6-26-03; Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-15-33. Exemption for employers participating in the Oklahoma Department of Labor Safety Pays Consultation Services

There is an annual deduction of One Thousand Dollars ($1,000.00) for employers who participate in the Oklahoma Department of Labor's Safety Pays Consultation Service effective for tax year 2006. Employers may claim the exemption of One Thousand Dollars ($1,000.00) on the appropriate Oklahoma income tax return. Employers must be able to substantiate their participation in the Oklahoma Department of Labor's Safety Pays Consultation Service upon request of the Oklahoma Tax Commission.

[**Source:** Added at 23 Ok Reg 2825, eff 6-25-06]

710:50-15-34. Exemption for death benefits of Emergency Medical Technicians

In taxable years beginning after December 31, 2008, death benefits received as a result of the death of an Emergency Medical Technician are exempt from Oklahoma income tax.

[**Source:** Added at 26 Ok Reg 2330, eff 6-25-09]

710:50-15-35. Exemption for deceased members and spouses of the Armed Forces

(a) Any payment made by the United States Department of Defense as a result of the death of a member of the Armed Forces of the United States who has been killed in action in a United States Department of Defense designated combat zone shall be exempt from Oklahoma income tax during the taxable year in which the individual is declared deceased by the Armed Forces.

(b) Any income earned by the spouse of a member of the Armed Forces of the United States who has been killed in action in a United States Department of Defense designated combat zone shall be exempt from Oklahoma income tax

during the taxable year in which the individual is declared deceased by the Armed Forces.
(c) In any case where income tax has been paid upon any income exempt pursuant to this Section, the tax paid shall be refunded to the person or personal representative of the person.

[**Source:** Added at 27 Ok Reg 2281, eff 7-11-10]

710:50-15-36. Parental Choice Tax Credit payments

Parental Choice Tax Credit payments included in a taxpayer's federal taxable income for tax year 2024 and subsequent tax years are exempt from Oklahoma taxable income. (70 O.S. § 28-101).

[**Source:** Added at 42 Ok Reg 303, eff 10-10-24 (emergency); Amended at 42 Ok Reg 2126, eff 7-15-25; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

PART 5. OTHER ADJUSTMENTS TO INCOME

710:50-15-47. Oklahoma military pay deduction

(a) For tax years beginning before January 1, 2010, individual taxpayers can subtract from Oklahoma adjusted gross income the first One Thousand Five Hundred Dollars ($1,500.00) of salary or compensation earned as a member of any component of the Armed Forces of the United States.
(b) For salary or compensation earned on or after January 1, 2010 and before July 1, 2010 individual taxpayers can subtract from Oklahoma adjusted gross income the first One Thousand Five Hundred Dollars ($1,500.00) of salary or compensation earned as a member of any component of the Armed Forces of the United States.
(c) For salary or compensation earned on or after July 1, 2010 individual taxpayers can subtract from Oklahoma adjusted gross income all salary or compensation earned as a member of any component of the Armed Forces of the United States.
(d) Salary or compensation under this Section does not include retirement benefits.

[**Source**: Added at 27 Ok Reg 2281, eff 7-11-10]

710:50-15-48. Oklahoma source capital gain deduction

(a) **General provisions.** For tax years beginning on or after January 1, 2005, individual taxpayers can subtract from the Oklahoma adjusted gross income, gains reported on their Oklahoma income tax return and included in federal taxable income receiving capital treatment. The gain must be realized on or after January 1, 2005, in order to be eligible for the Oklahoma exclusion. Effective for tax years beginning on or after January 1, 2006 corporate taxpayers can subtract from the Oklahoma taxable income, gains reported on their Oklahoma income tax return and included in federal taxable income

receiving capital treatment. For corporate taxpayers the gain must be realized on or after January 1, 2006 in order to be eligible for the Oklahoma exclusion.

(b) **Qualifying gains receiving capital treatment.** As used in this Section, "qualifying gains receiving capital treatment" means the amount of net capital gains, as defined under Internal Revenue Code Section 1222(11), [IRC §1222(11)]. The gain must be included in the federal income tax return of the taxpayer.

(1) **Sale of real or tangible personal property.** To qualify for the Oklahoma deduction, the gain must be earned as a result of the sale of real or tangible personal property located within Oklahoma. Taxpayers must have held the asset for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain.

(2) **Sale of stock or ownership interest**. To qualify for the Oklahoma deduction, the gain must be earned as a result of the sale of stock or ownership interest in an Oklahoma company, limited liability company, or partnership and the stock or ownership interest must have been held by the taxpayer for at least three (3) uninterrupted years prior to the date of the transaction that created the capital gain. For tax year 2006 and subsequent tax years, the stock or ownership interest must have been held by the individual taxpayer for at least two (2) uninterrupted years prior to the date of the transaction that created the capital gain. Non individual taxpayer's stock or ownership interest must have been held for at least three (3) uninterrupted years prior to the date of the transaction that created the capital gain.

(3) **Sale of real or tangible personal property by pass-through entities.** Net capital gains earned by member, partner, or shareholder of a pass-through entity as a result of the sale of real or tangible personal property located within Oklahoma, and included in the a taxpayer's federal taxable income is excludable, provided that the taxpayer has been a member of the pass-through entity for an uninterrupted period of five (5) years and that the pass-through entity has held the asset for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain.

(4) **Sale of stock or ownership interests by pass-through entities.** Net capital gains earned by a member, partner, or shareholder of a pass-through entity as a result of the sale of stock or an ownership interest in an Oklahoma company, limited liability company, or partnership, is excludable, provided that the taxpayer has been a member of the pass-through entity for an uninterrupted period of three (3) years and that the pass-through entity has held the asset for not less than three (3) uninterrupted years prior to the date of the transaction that created the capital gain. For tax year 2006 and subsequent tax years, the stock or ownership interest must have been held by the individual taxpayer for at least two (2) uninterrupted years prior to the date of the transaction that created the capital gain. Non individual taxpayer's stock or ownership interest must have been held for at least three (3) uninterrupted years prior to the date of the transaction that

created the capital gain.

(5) **Installment sales.** Qualifying gains included in an individual taxpayer's federal taxable income for years after December 31, 2004, or a corporate taxpayer's federal taxable income for years after December 31, 2005, which are derived from installment sales are eligible for exclusion, provided the appropriate holding periods are met.

(c) **"Oklahoma company"**, **"limited liability company"**, **"partnership".** An Oklahoma company, limited liability company, or partnership is one whose primary headquarters has been located in Oklahoma for at least three (3) years prior to the capital gain transaction. The Oklahoma company, limited liability company, or partnership must meet the three (3) year rule for an uninterrupted period.

[**Source**: Added at 22 Ok Reg 1540, eff 6-11-05; Amended at 23 Ok Reg 2825, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07]

710:50-15-49. Deduction for retirement income

(a) **General provisions applicable to Oklahoma or federal government retirement income.** Each individual taxpayer may deduct up to Ten Thousand Dollars ($10,000.00) of retirement benefits paid by the State of Oklahoma or by the federal government. This deduction cannot exceed the amount included in the taxpayer's federal adjusted gross income. The total exclusion from all government retirement benefit plans may not exceed Ten Thousand Dollars ($10,000.00) per individual.

(b) **Qualifying Oklahoma or federal government retirement income defined.** For purposes of this Section, "Oklahoma or federal government retirement income" means retirement income received from the following sources:

(1) The Civil Service of the United States;

(2) Any Component of the Armed Forces of the United States; [See special rule (g)]

(3) The Oklahoma Public Employees' Retirement System;

(4) The Oklahoma Teachers' Retirement System;

(5) Oklahoma Law Enforcement Retirement System;

(6) Oklahoma Firefighters' Pension and Retirement System;

(7) Oklahoma Police Pension and Retirement System;

(8) The Employee retirement systems created by counties pursuant to 19 O.S. §§951 et seq.

(9) The Uniform Retirement System for Justices and Judges;

(10) The Oklahoma Wildlife Conservation Department Retirement Fund;

(11) The Oklahoma Employment Security Commission Retirement Plan; or,

(12) The Employee retirement systems created by municipalities pursuant to 11 O.S. §§ 48-101 et seq.

(c) **Disability income; state and federal government retirees.** Disability retirement benefits received by an individual from sources listed in subsection (b) shall qualify for the retirement income deduction, without regard to the recipient's age.

(d) **General provisions for other retirement income.** Each individual taxpayer may deduct up to Ten Thousand Dollars ($10,000.00) of other retirement benefits received and included in federal adjusted gross income. This deduction cannot exceed the amount included in the taxpayer's federal adjusted gross income. The total exclusion from all retirement benefit plans may not exceed Ten Thousand Dollars ($10,000.00) per individual.

(e) **"Qualifying other retirement income" defined.** For purposes of this Section "other retirement income" must be received from the following and satisfy the requirements of the Internal Revenue Code (IRC):

(1) An employee pension benefit plan under IRC Section 401;

(2) An eligible deferred compensation plan under IRC Section 457;

(3) An individual retirement account, annuity, or trust or simplified employee pension under IRC Section 408;

(4) An employee annuity under IRC Section 86; or,

(5) Lump-sum distributions from a retirement plan under IRC Section 402(e).

(f) **Disability income; private sector retirees.** Disability retirement benefits received by an individual shall qualify for the retirement income deduction, without regard to the recipient's age.

(g) **Special rule for certain retirement income from a component of the Armed Forces of the United States.** Effective for tax year 2006, the deduction for retirement income from any component of the Armed Forces of the United States is the greater of Ten Thousand Dollars ($10,000.00) or fifty percent (50%) of the amount included in the taxpayer's federal adjusted gross income. Effective for tax year 2007 and subsequent tax years, the deduction for retirement income from any component of the Armed Forces of the United States is the greater of Ten Thousand Dollars ($10,000.00) or seventy-five percent (75%) of the amount included in the taxpayer's federal adjusted gross income. For tax year 2022 and subsequent tax years, retirement benefits received by an individual from any component of the Armed Forces of the United States shall be exempt from taxable income.

(h) **Special rule for Federal civil service retirement income.** Beginning with tax year 2011, retirement benefits received by federal civil service retirees, including survivor annuities paid in lieu of Social Security benefits, are allowed to be excluded from Oklahoma taxable income to the extent such benefits are included in the taxpayer's federal adjusted gross income, pursuant to the provisions of Section 86 of the Internal Revenue Code.

[**Source:** Added at 20 Ok Reg 20, eff 10-8-02 (emergency); Added at 20 Ok Reg 2165, eff 6-26-03, Amended at 22 Ok Reg 1541, eff 6-11-05; Amended at 23 Ok Reg 2825, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 40 Ok Reg 1265, eff 8-11-23]

710:50-15-50. Deductions

(a) In the event federal itemized deductions are used on the federal return, federal itemized deductions must be used on the Oklahoma return. Oklahoma itemized deductions to income will be the same as federal itemized deductions, subject to the limitations in (i) of this Section. In the event the

standard deduction is used on the federal return, the Oklahoma standard deduction must be used on the Oklahoma return.
(b) For tax year 2005 and prior, the standard deduction for Oklahoma is the larger of $1,000.00 or 15% of Oklahoma Adjusted Gross Income not to exceed $2,000.00 (if married filing separately, the larger of $500.00 or 15% not to exceed $1,000.00).
(c) For tax year 2006, taxpayers filing as married joint, head of household or surviving spouse will have a standard deduction for Oklahoma of $3,000.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of $2,000.00.
(d) For tax year 2007, taxpayers filing as married joint or surviving spouse will have a standard deduction for Oklahoma of $5,500.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of $2,750.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of $4,125.00.
(e) For tax year 2008, taxpayers filing as married joint, or surviving spouse will have a standard deduction for Oklahoma of $6,500.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of $3,250.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of $4,875.00.
(f) For tax year 2009, taxpayers filing as married joint, or surviving spouse will have a standard deduction for Oklahoma of $8,500.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of $4,250.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of $6,375.00.
(g) For tax year 2010 through tax year 2016, taxpayers will have a standard deduction for Oklahoma equal to the standard deduction allowed by the Internal Revenue Code of 1986 based upon the amount and filing status prescribed by the Code for purposes of filing federal individual income tax returns.
(h) For tax year 2017 and subsequent tax years, taxpayers filing as married joint or qualifying widow will have a standard deduction for Oklahoma of $12,700.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of $6,350.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of $9,350.00.
(i) Oklahoma itemized deductions to income will be the same as federal itemized deductions, subject to the following limitations:

(1) For tax year 2016 and subsequent tax years, taxpayers shall add back state and local sales or income taxes which were allowed as an itemized deduction on the federal income tax return.

(2) For tax year 2017 and subsequent tax years, state and local sales or income taxes which were not allowed as an Oklahoma itemized deduction but were required to be recaptured on the federal income tax return will not be included in Oklahoma taxable income.

(3) For tax year 2018 and subsequent tax years, Oklahoma itemized

deductions may not exceed $17,000.00 provided charitable contributions and medical expenses deductible for federal income tax purposes are excluded from the $17,000.00 cap.

[**Source:** Amended at 23 Ok Reg 2826, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 34 Ok Reg 81, eff 09-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 35 Ok Reg 2066, eff 9-14-18; Amended at 36 Ok Reg 35, eff 10-17-18 (emergency); Amended at 36 Ok Reg 1216, eff 8-11-19]

710:50-15-51. Military pay of nonresidents and income earned by spouse of nonresident servicemember

(a) Military pay earned in Oklahoma by nonresident personnel, stationed in Oklahoma while on active duty, shall be exempt from Oklahoma income tax. These earnings are treated as out-of-state income. This exemption applies only to military pay earned in Oklahoma; any other income from the performance of a service other than military duty is subject to Oklahoma income tax.

(b) Beginning with tax year 2009, a nonresident spouse of a nonresident servicemember may be exempt from Oklahoma income tax on income from services performed in Oklahoma if all of the following conditions are met:

(1) The servicemember is in Oklahoma in compliance with military orders;

(2) The spouse is in Oklahoma to be with the servicemember; and

(3) The spouse maintains the same domicile as the servicemember or, for tax years beginning on or after January 1, 2018, elects to use the same residence for tax purposes as the servicemember in accordance with the Veterans Benefits and Transition Act of 2018.

(c) The following types of income of a nonresident spouse of a nonresident servicemember are not exempt from Oklahoma income tax:

(1) Income from an unincorporated business activity conducted in Oklahoma.

(2) The distributive share of the Oklahoma part of partnership income, gains, losses or deductions.

(3) The distributive share from Subchapter S Corporations doing business in Oklahoma.

(4) Net rents and royalties from real and tangible personal property located in Oklahoma.

(5) Gains from the sales or exchanges of real property, located in Oklahoma.

[**Source:** Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-15-52. Out-of-state income

(a) For residents, **"out-of-state income"** consists of income from real or tangible personal property or business income outside the State of Oklahoma. Any amount deducted must be substantiated with the appropriate Federal schedule which sets out the Oklahoma portion.

(b) Losses sustained from property owned or from a business located outside the State of Oklahoma must be added to Federal adjusted gross income to arrive at Oklahoma adjusted gross income.

(c) Out-of-state income is limited to the net income from real or tangible personal property or net business income outside the State of Oklahoma. [**See:** 68 O.S. §2358(A)(4)]

[**Source:** Amended at 17 Ok Reg 2669, eff 6-25-00; Amended at 42 Ok Reg 2126, eff 7-15-25]

710:50-15-53. Oklahoma net operating loss for individual returns

(a) Oklahoma net operating losses shall be separately determined by reference to Section 172 of the Internal Revenue Code and will be calculated utilizing Oklahoma Form 511-NOL Schedule A for resident individuals and Form 511-NR-NOL Schedule A for nonresident and part-year individuals.
(b) An election may be made to forego the net operating loss (NOL) carryback period. In order to waive the carryback period, a written statement of the election must be part of the timely filed Oklahoma loss year return.
(c) The years to which such losses may be carried shall be determined by reference to Section 172 of the Internal Revenue Code, as follows:

(1) For NOLs incurred for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2007, the loss carryback shall be for a period as allowed in the Internal Revenue Code.; and

(2) For NOLs incurred for tax years beginning after December 31, 2007, and ending on or before December 31, 2008, the loss carryback period shall be for a period of 2 years; and

(3) For tax years beginning after December 31, 2008, the loss carryback period shall be for a period as allowed by Section 172 of the Internal Revenue Code.

(d) Resident individuals will use Oklahoma Form 511-NOL Schedule B to compute the amount of the loss absorbed in each intervening year. Nonresident and part-year resident individuals will use Oklahoma Form 511-NR-NOL Schedule B to compute the amount of loss absorbed in each intervening year.
(e) Taxpayers who incur a NOL from farming, allowed under IRC §172 (b)(1)(B), in tax years beginning after December 31, 1999, will be allowed to carry that loss back, in accordance with the carryback provisions of the Internal Revenue Code. However, the amount of the farm NOL available for carryback is limited to the lesser of $60,000 or the loss shown on Federal Schedule F of the Internal Revenue Service Form 1040, reduced by 50% of the income from all other sources, except those included on Federal Schedule F.

[**Source:** Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 17 Ok Reg 2669, eff 6-25-00; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 27 Ok Reg 2281, eff 7-11-2010; Amended at 29 Ok Reg 1475, eff 6-25-12; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-54. Federal tax deduction

Federal income tax deduction shall include federal income tax, foreign income tax, surtaxes imposed on income or excess profits taxes, less any credits allowed by the Internal Revenue Service. The deduction for federal income taxes

allowed on the Oklahoma income tax return is computed as though the taxpayer were on the accrual basis of accounting. [**See:** 68 O.S. § 2358(E)(7)(c)]

710:50-15-55. Depletion

(a) The Oklahoma depletion deduction from income for oil and gas produced in Oklahoma is twenty-two percent (22%) of the gross income from the property, provided that for tax years beginning on or after January 1, 1997, and ending on or before December 31, 1999, and for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2011, in the case of major oil companies, as defined by 52 O.S. §288.2, the allowance may not exceed fifty percent (50%) of the net income from the property computed without the allowance for depletion. During years not specified herein, for all taxpayers, the allowance shall not exceed fifty percent (50%) of the net income from the property (computed without allowance for depletion). This allowance is allowable in the amount so computed minus the Federal depletion claimed. The applicable Federal schedule and a detailed depletion schedule must be enclosed.

(b) Lease bonus depletion of 22% is allowable; any such depletion claimed must be restored to income in the case of non-producing properties upon expiration of the lease. Individuals claiming lease bonus depletion may be required to furnish a copy of the lease and division order. [**See:** 68 O.S. §2353(10)]

[**Source:** Amended at 14 Ok Reg 2699, eff 6-26-97; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 21 Ok Reg 2571, eff 6-25-04; Amended at 24 Ok Reg 2359, eff 6-25-07]

710:50-15-56. Interest on U.S. Government obligations

(a) An **"obligation of the United States"** is defined as a credit instrument characterized by:

(1) Written document;

(2) The bearing of interest;

(3) A binding promise of the United States to pay specified sums at specified dates; and

(4) Issued pursuant to specific congressional authorization which also pledges the full faith and credit of the United States in support of the promise to pay.

(b) If the interest on a U.S. Government obligation is paid through a regulated investment company the taxpayer requesting the exclusion must furnish a detailed schedule of the obligations that the fund has invested in and the amount or percentage of the interest from each investment. [**See:** 68 O.S. §2358(A)(2)]

710:50-15-57. Adjustment for state and local obligations

(a) Income received on obligations issued by any state or political subdivision which is exempt from Federal taxation but not specifically exempt from state taxation by Federal or Oklahoma Statute shall be added to Federal Adjusted Gross Income.

(b) Income from obligations issued by the State of Oklahoma or any political

subdivision is exempt if so provided by the statute authorizing issuance of the obligation OR if it is a local governmental obligation issued after July 1, 2001, for a purpose other than to provide financing for nonprofit corporate projects.
(c) For purposes of this Section, "local governmental obligations" includes, but is not limited to, bonds or notes issued by, or on behalf of, or for the benefit of, Oklahoma educational institutions, cities, towns, or counties, or by public trusts of which any of the foregoing is a beneficiary.
(d) All income from obligations issued by any state or political subdivision of a state other than Oklahoma is taxable. [**See:** 68 O.S. § 2358(A)(1)]

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-58. Adjustment for municipal interest

Due to the fact that income earned on obligations of a state or political subdivision is exempt from federal taxation, an Oklahoma Income Tax Return may be required under some circumstances, even though no Federal Return is due. [**See:** 68 O.S. § 2368]

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-59. Compensation paid to precollege mathematics or science teachers [REVOKED]

[**Source:** Revoked at 15 Ok Reg 2811, eff 6-25-98]

710:50-15-60. Inventors assistance income exclusion

(a) Royalty earned by an inventor from a product developed and manufactured in this State shall be exempt from Oklahoma Income Tax for a period of seven (7) years, from January 1, of the first year in which the royalty is received, as long as the manufacturer remains in the State.
(b) An investment/new jobs credit may be available to the manufacturer of new inventions when manufactured in this State. [**See:** OAC 710:50-15-74]
(c) In addition, the manufacturer may exclude from Oklahoma taxable income sixty-five percent (65%) of the cost of depreciable property purchased and utilized directly in manufacturing the product. The maximum exclusion shall not exceed Five Hundred Thousand Dollars ($500,000.00). If the exclusion exceeds the Oklahoma taxable income, the excess may be carried forward for a period not to exceed four (4) years. "Depreciable property" means machinery, fixtures, equipment, buildings, or substantial improvements placed in service in this State during the taxable year.
(d) Requirements for qualification, certification and records required are as follows:

(1) A copy of the Fee Agreement between the inventor and the Oklahoma Center for the Advancement of Science and Technology (OCAST) must be provided to the Commission by the inventor or owner of the rights.

(2) A certification by the Division Director or designee of the Technology Development Programs Division of OCAST must be provided to the

Commission, specifying the certification date, product/process or service, inventor, manufacturer, and contract numbers.
(3) A certification by the Division Director or designee of the Technology Development Programs of OCAST must be provided to the Commission, specifying the date of first commercial product sale.
(4) The inventor must furnish annually a schedule of all income inuring to the benefit of the inventor attributable to the certified product/process or service.
(5) Manufacturers in this State must furnish annually a copy of the contract with the inventor and a schedule of all payments, disbursements, salaries, wages, benefits, and anything else of value paid, distributed or transferred to the inventor.
(6) Manufacturers in this State must furnish a schedule of receipts and expenses, including any overhead properly attributable to the product/process or service.
(7) Commission auditors will be available to assist in determining if the terms of the contracts are being fulfilled if requested by OCAST. [**See:** 74 O.S. Sections 5064.1 et seq.]

[**Source:** Amended at 16 Ok Reg 2646, eff 6-25-99; Amended at 21 Ok Reg 2571, eff 6-25-04]

710:50-15-61. Medical savings account deduction

(a) **General provisions.** There shall be allowed a deduction to arrive at Oklahoma Taxable Income for contributions made to and interest earned on Medical Savings Accounts (MSA).
(b) **Eligibility.** In order to be eligible for this deduction, contributions must be made to a MSA program approved by either the State Department of Health or by the Insurance Commissioner.
(c) **Procedure for claiming deduction.** In order to claim the deduction, a statement of the contributions made and interest earned on the MSA must be provided by the administrator of the Plan, and enclosed as part of the income tax return filed for the applicable period.
(d) **Limitation.** In no event shall contributions that are made and excluded from taxable income under Section 125 of the Internal Revenue Code be allowed to be deducted under this Section.
(e) **Eligibility of specific plans.** Contributions made to and interest earned on a MSA program offered by the State and Education Employees Group Insurance Benefit Board may be eligible for the deduction.

[**Source:** Added at 14 Ok Reg 2699, eff 6-26-97]

710:50-15-62. Agricultural commodity processing facility income/investment exclusion

(a) **General provisions.** Owners of agricultural commodity processing facilities may exclude from Oklahoma taxable income, or in the case of individuals, from Oklahoma adjusted gross income, a portion of their investment costs in any

new or expanded agricultural commodity processing facility located in this state.

(1) **For investments made on or after January 1, 1997, but before January 1, 1999.** Owners of agricultural commodity processing facilities may exclude 15%, of their investment cost in a new or expanded agricultural commodity processing facility located in Oklahoma.

(2) **For investments made on or after January 1, 1999, and before January 1, 2022.** If the exclusion for investment in agricultural processing facilities results in the reduction in total Oklahoma income tax in excess of $1,000,000 in any previous calendar year, the percentage of investment subject to exclusion will be adjusted. The adjusted percentage allowable will be determined by dividing $1,000,000 by the Oklahoma corporate income tax rate in effect for that year pursuant to 68 O.S. § 2355, then further dividing the result by the total previous year's investment subject to exclusion.

(b) **Definitions.** For purposes of this Section, the following words and terms, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Agricultural commodities"** means a farm or ranch product, including but not limited to, wheat, corn, soybeans, cotton, timber, cattle, hogs, sheep, horses, poultry, animals of the families bovidae, cervidae, and antilocapridae, or birds of the ratite group, produced in farming or ranching operations, or a product of such crop or livestock in its unmanufactured state, such as ginned cotton, wool-dip, maple syrup, milk, and eggs, or any other commodity listed under any Industry Group Number under Major Group 20, Division D, of the Standard Industrial Classification Manual.

(2) **"Agricultural commodity processing facility"** means building, structures, fixtures and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. Effective November 1, 2000, the term shall also mean a dairy operation that requires a depreciable investment of at least $250,000 and which produces milk from dairy cows. The term does not include a facility that provides only, and nothing more than, storage, cleaning, drying or transportation of agricultural commodities. [**See:** 68 O.S. § 2358(A)(6)(a)]

(3) "**Facility**" means each part of the facility which is used in a process primarily for:

(A) The processing of agricultural commodities, including receiving or storing agricultural commodities, or, effective November 1, 2000, the production of milk at a dairy operation, [**See:** 68 O.S. § 2358(A)(6)(b)]

(B) Transporting the agricultural commodities or product before, during or after the processing, or

(C) Packaging or otherwise preparing the product for sale or shipment.

(c) **Qualification.** In order to qualify for the exclusion, the agricultural commodity processing facility must be operated primarily for the processing or production of agricultural commodities to marketable products.

(d) **Limitations.** This exclusion from income is to be taken in the taxable year when the investment is made. For purposes of this exclusion, the investment is deemed to be made when the property is placed in service. Under no circumstances shall this exclusion from income lower claimant's Oklahoma taxable income below zero. In the event the exclusion does exceed income, any unused portion may be carried forward for a period not to exceed 6 years from the initial year of qualification. If the exclusion from income amount is determined based on the percentage allowable but not used, the amount shall not change based on subsequent change in percentage allowable to be excluded. In no event will the exclusion percentage exceed 15%.
(e) **Information return required.** Owners who intend to claim the exclusion for investment costs described in this Section must file Form 528 to report the amount of qualified property placed in service during the preceding calendar year. The information return must be submitted by January 31.

[**Source:** Added at 14 Ok Reg 2699, eff 6-26-97; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 42 Ok Reg 2126, eff 7-15-25; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-63. Deduction for nonrecurring adoption expenses
(a) **General provisions.** In taxable years beginning after December 31, 1995, and ending before January 1, 2003, a deduction is allowed to resident individual taxpayers for nonrecurring adoption expenses, not to exceed ten thousand dollars ($10,000.00) per calendar year, paid in connection with the adoption of a minor, or proposed adoption of a minor which did not result in a decreed adoption. Effective for taxable years beginning after December 31, 2002, and ending before January 1, 2023, the deduction for nonrecurring adoption expenses shall not exceed Twenty Thousand Dollars ($20,000.00) per calendar year.
(b) **Allowable expenses.** For purposes of this Section "nonrecurring adoption expenses" means and includes:
(1) Adoption fees;
(2) Court costs;
(3) Medical expenses;
(4) Attorney fees;
(5) Expenses directly related to the legal process of the adoption of a child and are not reimbursed by other sources, to include, but not limited to costs related to:
(A) The adoption study;
(B) Health and psychological examinations;
(C) Transportation and reasonable costs of food and lodging for the child or adoptive parents which are incurred to complete the adoption process. Transportation expense by either commercial or private means may be claimed based upon actual unreimbursed costs incurred, or in the case of travel by private means, the mileage rate allowed pursuant to the Internal Revenue Code for determining business travel expense may be elected.
(6) Costs associated with physical remodeling, renovation, or alteration of the

adoptive parents home or property, if incurred in conjunction with the adoption of a special needs child, as authorized by the court.

(c) **"Nonrecurring adoption expenses"** shall not mean or include:

(1) Costs reimbursed by other sources.

(2) Attorney fees incurred from and after the commencement of an action involving a contest of an adoption.

(3) Costs associated with physical remodeling, renovation, or alteration of the adoptive parent's home or property, with the exception noted in (b)(6) of this Section.

(d) **Verification.** A schedule describing the expenses claimed must be enclosed and filed with the claimant's tax return. Receipts supporting the claimed expenses are not required to be submitted with the tax return and descriptive schedule, but must be retained and be available upon request by the Commission.

[**Source:** Added at 14 Ok Reg 2699, eff 6-26-97; Amended at 20 Ok Reg 2165, eff 6-26-03; Amended at 40 Ok Reg 1265, eff 8-11-23]

710:50-15-64. Elections for individuals engaged in a farming business

(a) For tax years beginning after December 31, 2000, an individual engaged in a farming business may elect to determine the tax imposed by 68 O.S. § 2355 as the sum of:

(1) A tax computed under Section 2355, on taxable income, reduced by elected farm income; and

(2) The increase in tax imposed by 68 O.S. § 2355 which would result if taxable income for each of the three (3) prior taxable years were increased by an amount equal to one-third (1/3) of the elected farm income.

(b) An adjustment under this Section for any taxable year shall be taken into account in applying the provisions of this Section for any subsequent taxable year.

(c) For purposes of this Section, "elected farm income" means so much of the taxable income for the taxable year which is attributable to any farming business, and which is specified in the election under subsection (a) of this Section. For purposes of this subsection, a gain from the sale or other disposition of property, other than land, regularly used by the taxpayer in a farming business for a substantial period shall be treated as attributable to the farming business;

(d) "**Individual**" shall not mean or include any estate or trust.

(e) "**Farming business**" shall have the same meaning as the term is defined in 26 U.S.C. § 263A(e)(4).

[**Source:** Added at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-65. Discharge of indebtedness - individuals engaged in production agriculture

For taxable years beginning after December 31, 1999, individuals engaged in production agriculture who filed a Schedule F form with the taxpayer's federal income tax return for such taxable year, may exclude from Oklahoma taxable

income, any amount that was included in federal taxable income or federal adjusted gross income, which consisted of the discharge of an obligation by a creditor of the taxpayer incurred to finance the production of agricultural products. [**See:** 68 O.S. § 2358(E)(15)]

[**Source:** Added at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-66. Deduction for contributions to an Oklahoma College Savings Plan

(a) For tax years beginning after December 31, 2001 and ending before December 31, 2004, individuals may deduct up to Two Thousand Five Hundred Dollars ($2,500.00) of contributions made to an Oklahoma 529 College Savings Plan Account, established pursuant to the Oklahoma College Savings Act, in arriving at Oklahoma taxable income. If contributions are made to more than one account, the deduction for each contributor is limited to Two Thousand Five Hundred Dollars ($2,500.00) for each account.

(b) Effective for tax years beginning after December 31, 2004, for contributions made to an Oklahoma 529 College Savings Plan (established pursuant to the Oklahoma College Savings Act) a maximum of Ten Thousand Dollars ($10,000,00) may be deducted in arriving at Oklahoma Taxable income [Twenty Thousand Dollars ($20,000.00) if filing an income tax return using married filing joint filing status].

(c) Contributions made to other states' college savings plans, the Coverdell Education Savings Account, or transfers from one Oklahoma College Savings Plan Account to another may not be deducted.

(d) Any contribution, to the extent not deducted, may be carried over as a deduction from income for the succeeding five (5) years.

(e) For taxable years beginning after December 31, 2005, deductions may be taken for contributions and rollovers made during a taxable year and up to April 15th of the succeeding year, or the due date of a taxpayer's state income tax return excluding extensions, whichever is later. Provided a deduction for the same contribution may not be taken for two (2) different taxable years.

(f) For tax years beginning on or after January 1, 2007, taxpayers who elect the five-year carryforward election and take a rollover or have a non-qualified withdrawal during the five-year carryforward period, must reduce the otherwise available tax deduction by the amount which is equal to the rollover or non-qualified withdrawal.

(g) For tax years beginning on or after January 1, 2007, taxpayers who elect to take a rollover or non-qualified withdrawal within the same tax year in which a contribution was made to the taxpayer's account must reduce the otherwise available tax deduction by the amount which is equal to the rollover or non-qualified withdrawal.

(h) For tax years beginning on or after January 1, 2007 taxpayers who elect to take a rollover within one year of the date of contribution for which a deduction has been taken must include the amount of the rollover in their adjusted gross income the taxable year of the rollover.

(i) For tax years beginning on or after January 1, 2007 taxpayers who make a non-qualified withdrawal of contributions for which a deduction was taken must include the amount of the non-qualified withdrawal and any earnings thereon in their adjusted gross income in the taxable year of the withdrawal

(j) **Definitions**. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Non-qualified withdrawal**" means a withdrawal from an Oklahoma College Savings Plan account that is not:

(A) a qualified withdrawal;

(B) a withdrawal made as a result of the death or disability of the designated beneficiary of an account;

(C) a withdrawal that is made on the account of a scholarship or the allowance or payment described in Section 135(d)(1)(B) or (C) of Title 26 of the Internal Revenue Code, received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment; and

(D) a rollover or change of designated beneficiary as permitted by subsection F of Section 3970.7 of Title 70 of Oklahoma Statutes.

(2) "**Rollover**" means any transfer of funds from an Oklahoma College Savings plan to any other plan under Section 529 of the Internal Revenue Code.

[**Source:** Added at 20 Ok Reg 2165, eff 6-26-03; Amended at 23 Ok Reg 2827, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 19 Ok Reg 2056, eff 7-1-08]

710:50-15-67. Deduction for living organ donation

(a) Oklahoma resident individuals (or their dependents) who donate one or more human organs while living, may deduct up to Ten Thousand Dollars ($10,000.00) of un-reimbursed expenses from Oklahoma adjusted gross income to arrive at Oklahoma taxable income.

(b) "Human organs" mean all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow.

(c) The deduction is allowed only one time and may be claimed only for un-reimbursed expenses that are incurred by the individual and related to the organ donation of the individual in the taxable year in which the transplant occurs.

[**Source:** Added at 19 Ok Reg 2056, eff 7-1-08]

710:50-15-68. General provisions applicable to unemployment compensation [REVOKED]

[**Source:** Added at 27 Ok Reg 2281, eff 7-11-10; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-69. Deduction for foster care expenses

(a) **General provisions.** In taxable years beginning after December 31, 2018, an income tax deduction is allowed to individual taxpayers who contract with a

child-placing agency to provide care for a foster child.
(b) **Deduction.** The deduction is for expenses incurred to provide care for a foster child not to exceed Five Thousand Dollars ($5,000.00) or Two Thousand Five Hundred Dollars ($2,500.00) for married persons filing separately.
(c) **Qualification**. A taxpayer must be under contract with a child-placing agency, as defined in Section 402 of Title 10, for at least six (6) continuous months regardless of the tax year during which the care occurs. If a taxpayer is under contract with a child-placing agency and providing care for a foster child for at least six (6) continuous months, but less than six (6) months of the tax year, taxpayer may claim only a pro rata share of the credit. For example, if a qualifying taxpayer contracts with a child-placing agency and begins providing care for a foster child on May 1, 2018 and ending on March 31, 2019, taxpayer may deduct up to $2,500 (3/6 x $5,000.00) for expenses incurred in 2019 on their 2019 income tax return.

[**Source:** Added at 37 Ok Reg 2227, eff 9-11-20]

710:50-15-69.1. Add-back of federal depreciation for Oklahoma income tax purposes

(a) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.
(b) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.
(c) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

[**Source:** Added at 40 Ok Reg 1265, eff 8-11-23; Amended at 41 Ok Reg 1638, eff 8-11-24]

PART 7. CREDITS AGAINST TAX

710:50-15-70. Credits from Oklahoma income tax

Certain credits against the initial Oklahoma Income Tax liability may be taken to arrive at the final amount of Oklahoma Income Tax due.

710:50-15-71. Credit for child care/child tax credit

(a) For tax years beginning before January 1, 2008, resident individuals, part-year resident individuals or nonresident individual members of the Armed Forces may claim a credit against the tax imposed by 68 O.S. § 2355 equal to twenty percent (20%) of the credit for child care expenses allowed under the Internal Revenue Code of the United States.

(b) For tax years beginning after December 31, 2007, resident individuals, part-year resident individuals or nonresident individual members of the Armed Forces may claim a credit against the tax imposed by 68 O.S. § 2355 equal to the greater of twenty percent (20%) of the credit for child care expenses allowed under the Internal Revenue Code of the United States or five percent (5%) of the child tax credit allowed under the Internal Revenue Code, whichever amount is greater. If federal adjusted gross income is greater than One Hundred Thousand Dollars ($100,000.00), no credit is allowed.

(c) Taxpayers must attach a completed copy of the Federal child care schedule to the Oklahoma Income Tax Return to receive a child care credit.

(d) The credit is to be prorated on the ratio that Oklahoma Adjusted Gross Income bears to Federal Adjusted Gross Income, not to exceed one hundred percent (100%). If the Federal Adjusted Gross Income is zero or less, the ratio will be 100%.

[**Source:** Amended at 19 Ok Reg 2056, eff 7-1-08; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-15-72. Credit for taxes paid other states

(a) OTC Form 511 TX shall be used by residents and part-year residents who work in other states after becoming an Oklahoma resident and who are required to file Income Tax Returns with those states.

(b) This credit is available only on taxes paid in another state for wages and compensation for personal service. For this credit, retirement income and the proceeds from gambling are considered compensation for personal services.

(c) A copy of the Income Tax Return for each state in which a return was required to be filed must be filed and attached to a completed OTC Form 511 TX. A separate OTC Form 511 TX must be filed for each state. [**See:** 68 O.S. § 2357(B)(1)]

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 21 Ok Reg 2571, eff 6-25-04]

710:50-15-73. Credit for use of solar energy and passive solar system [REVOKED]

[**Source:** Revoked at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-74. Credit for investment/new jobs

(a) **For tax years 1981 through 1987.** For tax years 1981 through 1987 the Oklahoma Investment/New Jobs Credit is allowed for Oklahoma Income Tax purposes only on investment in qualified depreciable property which directly results in a net increase in the number of employees engaged in manufacturing or processing in this state.

(b) **For 1988, and later years.** For 1988, and later years, the Oklahoma Investment/New Jobs Credit may be calculated on the investment or new employees when other qualifications are met. (See OTC Form 506).

(c) **Examples.** A company engaged in the process of cooking hamburgers for sale to the general public does not qualify for the Investment/New Jobs Credit. The Oklahoma Supreme Court determined, in the case McDonald's Corp. vs. Oklahoma Tax Commission, 563 P.2d 635 (Okla. 1977), that a company engaged in retail sales or a service organization (laundry, transportation, oil & gas production, drilling, restaurant, repair services, etc.) does not qualify for Oklahoma Investment/New Jobs Credit. [**See:** 68 O.S. §§ 2357.4, 2357.5]

(d) **"Processing" defined.** For purposes of this Section, "processing" means the preparation of tangible personal property for market. "Processing" begins when the form, context, or condition of the tangible personal property is changed with the intent of eventually transforming the property into a saleable product. "Processing" ends when the property being processed is in the form in which it is ultimately intended to be sold at retail. A business that has the majority of its emphasis on the retail side of business does not qualify as a processor or a manufacturer for purposes of this credit.

(e) **Leasing of employees by manufacturing or processing entity for purposes of the new jobs credit.** A company that engages in manufacturing or processing may still qualify for the Oklahoma New Jobs Credit pursuant to 68 O.S. § 2357.4 even though they lease their employees through an employee leasing company. The leased employees must still meet the requirements of 68 O.S. § 2357.4 for full-time equivalent employees and there must exist an employer-employee relationship between the leased employees and the employer who seeks the new jobs credit pursuant to 68 O.S. § 2357.4. Whether the employer-employee relationship exists between the employer manufacturing or processing entity and an employee who is leased will be determined on a case by case basis by considering the following factors:

(1) The right of the employer to control the details of the employees work;
(2) The employer furnishing the tools and the workplace;
(3) The employee having taxes, worker's compensation and unemployment insurance funds withheld and the employer being liable for these items;
(4) The employer's right to discharge the employee; and
(5) The permanency of the employer-employee relationship.

(f) **Transfer of employees.** The transfer of employees to or from a leasing company cannot generate any additional credit, nor will any transfer of employees extend the period of time in which a current credit may be claimed.

(g) **Carryover.** Any credits allowed based on assets placed into service prior to January 1, 2000, or an increase in employment but not used may be carried over,

in order, to each of the four (4) years following the year of qualification, and to the extent not used in those years, in order, to each of the fifteen (15) years following the initial five-year period. Credits allowed for assets placed into service after December 31, 1999, but not used may be carried over, in order, to each of the four (4) years following the year of qualification, and to the extent not used in those years, to any year following the initial five-year period.

(h) **Limitations.**

(1) No qualified establishment, nor its contractors or subcontractors, that has received or is receiving an incentive payment pursuant to Section 3601 et seq. of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), Section 3901 et seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act) or Section 3911 et seq. of the Oklahoma Statutes (21st Century Quality Jobs Incentive Act) shall be eligible to receive the credit described in this Section in connection with the activity and establishment for which incentive payments have been, or are being received. Effective January 1, 2010, this limitation does not apply to the investment / new jobs credit earned under 68 O.S. § 2357.4 (which requires a $40 million investment within a three (3) year time period). Further, the entity must pay an annualized wage which equals or exceeds the state average wage. The qualifying entity must also obtain a determination letter from the Oklahoma Department of Commerce that the business activity of the entity will result in a positive net benefit rate. [**See:** 68 O.S. §§ 3607, 3909 and 3919]

(2) Business entities that benefit from proceeds of obligations issued by the Oklahoma Development Finance Authority from the Economic Development Pool may not generate, accrue or otherwise claim any investment tax credits during the period of time that withholding taxes attributable to the payroll of said entity are being paid to the Community Economic Development Pooled Finance Revolving Fund or in any manner used for the payment of principal, interest or other costs associated with any obligations issued by the Oklahoma Development Finance Authority pursuant to the provisions Oklahoma Community Economic Development Pooled Finance Act.

(3) Beginning January 1, 2017, except with respect to tax credits allowed from investment or job creation occurring prior to January 1, 2017, the credits authorized by 68 O.S. § 2357.4 shall not be allowed for investment or job creation in electric power generation by means of wind as described by the North American Industry Classification System No. 221119.

(4) Effective for tax years beginning on or after January 1, 2016 and ending on or before December 31, 2018, no more than Twenty-five Million Dollars ($25,000,000.00) of credit may be allowed as an offset in a taxable year. The formula to be used for the percentage adjustment shall be Twenty-five Million Dollars ($25,000,000.00) divided by the amount of credits used to offset tax in the second preceding year. [68 O.S. § 2357.4(L)] The Tax Commission shall determine the percentage which may be claimed as a credit no later than September 1 of each calendar year. Any credits carried over into or earned

during the 2016, 2017, and 2018 tax years but which are not allowed to be offset against income tax due to the application of the Twenty-five Million Dollar ($25,000,000.00) cap may be carried over as outlined in subsection (g) and will be available to offset income tax in subsequent tax years.

(i) **Tax credit moratorium.**

(1) Credits based on assets placed in service or jobs created prior to July 1, 2010 are not affected by the tax credit moratorium and may be claimed as provided under 68 O.S. § 2357.4.

(2) No credit may be claimed for assets placed in service or new jobs created on or after July 1, 2010 through June 30, 2012. Credits generated during this time period are deferred, and may be claimed beginning with tax year 2012 returns, subject to the following limitations:

(A) Credits accrued during the period from July 1, 2010 through June 30, 2012, shall be limited to a period of two (2) taxable years.

(B) Only fifty percent (50%) of the total amount of the credit generated between July 1, 2010 and June 30, 2012 may be claimed each taxable year.

(C) Amended returns shall not be filed after July 1, 2012 to claim the credits generated between July 1, 2010 and June 30, 2012 for tax years prior to tax year 2012.

(3) For example, a calendar year taxpayer places qualifying assets of $150,000.00 in service in August 2010 which generates $1,500.00 of credit for investment/new jobs per tax year for a five (5) year period (tax year 2010 through 2014) for a total of $7,500.00. This results in the taxpayer generating $3,000.00 of tax credits between July 1, 2010 and June 30, 2012. The taxpayer can initially claim $1,500.00 in tax year 2012 and $1,500.00 in tax year 2013 of credits generated during the moratorium. Taxpayer may also claim an additional $1,500.00 of credits in both tax year 2012 and 2013. Final $1,500.00 of credits can be claimed in tax year 2014.

[**Source:** Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 13 Ok Reg 3105, eff 7-11-96; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 21 Ok Reg 2571, eff 6-25-04; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 34 Ok Reg 81, eff 09-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-15-75. Recycling, reuse and source reduction incentives REVOKED]

[**Source:** Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-76. Oklahoma coal credits

(a) **General provisions applicable to qualifying business entities purchasing Oklahoma-mined coal.** There shall be allowed a credit against the tax imposed by Sections 1803 and 2355 of Title 68 or Sections 624 and 628 of Title 36 of the

Oklahoma Statutes for legal business entities purchasing Oklahoma-mined coal for qualifying purposes. In order to qualify for the Oklahoma Coal Credit, the business entity must either furnish water, heat, light, or power to the citizens or to the State of Oklahoma, or burn coal to generate heat, light, or power for use in manufacturing operations in Oklahoma. [**See:** 68 O.S. § 2357.11; Wyoming v. Oklahoma, 112 S.Ct. 789 (1992)]

(1) **Basic credit.** For tax years beginning on or after January 1, 1993, and ending on or before December 31, 2005 and for the period beginning January 1, 2006 through June 30, 2006, the credit shall be Two Dollars ($2.00) per ton of Oklahoma-mined coal purchased. For the period July 1, 2006 through December 31, 2006 and for tax years beginning on or after January 1, 2007 and ending on or before December 31, 2021, the credit shall be Two Dollars and eighty-five cents ($2.85) per ton of Oklahoma-mined coal purchased, except as provided in (h) of this Section.

(2) **Extended basic credit.** For the period July 1, 2006 through December 31, 2006 and for tax years beginning on or after January 1, 2007 and ending on or before December 31, 2021, the credit shall be Two Dollars and fifteen cents ($2.15) per ton of Oklahoma-mined coal purchased. The extended basic credit may not be claimed or transferred prior to January 1, 2008, except as provided in (h) of this Section.

(3) **Additional credit for large quantity purchasers.** For tax years beginning on or after January 1, 1995, and ending on or before December 31, 2005 and for the period beginning January 1, 2006 through June 30, 2006, there shall be allowed, in addition to the credit described in (1) of this subsection, a supplemental credit of Three Dollars ($3.00) per ton of Oklahoma-mined coal purchased. However, to obtain the credit described in this paragraph, purchases must total at least Seven Hundred Fifty Thousand (750,000) tons of Oklahoma-mined coal in the tax year for which credit is sought.

(b) **General provisions applicable to qualifying business entities that mine, produce, or extract coal.** For tax years beginning on or after January 1, 2001, and ending on or before December 31, 2021, there shall be allowed a credit against the tax imposed by Sections 1803 and 2355 of Title 68 or Sections 624 and 628 of Title 36 of the Oklahoma Statutes for every business entity in this state primarily engaged in mining, production, or extraction of coal, and holding a valid permit issued by the Oklahoma Department of Mines, so long as the average price of coal mined, produced, or extracted in any month for which credits are claimed is less than Sixty-eight Dollars ($68.00) per ton.

(1) **Basic credit.** For tax years beginning on or after January 1, 2001 and ending on or before December 31, 2005, and for the period beginning January 1, 2006 through June 30, 2006, the credit shall be Ninety-five Cents ($0.95) per ton and for the period of July 1, 2006 through December 31, 2006, and for tax years beginning on or after January 1, 2007 and ending on or before December 31, 2021, the credit shall be Five Dollars ($5.00) for each ton of coal mined, produced, or extracted in, on, under, or through a permit in this state, except as provided in (h) of this Section.

(2) **Additional credit for thin seam coal.** For tax years beginning on or after January 1, 2001 and ending on or before December 31, 2005, and for the period of January 1, 2006 through June 30, 2006, there shall be allowed, in addition to that described in (1) of this subsection, a supplemental credit in the amount of Ninety-five Cents ($0.95) per ton of coal mined, produced, or extracted from thin seams in this state, so long as the purchaser of the thin seam coal purchases less than Seven Hundred Fifty Thousand (750,000) tons of Oklahoma coal per year.

(3) **Extended credit for thin seam coal.** For tax years beginning on or after January 1, 2005 and ending on or before December 31, 2005, for the period of January 1, 2006, through June 30, 2006, there shall be allowed, in addition to that described in (1) and (2) of this subsection, a supplemental credit in the amount of Ninety-five Cents ($0.95) per ton of coal mined, produced, or extracted from thin seams in this state on or after July 1, 2005.

(c) **Transferability.** The coal credits allowed, but not used, shall be freely transferable by written agreement to subsequent transferees, at any time during the five (5) years following the year of qualification.

(1) **"Eligible transferee" defined.** For purposes of this subsection, an "eligible transferee" means *any taxpayer subject to the tax imposed by Section 1803 or 2355 of Title 68 or Section 624 or 628 of Title 36 of the Oklahoma Statutes.* [**See:** 68 O.S. § 2357.11(H)]. Pursuant to the statutory definition, an "eligible transferee" taxpayer may be an individual, as well as a legal business entity.

(2) **Written transfer agreement requirements.** The business entity which originally earned the credit and the subsequent transferee must jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring entity, and the tax year or years for which the credit may be claimed.

(3) **Claiming transferred credit.** A copy of OTC Form 572 must be attached to any tax return on which a taxpayer claims a transferred credit.

(4) **Limitation of transferability**. Credits earned after December 31, 2013, shall not be transferable.

(d) **Application of credit election.** Any coal credit may, upon the election of the taxpayer, be claimed as a payment of tax, a prepayment of tax, or a payment of estimated tax for purposes of Section 1803 or 2355 of Title 68 or Section 624 or 628 of Title 36. In no event shall the credit reduce the tax below zero, and as such, this credit is non-refundable. Coal credits shall not be used to lower the price of any Oklahoma-mined coal sold that is produced by a subsidiary of the person receiving a tax credit under this Section to other buyers of the Oklahoma-mined coal.

(e) **Carryover provisions.** Any coal credit earned prior to January 1, 2014, to the extent not used, may be carried over in order to each of the five (5) years

following the year of qualification. However, at no time may the credit claimed exceed the tax liability for credits earned prior to January 1, 2014.

(f) **Refund of tax credits**. Credits earned on or after January 1, 2014, but not used, shall be refunded to the taxpayer at eighty-five percent (85%) of the face amount of the credits. If the taxpayer is a pass-through entity and does not file a claim for a direct refund, the pass-through entity shall allocate the credit to one or more of the shareholders, partners or members of the pass-through entity. The total amount of credits refunded or allocated shall not exceed the amount of the credit or refund to which the pass-through entity is entitled.

(g) **Tax credit moratorium**. No credit may be claimed for coal purchased, mined, produced or extracted during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. This credit may be claimed for tax year 2012 and subsequent tax years, for Oklahoma-mined coal for qualifying purposes purchased, mined, produced or extracted on or after July 1, 2012.

(h) **Tax credit limitation**.

(1) For any credits calculated pursuant to (a)(1) or (a)(2), or (b)(1) of this Section for activities occurring on or after January 1, 2016, the amount of credit allowed shall be equal to seventy-five percent (75%) of the amount otherwise provided. [68 O.S. § 2357.11(N)]

(2) For tax years beginning on or after January 1, 2018, the total amount of credits authorized by this Section used to offset tax or paid as a refund shall be adjusted annually to limit the annual amount of credits to Five Million Dollars ($5,000,000.00). The Tax Commission shall annually calculate and publish a percentage by which the credits authorized by this Section shall be reduced so the total amount of credits used to offset tax or paid as a refund does not exceed Five Million Dollars ($5,000,000.00) per year.

[**Source:** Amended at 10 Ok Reg 3837, eff 7-12-93; Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 14 Ok Reg 2699, eff 6-26-97; Amended at 17 Ok Reg 2669, eff 6-25-00; Amended at 20 Ok Reg 2165, eff 6-26-03; Amended at 23 Ok Reg 2827, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14; Amended at 34 Ok Reg 81, eff 09-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 36 Ok Reg 35, eff 10-17-18 (emergency); Amended at 36 Ok Reg 1216, eff 8-11-19]

710:50-15-77. Venture capital company credit

(a) Each qualified Venture Capital Company, as defined in Section 2357.7 of Oklahoma Income Tax statutes, shall file a complete annual report with the Tax Commission and list all funds invested in such company which may qualify for the tax credit allowed by the act. The report shall state the amount of funds the Venture Capital Company invested in each business during the taxable year, the name of such business and its Taxpayer/Employer Identification Number (EIN), date of investment and type of investment.

(b) Each qualified Venture Capital Company shall furnish to each investor in the Company during the preceding year, a written statement showing the name and EIN number of the Venture Capital Company, the name and Taxpayer/Employer

Identification Number of the investor and the total amount of the investment of the investor. This statement will be furnished no later than January 31st of the year following the year of their investment in the Venture Capital Company. A copy of this statement is to be attached to the Oklahoma Income Tax Return of the investor in order to qualify for the tax credit.
(c) The credit may be used in the year of the original investment in the Venture Capital Company and for the three succeeding years. This is a non-refundable credit and may not be carried back to a year prior to obtaining the credit.
(d) The original investor may transfer the credit without any limitation. This credit may also be transferred by the transferee at any time during the period that the credit is available for use. The transferred credit may only be used from the time of the transfer forward and is limited to the original qualifying period. [**See:** 68 O.S. § 2357.7]
(e) An example of the application of the venture capital company credit is as follows:

Example: A makes an investment in a Qualified Venture Capital Plan in 1989 of $20,000.00, receiving a tax credit of $4,000.00. In 1989, A utilizes $1,000 of the tax credit, and has available $3,000.00 for the succeeding three years. In 1990, A transfers to B $1,000.00 of the remaining credit, leaving A with a remaining credit of $2,000.00, which can be utilized in 1990 - 1992. In 1990, B utilizes $250.00 of the $1,000.00 credit. (B cannot use any of the credit for a prior year, however, B may now transfer this credit to C or to any other taxpayer if B is unable to utilize the remaining credit.) B may use the remaining $750.00 credit only in the years 1991 and 1992, the remainder of the original qualifying period. A may utilize or transfer all or any portion of A's remaining credit in the years 1990 - 1992.

[**Source:** Amended at 9 Ok Reg 3031, eff 7-13-92]

710:50-15-78. Qualification as a venture capital company

(a) The venture capital credit is an income tax credit for the investment in qualified venture capital companies.
(b) To qualify as a venture capital company, capitalization must be at a level of at least five million dollars. Capitalization may consist of cash and/or property or debt obligations. Each venture capital company claiming something other than cash to meet the qualification will be closely examined for compliance with statute and with the Rules of the Oklahoma Tax Commission. Effective for capitalization after January 1, 1999, seventy-five percent (75%) of a Venture Capital Company's funds must be invested in Oklahoma business ventures.
(c) The tax credit allowed shall be twenty percent (20%) of the cash amount invested; for example: Investors contribute three million in cash and use debt obligation of two million to qualify as a venture capital company. The tax credit will be limited to twenty percent (20%) of three million, or $600,000.00.
(d) No qualified establishment, nor its contractors or subcontractors, that has received or is receiving an incentive payment pursuant to Section 3601 et seq. of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), or Section 3901 et

seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act), shall be eligible to receive the credit described in this Section in connection with the activity and establishment for which incentive payments have been, or are being received. [**See:** 68 O.S. §§3607, 3909]

[**Source:** Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 16 Ok Reg 2646, eff 6-5-99]

710:50-15-79. Health insurance tax credit [REVOKED]

[**Source:** Added at 10 Ok Reg 3837, eff 7-12-93; Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 15 Ok Reg 2811, eff 6-25-98; Revoked at 19 Ok Reg 2433, eff 6-27-02]

710:50-15-80. Credit for wind or photovoltaic energy systems [REVOKED]

[**Source:** Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94; Revoked at 31 Ok Reg 2427, eff 9-12-14]

710:50-15-81. Credit for qualified clean-burning motor vehicle fuel property

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) ***"Motor vehicle"*** *means a motor vehicle originally designed by the manufacturer to operate lawfully and principally on streets and highways*. [**See:** 68 O.S. § 2357.22(C)] "Vehicle" shall not mean conveyor belts, forklifts, riding mowers, tractors, or other similar items.

(2) **"Qualified clean-burning motor vehicle fuel property"** means as defined in Section 2357.22(B) of Title 68 of the Oklahoma Statutes.

(b) **General provisions.** For tax years 2028 and before, there shall be allowed a one-time nonrefundable income tax credit for investments in qualified clean-burning motor vehicle fuel property placed in service on or after January 1, 1991, or with respect to a hydrogen fuel cell, on or after July 1, 2023. Property on which the credit has previously been claimed is ineligible for the credit.

(c) **Leased property and equipment.** An entity that converts property to qualified clean-burning motor vehicle fuel property may lease such property and retain the right to claim the credit. An entity that invests in and owns equipment that qualifies as qualified clean-burning motor vehicle fuel property may claim the credit even if a different entity owns the remainder of the motor vehicle property and leases the conversion equipment from the owner of the equipment. As used herein, a “different entity” includes, but is not limited to, the United States government, the State of Oklahoma, and any political subdivision of this state.

(d) **Amount of credit.**

(1) **Motor vehicle credit.**

(A) For the qualified clean-burning motor vehicle fuel property defined in 68 O.S. § 2357.22 (B)(1), (2) or (5), the maximum amount of the credit shall be as follows based upon gross vehicle weight of the qualified vehicle:

(i) For vehicles up to or below 6,000 pounds, the credit shall be a maximum amount of $5,500;
(ii) For vehicles between 6,001 pounds to 10,000 pounds, the credit shall be a maximum amount of $9,000;
(iii) For vehicles of 10,001 pounds, but not in excess of 26,500 pounds, the credit shall be a maximum amount of $26,000; and
(iv) For vehicles equal to or in excess of 26,501 pounds, the credit shall be a maximum amount of $100,000.

(B) For qualified clean-burning motor vehicle fuel property defined in 68 O.S. § 2357.22(B)(1), the amount of the credit is limited to the lesser of the cost of the conversion equipment installed, which includes parts and installation service, or the amount in subparagraph (A) of this paragraph.

(C) For qualified clean-burning motor vehicle fuel property defined in 68 O.S. § 2357.22(B)(2) and (5), the amount of the credit is:

(i) Limited to the lesser of the portion of the basis of the motor vehicle that is attributable to the storage of such fuel, the delivery to the engine of such fuel, and the exhaust of gases from combustion of such fuel, or the amount in subparagraph (A) of this paragraph.
(ii) The lesser of 10% of the cost of the motor vehicle or $1,500.

(2) **Infrastructure credit.**

(A) For qualified clean-burning motor vehicle fuel property defined in 68 O.S. § 2357.22(B)(3), a per-location credit of 45% of the cost of the qualified clean-burning motor vehicle fuel property.

(B) For qualified clean-burning motor vehicle fuel property defined in 68 O.S. § 2357.22(B)(4), a per location credit of the lesser of 50% of the cost of the qualified clean-burning motor vehicle fuel property or $2,500.

(e) **Carryforward.** Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

(f) **Limitations of eligibility.** No qualified establishment, nor its contractors or subcontractors, that has received or is receiving an incentive payment pursuant to Section 3601 et seq. of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), or Section 3901 et seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act), shall be eligible to receive the credit for qualified clean-burning motor vehicle fuel property provided by 68 O.S. §2357.22, in connection with the activity and establishment for which incentive payments have been, or are being received. [**See:** 68 O.S. §§3607, 3909]

(g) **Sunset date.** This credit will only be available through tax years beginning before December 31, 2028.

(h) **Tax credit limitation.**

(1) For tax years 2020 through 2022, the total amount of credits used to offset tax shall be adjusted annually to limit the annual amount of credits to $20,000,000.

(2) For tax years 2023 through 2028, the total amount of credits used to offset tax shall be adjusted annually to limit the annual amount of credits to:

(A) $10,000,000 for qualified clean burning fuel property propelled by compressed natural gas, liquefied natural gas, or liquefied petroleum gas, property related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas, and property directly related to the compression and delivery of natural gas;

(B) $10,000,000 for property originally equipped so that the vehicle may be propelled by a hydrogen fuel cell electric fueling system and property directly related to the delivery of hydrogen; and

(C) $10,000,000 for property which is a metered-for-fee, public access recharging system for motor vehicles propelled in whole or in part by electricity.

(D) Beginning with tax year 2024, if one of the tax credit pools listed in paragraph (2) of this subsection is not fully utilized for the applicable tax year, the remaining balance of that pool shall be allocated to each of the two remaining tax credit pools in equal amounts. If two of the tax credit pools listed in paragraph (2) are not fully utilized for the applicable tax year, the remaining balances in both pools shall be added together and the sum of those amounts shall be allocated to the remaining tax credit pool.

(3) The Tax Commission shall annually calculate and publish by the first day of the affected taxable year a percentage by which the credits shall be reduced so the total amount of credits used to offset tax does not exceed each of the limits provided in subsection (h). Provided, no credit shall be reduced unless the total amount of credits used to offset tax exceeds $30,000,000.

(A) if the total amount of credits used to offset tax from all three tax credit pools exceeds $30,000,000 and the remaining balance of one pool is allocated to the remaining tax credit pools, the Tax Commission shall calculate the percentage adjustments as follows:

(i) There shall be no percentage adjustment for the tax credit pool from which the remaining balance was allocated to the other two pools.

(ii) The formula to be used for the other two pools shall be $10,000,000 plus the amount allocated from the other pool divided by the credits claimed in the second preceding year from the respective pool.

(iii) For example, assume that $4,000,000 from Pool C is allocated in equal amounts to Pool A and Pool B:

(I) For Pool A, $12,000,000 shall be divided by the credits claimed in the second preceding year from Pool A.

(II) For Pool B, $12,000,000 shall be divided by the credits claimed in the second preceding year from Pool B.

(III) As the credits claimed from Pool C did not exceed $10,000,000, no calculation formula is needed.

(B) If the total amount of credits used to offset tax from all three tax credit pools exceeds $30,000,000 and the remaining balances of two pools are allocated to the remaining tax credit pool, the Tax Commission shall calculate the percentage adjustments as follows:

(i) There shall be no percentage adjustment for the two tax credit pools from which the remaining balances were allocated to the remaining pool.

(ii) The formula to be used for the remaining pool shall be $10,000,000 plus the amount allocated from the other pools divided by the credits claimed in the second preceding year from the remaining pool.

(iii) For example, assume that $4,000,000 from Pool B and $4,000,000 from Pool C are allocated to Pool A:

(I) For Pool A, $18,000,000 shall be divided by the credits claimed in the second preceding year from Pool A.

(II) As the credits claimed from Pool B did not exceed $10,000,000, no calculation formula is needed.

(III) As the credits claimed from Pool C did not exceed $10,000,000, no calculation formula is needed.

(C) If the total amount of credits used to offset tax from all three tax credit pools exceeds $30,000,000 and the amount of credits used to offset tax in each individual pool exceeds $10,000,000, the Tax Commission shall calculate the percentage adjustments as follows:

(i) For Pool A, $10,000,000 shall be divided by the credits claimed in the second preceding year from Pool A.

(ii) For Pool B, $10,000,000 shall be divided by the credits claimed in the second preceding year from Pool B.

(iii) For Pool C, $10,000,000 shall be divided by the credits claimed in the second preceding year from Pool C.

[**Source:** Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94; Amended at 13 Ok Reg 3105, eff 7-11-96; Amended at 14 Ok Reg 2699, eff 6-26-97; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 21 Ok Reg 2571, eff 6-25-04; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14; Amended at 35 Ok Reg 2066, eff 9-14-18; Amended at 37 Ok Reg 2227, eff 9-11-20; Amended at 40 Ok Reg 1265, eff 8-11-23; Amended at 42 Ok Reg 2126, eff 7-15-25]

710:50-15-82. Amendment and repeal of certain tax credit provisions; preservation of certain claims under repealed law [REVOKED]

[**Source:** Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94; Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-83. Limitation of credits allowed by the Oklahoma Quality Jobs Program, the Small Employer Quality Jobs Incentive Acts and the 21st Century Quality Jobs Incentive Act

No establishment which qualifies under the terms of Section 3601 et seq.

of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), Section 3901 et seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act), or Section 3911 et seq. of the Oklahoma Statutes (21st Century Quality Jobs Incentive Act) and has received or is receiving incentive payments pursuant to those Acts, nor its contractors or subcontractors, shall be eligible to receive, in connection with the activity and establishment for which incentive payments have been, or are being received, the credits described as follows:

(1) The investment credit provided for by 68 O.S. §2357.4. [**See**: 710:50-15-74]

(2) The credit for investments in qualified venture capital companies provided for by 68 O.S. §2357.7. [**See**: 710:50-15-77 and 710:50-15-78]

(3) The credit for clean-burning motor vehicle fuel property, provided for by 68 O.S. §2357.22. [**See**: 710:50-15-81]

[**Source:** Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-84. Recycling facility credit [REVOKED]

[**Source:** Added at 14 Ok Reg 2699, eff 6-26-97; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-85. Credit for investment in Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association [REVOKED]

[**Source:** Added at 14 Ok Reg 2699, eff 6-26-97; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 23 Ok Reg 2828, eff 6-25-06; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 32 Ok Reg 1354, eff 8-27-15]

710:50-15-86. Small Business Capital Company / Oklahoma Small Business Venture credits [REVOKED]

[**Source:** Added at 15 Ok Reg 2811, eff 6-25-98; Amended at 16 Ok Reg 2646, eff 6-25-99; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 19 Ok Reg 2433, eff 6-27-02, Amended at 22 Ok Reg 1541, eff 6-11-05; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-86.1. Letter rulings pursuant to the Small Business Capital Formation Incentive Act [REVOKED]

[**Source:** Added at 24 Ok Reg 2359, eff 6-25-07; Amended at 19 Ok Reg 2056, eff 7-1-08; Amended at 26 Ok Reg 2330, eff 6-25-09; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-87. Oklahoma Rural Small Business Capital Company / Rural Small Business Venture credits [REVOKED]

[**Source:** Added at 18 Ok Reg 2810, eff 6-25-01; Amended at 19 Ok Reg 2433, eff 6-27-02;

Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-87.1. Letter rulings pursuant to the Rural Venture Capital Formation Incentive Act [REVOKED]

[**Source:** Added at 24 Ok Reg 2359, eff 6-25-07; Amended at 19 Ok Reg 2056, eff 7-1-08; Amended at 26 Ok Reg 2330, eff 6-25-09; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-88. Tourism attraction project credit [RESERVED]

[**Source:** Reserved at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-89. Oklahoma coal production credit [REVOKED]

[**Source:** Added at 19 Ok Reg 2433, eff 6-27-02; Revoked at 20 Ok Reg 2165, eff 6-26-03]

710:50-15-90. Oklahoma earned income tax credit

(a) Effective for tax years beginning on or after January 1, 2002, there shall be an Oklahoma Earned Income Tax Credit (EITC) for resident and part year resident individuals.

(b) The Oklahoma EITC shall be an amount equal to five percent (5%) of the Federal Earned Income Tax Credit allowed under Section 32 of the Internal Revenue Code.

(1) Effective for tax years 2016 through 2021, if the credit exceeds the tax imposed by Section 2355 of Title 68, the excess amount shall not be refunded to the taxpayer, nor shall any amount be carried forward to a subsequent tax year.

(2) For tax years beginning on or after January 1, 2022:

(A) If the credit exceeds the tax imposed by Section 2355 of Title 68, the excess amount shall be refunded to the taxpayer.

(B) The credit *shall be computed using the same requirements, other than the five percent (5%) amount to compute the credit as prescribed by this section which shall remain constant, in effect for computation of the earned income tax credit for federal income tax purposes for the 2020 income tax year.* [68 O.S. § 2357.43]

(3) The Oklahoma EITC may not be paid in advance and must be claimed on the individual income tax return when filed.

(c) The credit is to be prorated on the ratio that Oklahoma Adjusted Gross Income bears to Federal Adjusted Gross Income, not to exceed one hundred percent (100%). When the Oklahoma Adjusted Gross Income or the Federal Adjusted Gross Income is negative the ratio will be determined as follows:

(1) When the Oklahoma Adjusted Gross Income is negative and is less than the Federal Adjusted Gross Income, the ratio shall be 0%. (For example: Oklahoma Adjusted Gross Income is negative $1,000 and the Federal Adjusted Gross Income is negative $500, the ratio shall be 0%).

(2) When the Federal Adjusted Gross Income is negative and is equal to or less than the Oklahoma Adjusted Gross Income, the ratio will be 100%. (For example: Oklahoma Adjusted Gross Income is negative $500 and the Federal Adjusted Gross Income is negative $1,000 the ratio is 100%).

[**Source:** Added at 19 Ok Reg 2433, eff 6-27-02; Amended at 23 Ok Reg 2828, eff 6-25-06; Amended at 34 Ok Reg 81, eff 09-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-15-91. Credit for employers incurring expenses for the provision of child care services [REVOKED]

[**Source:** Added at 20 Ok Reg 2165, eff 6-26-03; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14; Revoked at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-92. Credit for manufacturers of advanced small wind turbines [REVOKED]

[**Source:** Added at 20 Ok Reg 2165, eff 6-26-03; Amended at 23 Ok Reg 2828, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-93. Credit for qualified Oklahoma space transportation vehicle providers [REVOKED]

[**Source:** Added at 21 Ok Reg 353, eff 12-10-03 (emergency); Added at 21 Ok Reg 2571, eff 6-25-04; Revoked at 32 Ok Reg 1354, eff 8-27-15; Revoked at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-94. Volunteer firefighter credit

(a) **General provisions.** An income tax credit of Two Hundred Dollars ($200.00) for tax years 2005 through 2023, and Three Hundred Dollars ($300.00) for tax year 2024 and subsequent tax years is available each year for a volunteer firefighter who has completed at least twelve (12) hours toward the State Support or State Basic Firefighter or Firefighter I offered by Oklahoma State University Fire Service Training or Oklahoma Department of Career and Technology Education. After the initial year, an additional Two Hundred Dollar ($200.00) income tax credit is allowed for tax years 2005 through 2023, and Three Hundred Dollars ($300.00) for tax year 2024 and subsequent tax years for each year the volunteer firefighter has completed an additional six (6) hours of State Support or State Basic Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the State Fire Marshall Commission until such program or its equivalent is completed.

(b) **Advanced training credit.** An income tax credit of Four Hundred Dollars ($400.00) for tax years 2005 through 2023, and Six Hundred Dollars ($600.00) for tax year 2024 and subsequent tax years is available each year for a volunteer

firefighter who, after completing the State Support or State Basic Firefighter program:

(1) Completes at least six (6) hours of continuing education each year until the firefighter completes Intermediate or Advanced Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the State Fire Marshall Commission or its equivalent;

(2) After completion of Intermediate or Advanced Firefighter or Firefighter I, the volunteer firefighter shall complete six (6) hours of training per year to claim the tax credit;

(3) Provides documentation from the fire chief of the applicable department that the firefighter has participated in all annual training as required by federal and state authorities; and,

(4) Provides documentation from the fire chief of the applicable department that the volunteer firefighter has met the requirements under the fire department's constitution and bylaws and is a member in good standing of the department together with a record of the total number of years of service in good standing with such department.

[**Source:** Added at 22 Ok Reg 1542, eff 6-11-05; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 41 Ok Reg 1638, eff 8-11-24]

710:50-15-95. Poultry litter credit [REVOKED]

[**Source:** Added at 22 Ok Reg 1543, eff 6-11-05; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 40 Ok Reg 1265, eff 8-11-23]

710:50-15-96. Sales tax relief credit

(a) **General provisions.** Eligible individual taxpayers may claim an income tax credit for "Sales Tax Relief" pursuant to 68 O.S. § 5011. The credit is forty dollars ($40.00) multiplied by the number of allowable personal exemptions the taxpayer is entitled to claim under the Oklahoma Income Tax Act.

(b) **Eligible taxpayers.** For purposes of this Section, "Eligible Taxpayer" means an individual who is a resident of, and domiciled in Oklahoma, for the entire calendar year.

(c) **Gross Household Income.** For purposes of this Section "Gross Household Income" is the gross income of every type received by all persons occupying the same household. It includes, but is not limited to, pensions, annuities, federal social security benefits, unemployment payments, veterans disability compensation, loss-of-time insurance payments, capital gains, and any other type of income. It is not relevant whether or not the income is taxable for state or federal income tax purposes. "Gross Household Income" does not include gifts, or income that is considered deferred.

(d) **Eligibility for tax year 2004.** To be eligible to claim this credit, the following Gross Household Income limits apply for tax year 2004:

(1) For those taxpayers that can claim no allowable personal exemption other

than themselves or their spouse, Gross Household Income cannot exceed Fifteen Thousand Dollars ($15,000.00).

(2) For those taxpayers who can claim a personal exemption other than themselves or their spouse; who are at least 65 years of age; or, who have a physical disability that is a substantial handicap to employment, Gross Household Income cannot exceed Thirty Thousand Dollars ($30,000.00).

(e) **Eligibility for tax year 2005 and following years.** To be eligible to claim this credit, the following Gross Household Income limits apply for tax year 2005 and following years:

(1) For those taxpayers that can claim no allowable personal exemption other than themselves or their spouse, Gross Household Income cannot exceed Twenty Thousand Dollars ($20,000.00).

(2) For those taxpayers who can claim a personal exemption other than themselves or their spouse; who are at least 65 years of age; or, who have a physical disability that is a substantial handicap to employment, Gross Household Income cannot exceed Fifty Thousand Dollars ($50,000.00).

(f) **Filing Requirements.** Procedures for claiming the "Sales Tax Relief" credit are:

(1) For tax years beginning before January 1, 2007:

(A) If the claim for sales tax relief is taken as a direct credit against the income taxes owed by the taxpayer, the claim must be filed by April 15 as part of the regular income tax return, using Oklahoma Tax Commission Form 538S (OTC Form 538S). Extensions of time to file an Oklahoma income tax return will not extend the time to file for the Sales Tax Relief Credit.

(B) If the claim for sales tax relief is not taken as a direct credit against income taxes owed by the taxpayer, the claim must be filed by June 30 for the preceding calendar year, using Form 538S as a stand-alone refund claim.

(2) For tax years beginning on or after January 1, 2007:

(A) If the taxpayer has an income tax filing requirement, the claim must be filed by April 15 as part of the regular income tax return in the year following the close of the taxable year, unless the taxpayer has been granted a valid extension of time to file said income tax return (including the April 20th due date for electronically filed returns). In the case where a valid extension of time to file has been granted, the claim for sales tax relief may be filed with the income tax return pursuant to the extension granted. In all cases taxpayers must attach Oklahoma Tax Commission Form 538S (OTC Form 538S) to their regular income tax return in order to claim the sales tax relief credit.

(B) If the taxpayer does not have an income tax filing requirement the claim must be filed by June 30 for the preceding calendar year, using Form 538S.

(g) **Exceptions and exclusions.** The exceptions and exclusions set out in this subsection apply to the "Sales Tax Relief" credit.

(1) Persons who have received temporary assistance for needy families (TANF)

for any month during the tax year are not eligible for the sales tax refund under this Section, but shall receive sales tax relief as a part of their monthly TANF benefit. [**See:** 68 O.S. § 5013(B)]

(2) The Oklahoma Department of Human Services will issue the sales tax refund to persons who have continuously received aid to the aged, blind, disabled or Medicaid payments for nursing home care for the tax year. [**See:** 68 O.S. §5013(C),(D)]

(3) A person convicted of a felony shall not be permitted to file a claim for sales tax relief for any year for which that person is an inmate in the custody of the Department of Corrections for any part of that year. [**See:** 68 O.S. § 5011(E)]

(4) Alien individuals living in Oklahoma under a temporary or restricted status do not qualify for the sales tax relief credit. [**See:** 8 U.S. § 1101(a)(15)(B) and § 1101(a)(15)(F)(i)]

(5) If a taxpayer or spouse died during the tax year, the sales tax credit cannot be claimed for the deceased. However, if the death occurred after the close of the tax year, but before the claim for sales relief was filed, the sales tax credit or refund for the deceased will be issued to the deceased's estate. [**See:** 68 O.S. § 5011]

[**Source:** Added at 22 Ok Reg 1543, eff 6-11-05; Amended at 19 Ok Reg 2056, eff 7-1-08]

710:50-15-97. Credit for qualified direct costs of a business enterprise of specially trained canines [REVOKED]

[**Source:** Added at 23 Ok Reg 2829, eff 6-25-06; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14; Revoked at 40 Ok Reg 1265, eff 8-11-23]

710:50-15-98. Credits for biodiesel production [REVOKED]

[**Source:** Added at 23 Ok Reg 2829, eff 6-25-06; Amended at 19 Ok Reg 2056, eff 7-1-08; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 40 Ok Reg 1265, eff 8-11-23]

710:50-15-99. Dry fire hydrant credit [REVOKED]

[**Source:** Added at 23 Ok Reg 2830, eff 6-25-06; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at Ok Reg 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14; Revoked at 40 Ok Reg 1265, eff 8-11-23]

710:50-15-100. Credit for qualified wages, capital expenditures, and training expenses [REVOKED]

[**Source:** Added at 23 Ok Reg 2830, eff 6-25-06; Amended at 26 Ok Reg 2330, eff 6-25-09; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-101. Twenty-five percent (25%) Film and Music Profit Reinvestment Credit [REVOKED]

[**Source:** Added at 23 Ok Reg 2832, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 32 Ok Reg 1354, eff 8-27-15; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-103. Credit for qualified railroad reconstruction or replacement expenditures

(a) **General provisions**. For tax years beginning after December 31, 2005, and ending before January 1, 2030 there is a credit allowed against the tax imposed by Section 2355 of Title 68 equal to 50% of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures. [68 O.S. § 2357.104]

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Eligible taxpayer"** means any railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(2) **"Qualified railroad reconstruction or replacement expenditures"** means expenditures for track maintenance, natural disasters, and reconstruction or replacement of railroad infrastructure. This includes track, roadbed, crossings, bridges, industrial leads and track-related structures owned or leased by a Class II or Class III railroad as of January 1, 2006. Qualified railroad reconstruction or replacement expenditures can also include new construction of industrial leads, switches, spurs and sidings and extensions of existing sidings by a Class II or Class III railroad.

(c) **Limitations.**

(1) The amount of the credit may not exceed the product of the number of miles of railroad track owned or leased within this state by the eligible taxpayer as of the close of the taxable year and:

(A) Five Hundred Dollars ($500.00) for tax year 2007.

(B) Two Thousand Dollars ($2,000.00) for tax years 2008 through 2019.

(C) Five Thousand Dollars ($5,000.00) for tax years 2020 through 2024.

(2) Effective for tax years beginning on or after January 1, 2016, and ending before January 1, 2020, the credit is limited to seventy-five percent (75%) of the otherwise allowable credit.

(d) **Transferability.** The credits allowed pursuant to this Section that are not used are freely transferable by written agreement, to subsequent transferees, at any time during the five (5) years following the year of qualification.

(1) **"Eligible transferee" defined.** For purposes of this subsection, an "eligible transferee" shall be any taxpayer subject to the tax imposed by Section 2355 of Title 68.

(2) **Written transfer agreement requirements.** The person originally allowed the credit and the subsequent transferee must jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the

transferring person, and the tax year or years for which the credit may be claimed.

(e) **Carryover provisions.** Any credit allowed pursuant to the provisions of this Section, to the extent not used, may be carried over in order to each of the five (5) years following the year of qualification.

(f) **Tax credit limitation**. The total amount of credits authorized by this Section used to offset tax shall be adjusted annually to limit the annual amount of credits to Two Million Dollars ($2,000,000.00) for tax years 2018 and 2019 and Five Million Dollars ($5,000,000.00) for tax year 2020 and all subsequent tax years. The Tax Commission shall annually calculate and publish a percentage by which the credits authorized by this Section shall be reduced so the total amount of credits used to offset tax does not exceed the applicable annual limit.

[**Source:** Added at 23 Ok Reg 2833, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 34 Ok Reg 81, eff 09-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 36 Ok Reg 35, eff 10-17-18 (emergency); Amended at 36 Ok Reg 1216, eff 8-11-19; Amended at 38 Ok Reg 1527, eff 9-1-21; Amended at 41 Ok Reg 1638, eff 8-11-24]

710:50-15-104. Credit for construction of energy efficient residential property

(a) **General provisions.** Effective for the time period beginning on or after January 1, 2006, and ending on or before July 1, 2016, a credit is available for contractors who construct either energy efficient residential property or energy efficient manufactured homes. The credit is dollar for dollar based on the cost of certain eligible expenditures.

(b) **Definitions.** For purposes of this Section, the following words and terms, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Contractor"** is the taxpayer who actually constructed the residential property or manufactured home. In cases if more than one person qualifies as the contractor, the primary contractor.

(2) "**Eligible energy efficient residential property**" means a newly constructed residential property or manufactured home property located in the State of Oklahoma. Further the home cannot exceed two thousand (2,000) square feet in order to be eligible for the credit. The eligible energy efficient residential property must be substantially complete after December 31, 2005.

(3) **"Eligible expenditure"** includes the cost of energy efficient heating or cooling systems, insulation material specifically designed to reduce the heat gain or loss of a residential property, exterior windows, exterior doors or metal roofs with appropriate pigmented coatings designed to reduce the heat gain which meets Energy Star program requirements.

(4) "**Home energy ratings"** means a confirmed rating involving an on-site inspection of a home by a residential energy efficiency professional trained and certified by a Residential Energy Services Network accredited home

energy rater.

(5) "**Residential energy services network provider"** means an accredited home energy inspector certified by Residential Energy Services Network.

(6) **"Residential property"** means a single dwelling unit, duplex, or townhouse with three stories or less, that provides independent living and could be sold or leased as separate property. The term does not include Group R-2 and R-4 residential buildings as defined in the International Energy Conservation Code.

(7) "**Substantially complete"** means the residential property or manufactured home has a certificate of occupancy issued if located in a municipality. For residential property or manufactured home in non-metropolitan area, the property will be substantially complete after passing the appropriate inspections required under the applicable County Building Codes permitted under 19 O.S. § 863.44.

(c) **Amount of credit.**

(1) The credit is capped at Four Thousand Dollars ($4,000) for those residential properties that are certified at forty percent (40%) or above of the International Energy Conservation Code 2003 and any supplement in effect at the time of completion. If the residential property is certified between twenty percent (20%) and thirty-nine (39%) of the International Energy Conservation Code of 2003 and any supplement in effect at the time of completion, the credit is limited to Two Thousand Dollars ($2,000.00).

(2) The credit is not available if the residential property is in excess of Two Thousand (2,000) square feet.

(d) **Carryover provisions.** Any credit allowed pursuant to the Section, to the extent not used, may be carried over in order to each of the four (4) years following the year of qualification. However, at no time may the credit claimed exceed the tax liability.

(e) **Transfer of the credit.** Effective for credits earned on or after August 25, 2006, the credit for construction of energy efficient residential property may be transferred.

(f) **Tax credit moratorium**. No credit may be claimed for any expenditure made during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. A credit will be allowed for eligible expenditures made prior to July 1, 2010 regardless of when the property is substantially complete. This credit may be claimed for tax year 2012 and subsequent tax years, for eligible expenditures made on or after July 1, 2012, by contractors who construct either energy efficient residential property or energy efficient manufactured homes.

(g) **Termination of the credit**. No credit may be claimed for any expenditure made on or after July 1, 2016 for which the credit would otherwise be allowable. The credit shall be allowed for eligible expenditures made prior to July 1, 2016; however, the property must be substantially complete before January 1, 2017.

[**Source:** Added at 23 Ok Reg 2833, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07;

Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 34 Ok Reg 81, eff 09-30-16 (emergency); Amended at 34 Ok Reg 2065, 9-11-17]

710:50-15-105. Credit for research and development [REVOKED]

[**Source:** Added at 23 Ok Reg 2834, eff 6-25-06; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-15-106. Credits for ethanol production [REVOKED]

[**Source:** Added at 23 Ok Reg 2834, eff 6-25-06; Amended at 19 Ok Reg 2056, eff 7-1-08; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 36 Ok Reg 1216, eff 8-11-19]

710:50-15-107. Eligible wage and modification expenses credits [REVOKED]

[**Source:** Added at 23 Ok Reg 2835, eff 6-25-06; Amended at 19 Ok Reg 2056, eff 7-1-08; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 32 Ok Reg 1354, eff 8-27-15; Revoked at 36 Ok Reg 1216, eff 8-11-19]

710:50-15-108. Credit for qualified rehabilitation expenditures

(a) **General Provisions.** The Credit for Qualified Rehabilitation Expenditures is one hundred percent (100%) of the allowable federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code. All rehabilitation work to which the Credit for Qualified Rehabilitation Expenditures may be applied must be reviewed by the State Historic Preservation Office. The State Historic Preservation Office will forward the information to the National Park Service for certification in accordance with 36 C.F.R., Part 67. A certified historic structure may be rehabilitated for any lawful use or uses, including without limitation mixed uses and still retain eligibility for the credit provided for in this section.

(b) **Definitions.**

(1) *"**Certified historic hotel or historic newspaper plant building**" means a hotel or newspaper plant building that is listed on the National Register of Historic Places within thirty (30) months of taking the credit pursuant to 68 O.S. § 2357.41.*

(2) *"**Certified historic structure**" means a building that is listed on the National Register of Historic Places within thirty (30) months of taking the credit pursuant to this section or a building located in Oklahoma which is certified by the State Historic Preservation Office as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, or a local district that has been certified by the State Historic Preservation Office as eligible for listing in the National Register of Historic Places.*

(3) *"**Qualified rehabilitation expenditures**" means capital expenditures that qualify for the federal rehabilitation credit provided in Section 47 of Title 26 of the United States Code and that were paid after December 31, 2000. Qualified rehabilitation expenditures do not include capital expenditures for nonhistoric additions except an addition that is required*

by state or federal regulations that relate to safety or accessibility. In addition, qualified rehabilitation expenditures do not include expenditures related to the cost of acquisition of the property.

(c) **Provisions for tax years beginning after December 31, 2000 and ending before January 1, 2006.** Only certified historic hotel or historic newspaper plant buildings located in an increment or incentive district created pursuant to the Local Development Act (62 O.S. §§ 850 et. seq.) are eligible for the Credit for Qualified Rehabilitation Expenditures.

(d) **Provisions for tax years beginning on or after before January 1, 2006.** The Credit for Qualified Rehabilitation Expenditures is available for qualified rehabilitation expenditures incurred after January 1, 2006 in connection with any certified historic structure.

(e) **Provisions for claiming the credit**. Generally, the first year the Credit for Qualified Rehabilitation Expenditures is eligible to be claimed is the first tax year that the federal rehabilitation credit, provided for in Section 47 of Title 26 of the United States Code, is eligible to be claimed. For carryover of the credit, see carryover provisions below. Further the Credit for Qualified Rehabilitation Expenditures may only be claimed after the relevant local governmental body responsible for doing so issues a certificate of occupancy or other document that is a precondition for the applicable use of the building or structure that is the basis upon which the credit is claimed. All requirements with respect to qualification for the credit authorized by Section 47 of Title 26 of the United States Code shall be applicable to the Credit for Qualified Rehabilitation Expenditures.

(f) **Carryover**. If the Credit for Qualified Rehabilitation Expenditures exceeds the amount of income taxes due or if there are no state income taxes due, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years following the qualified expenditures.

(g) **Transferability.** The Credit for Qualified Rehabilitation Expenditures allowed, but not used, shall be freely transferable by written agreement to subsequent transferees, at any time during the five (5) years following the year of qualification.

(h) **Written transfer agreement requirements.** The entity which originally earned the credit and the subsequent transferee must jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. Subsequent transfers will require the transferor and transferee to jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring entity, and the tax year or years for which the credit may be claimed as well as a representation by the transferor that the transferor has neither claimed such credits for its own behalf nor conveyed said credits to any other transferee. Such filing of the written credit transfer

agreement with the Oklahoma Tax Commission will perfect said transfer.
(i) **Claiming transferred credit.** A copy of OTC Form 572 must be attached to any tax return on which a taxpayer claims a transferred credit.
(j) **Repayment of disallowed credit.** Effective January 1, 2009, if the Credit for Qualified Rehabilitation Expenditures has been transferred and is subsequently reduced as the result of an adjustment by the Internal Revenue Service, the Oklahoma Tax Commission, or any other applicable government agency, only the transferor originally allowed the credit will be held liable to repay any amount of disallowed credit. Any subsequent transferee of the credit is not liable to repay the amount of disallowed credit.
(k) **Tax credit moratorium.** No credit may be claimed for any qualified rehabilitation expenditures made during the period of July 1, 2010 through June 30, 2012, prior to the taxable year beginning January 1, 2012. No credits which accrue during the period of July 1, 2010, through June 30, 2012, may be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012.

[**Source:** Added at 24 Ok Reg 2359, eff 6-25-07; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11]

710:50-15-109. Credit for qualified employers and employees of the aerospace sector

(a) **General provisions.** For tax years beginning after December 31, 2008 and before January 1, 2032, credits are allowed against the tax imposed by Section 2355 of Title 68 for the employment of qualified employees in the aerospace sector. The credits are as follows:

(1) Credit for qualified employers for tuition reimbursement to qualified employees.

(2) Credit for qualified employers for compensation paid to qualified employees.

(3) Credit for qualified employees.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Qualified employee".**

(A) Any person, regardless of the date of hire by the qualified employer, who is newly employed by or contracting with a qualified employer in Oklahoma on or after January 1, 2009.

(B) A person who has been either:

(i) Awarded an undergraduate or graduate degree from a qualified program by an institution, or

(ii) Licensed as a Professional Engineer by the State Board of Licensure for Professional Engineers and Land Surveyors pursuant to Section 475.15 of Title 59 of the Oklahoma Statutes and employed as a qualified employee in the aerospace sector by a qualified employer on or after November 1, 2021.

(C) Qualified employee does not include a person employed in the aerospace sector in this state immediately preceding employment or contracting with a qualified employer, unless,

(i) The employee was employed in the aerospace sector, but not as a full-time engineer, prior to being awarded a degree;

(ii) The employee has been awarded a degree and is employed by a professional staffing company and assigned to work in the aerospace sector in Oklahoma;

(iii) The employee previously qualified and claimed the credit and becomes employed by a different qualified employer on or after January 1, 2024; or

(iv) The employee claimed the credit for the first time in tax year 2024, or any subsequent tax year, and becomes employed by a different qualified employer in any subsequent tax year.

(2) **"Qualified program"** is any program that awards undergraduate or graduate degrees and has been accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET). Effective November 1, 2021, a qualified program includes both undergraduate and graduate programs of the same discipline of engineering at an institution if either program is ABET accredited.

(3) **"Aerospace sector", "compensation", "institution", "qualified employer"** and **"tuition"** shall be defined as in Section 2357.301 of Title 68 of the Oklahoma Statutes.

(c) **Credit for tuition reimbursement.**

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes based on the amount of tuition reimbursed to a qualified employee. This credit is effective for taxable years beginning after December 31, 2008.

(2) The credit for tuition reimbursement may only be claimed if the qualified employee has been awarded an undergraduate or graduate degree within 1 year of starting employment with the qualified employer. The undergraduate or graduate degree must be from a qualified program.

(3) The credit for tuition reimbursement is equal to 50% of the tuition reimbursed to a qualified employee and may be claimed for the first through fourth years of employment with the qualified employer. The credit is only allowed to be claimed in the tax year that the tuition was reimbursed to the qualified employee and may not exceed in any taxable year 50% of the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program at a public institution in Oklahoma.

(4) The credit for tuition reimbursement may not be used to reduce the tax liability of the qualified employer to less than zero, is not transferable and may not be carried over.

(5) The credit for tuition reimbursement may not be claimed after the fourth year of employment of the qualified employee.

(d) **Credit for compensation paid.**

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for compensation paid to a qualified employee. This credit is effective for taxable years beginning after December 31, 2008.
(2) The credit for compensation paid equals:
(A) 10% of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located in this state.
(B) 5% of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located outside this state.
(3) The credit for compensation paid cannot exceed $12,500 for each qualified employee annually.
(4) The credit for compensation paid may not be used to reduce the tax liability of the qualified employer to less than zero, is not transferable and may not be carried over.
(5) The credit for compensation paid may not be claimed after the fifth year of employment.

(e) **Credit for qualified employees.**
(1) For taxable years beginning after December 31, 2008, a qualified employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes of up to $5,000 per tax year for a period of time not to exceed 5 years during the lifetime of the qualified employee. This credit may be claimed in nonconsecutive tax years.
(2) The credit authorized by this section shall not be used to reduce the tax liability of the taxpayer to less than zero.
(3) Any credit claimed, but not used, may be carried over, in order, to each of the 5 subsequent taxable years.

[**Source:** Added at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 29 Ok Reg 1468, eff 6-25-12; Amended at 32 Ok Reg 1354, eff 8-27-15; Amended at 35 Ok Reg 2066, eff 9-14-18; Amended at 39 Ok Reg 2249, eff 9-11-22; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-110. Income tax credit moratorium [REVOKED]

[**Source:** Added at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 29 Ok Reg 1468, eff 6-25-12; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-111. Wire transfer fee credit [REVOKED]

[**Source:** Added at 28 Ok Reg 935, eff 6-1-11; Amended at 32 Ok Reg 1354, eff 8-27-15; Revoked at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-112. Credit for electric motor vehicle manufacturers [REVOKED]

[**Source:** Added at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14; Revoked at 40 Ok Reg 1265, eff 8-11-23]

710:50-15-113. Qualified independent biomedical research institute or qualified cancer research center credit

(a) **General provisions.** For tax years beginning after December 31, 2004, there is allowed a credit against the tax imposed by 68 O.S. Section 2355 to any taxpayer who makes a donation to a qualified independent biomedical research institute. For tax years beginning after December 31, 2010 any taxpayer who makes a donation to a qualified cancer research institute is also eligible for the credit. Both qualified cancer research institutes and qualified independent biomedical research institutes must provide donors with written acknowledgements of the donation and the credit amount and must report this information to the Oklahoma Tax Commission.

(b) **Definitions.**

(1) **"Qualified cancer research institute"** *means an organization which is exempt from taxation pursuant to the Internal Revenue Code whose primary focus is raising the standard of cancer clinical care in Oklahoma through peer-reviewed cancer research and education. The organization must be either an independent research institute or a program that is part of a state university which is a member of the Oklahoma State System of Higher Education and must receive at $4,000,000 in National Cancer Institute funding per year.*

(2) **"Qualified independent biomedical research institute"** *means an organization which is exempt from taxation under the Internal Revenue Code section 501(c)(3) whose primary focus is conducting peer-reviewed basic biomedical research. The organization shall have a board of directors, be able to accept grants in its own name, be an identifiable institute that has its own employees and administrative staff, and receive at least $20,000,000 in National Institutes of Health funding each year.*

(c) **Qualification.** In order to qualify for the credit, taxpayers must make a donation to either a qualified independent biomedical research institute or a qualified cancer research institute.

(d) **Computation of credit and limitations.**

(1) **Tax years 2007 through 2025.** The credit is 50% of the amount donated, but may not exceed $1,000 ($2,000 for a married filing joint return) for each taxpayer for each type of donation. Taxpayers may not claim more than one credit for a donation to a qualified independent biomedical research institute and one credit for a donation to a qualified cancer research institute.

(2) **Tax year 2026 and subsequent tax years.**

(A) **Donations to a qualified independent biomedical research institute.** The credit is 50% of the amount donated but may not exceed $1,000 for taxpayers filing as single or $2,000 for taxpayers filing as married joint, head of household or surviving spouse, or $25,000 for any taxpayer which is a legal business entity, for each taxpayer for each type of donation.

(B) **Donations to a qualified research institute.** The credit is 50% of the amount donated but may not exceed $1,000 for taxpayers filing as single or $2,000 for taxpayers filing as married joint, head of household, surviving spouse, or any taxpayer which is a legal business entity, for each taxpayer for each type of donation.

(e) **Annual limitations.**

(1) **Tax years 2012 through 2025.** If the total tax credits authorized by this Section exceed $1,000,000 in a tax year for donations to either a cancer research institute or an independent biomedical research institute, the Tax Commission shall permit any excess over $1,000,000 but will factor such excess into the percentage adjustment formula for subsequent tax years for each type of credit.

(2) **Tax year 2026 and subsequent tax years.**

(A) **Donations to a qualified independent biomedical research institute.** If the total tax credits authorized exceed $1,500,000 for donations to a qualified independent biomedical research institute, the Tax Commission shall permit any excess over $1,500,000 but will factor such excess into the percentage adjustment formula for subsequent tax years. The adjusted percentage allowable will be determined by multiplying 50% times t$1,500,000, then dividing the result by the credits allowed in the preceding tax year.

(B) **Donations to a qualified cancer research institute.** If the total tax credits authorized exceed $500,000 for donations to a qualified cancer research institute, the Tax Commission shall permit any excess over $500,000 but will factor such excess into the percentage adjustment formula for subsequent tax years. The adjusted percentage allowable will be determined by multiplying 50% times $500,000, then dividing the result by the credits allowed in the preceding tax year.

(f) **Credit non-refundable, nontransferable; carryover provision.** This credit may not be taken as a refund; nor may it be transferred. If the credit exceeds a taxpayer's liability, unused credits may be carried over for 4 years.

[**Source:** Added at 28 Ok Reg 935, eff 6-1-11; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-114. Credit for contributions to a scholarship-granting organization

(a) **General provisions.** An income tax credit is available for contributions to an eligible scholarship-granting organization. [68 O.S. § 2357.206]

(b) **Credit**. The credit is generally fifty percent (50%) of the total amount of contributions made during a taxable year, not to exceed One Thousand Dollars ($1,000) for each taxpayer or Two Thousand Dollars ($2,000) for married taxpayers filing jointly, or One Hundred Thousand Dollars ($100,000) for any taxpayer which is a legal business entity, subject to the limitation in (e) of this Section. Tax credits which are allocated by a pass-through entity to equity owners are only limited in amount for the income tax return of a natural

person based upon the limitation of the total credit amount to the entity from which the tax credits have been allocated, and not limited to One Thousand Dollars ($1,000.00) for single individuals or limited to Two Thousand Dollars ($2,000.00) for married persons filing a joint return.

(c) **Additional year commitment.** For a taxpayer who makes an eligible contribution and makes a written commitment to contribute the same amount for an additional year, the credit shall be seventy-five percent (75%) of the total amount of the contribution made during the taxable year. The taxpayer shall provide evidence of the written commitment to the Tax Commission when the tax return claiming the credit is filed the first year.

(d) **Registration**. An eligible scholarship-granting organization is required to register with the Tax Commission.

(e) **Limitation of credit.**

(1) If total credits claimed exceed the caps established pursuant to 68 O.S. § 2357.206(E), the credit shall be equal to the taxpayer's proportionate share of the cap for the taxable year. [**See**: 68 O.S. § 2357.206(I)]

(2) At least once each taxable year, the eligible scholarship-granting organization shall notify each contributor that Oklahoma law provides for a total statewide cap on the amount of income tax credits allowed annually.

(f) **Annual notification.**

(1) By January 10 each year, the scholarship-granting organization shall provide electronically to the Tax Commission:

(A) The scholarship-granting organization's account number;

(B) The name of each contributor and sufficient other information to accurately determine the identity of each contributor;

(C) The date and amount of each contribution; and

(D) Whether the taxpayer made a written commitment to contribute the same amount for two (2) additional consecutive years.

(2) By February 15 each year, the Tax Commission shall publish the percentage of the contribution which may be claimed as a credit on the Tax Commission's website. The scholarship-granting organizations shall notify contributors of that amount annually.

(g) **Annual report.** In order to maintain registration, a scholarship granting organization shall file an annual report with the Oklahoma Tax Commission on or before September 1 of each year. [See 68 O.S. § 2357.206(M)(1)]

(h) **Ninety percent (90%) requirement**. Effective January 1, 2014, a credit will not be allowed by the Tax Commission for contributions made to an eligible scholarship-granting organization if the organization's percentage of funds actually awarded is less than ninety percent (90%). In order to determine this amount, the total amount of funds actually awarded over the most recent twenty-four (24) months shall be divided by the total amount available to award over the most recent twenty-four (24) months.

(i) **Limitations.**

(1) The credit will not reduce the tax liability of the taxpayer to less than zero (0) and any credit allowed but not used may be carried over, in order, to each

of the three (3) subsequent taxable years.
(2) The credit is not transferable.
(3) For tax year 2016 and subsequent tax years, credits earned but not allowed due to the application of statewide caps will be considered suspended and authorized to be used in the next immediate tax year and applied to the next year's statewide cap.

[**Source:** Added at 29 Ok Reg 1468, eff 6-25-12; Amended at 32 Ok Reg 1354, eff 8-27-15; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 35 Ok Reg 2066, eff 9-14-18; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-15-115. Credit for contributions to an educational improvement grant organization

(a) **General provisions.** An income tax credit is available for contributions to an eligible educational improvement grant organization. [68 O.S. § 2357.206]

(b) **Application**. An educational improvement grant organization shall submit an application to the Tax Commission. The Tax Commission shall review and approve or disapprove the application, in consultation with the State Department of Education.

(c) **Credit**. The credit is generally fifty percent (50%) of the total amount of contributions made during a taxable year, not to exceed One Thousand Dollars ($1,000) for each taxpayer or Two Thousand Dollars ($2,000) for married taxpayers filing jointly, or One Hundred Thousand Dollars ($100,000) for any taxpayer which is a legal business entity, subject to the limitation in (e) of this Section. Tax credits which are allocated by a pass-through entity to equity owners are only limited in amount for the income tax return of a natural person based upon the limitation of the total credit amount to the entity from which the tax credits have been allocated, and not limited to One Thousand Dollars ($1,000.00) for single individuals or limited to Two Thousand Dollars ($2,000.00) for married persons filing a joint return.

(d) **Additional year commitment.** For a taxpayer who makes an eligible contribution and makes a written commitment to contribute the same amount for an additional year, the credit shall be seventy-five percent (75%) of the total amount of the contribution made during the taxable year. The taxpayer shall provide evidence of the written commitment to the Tax Commission when the tax return claiming the credit is filed the first year.

(e) **Limitation of credit.**

(1) If total credits claimed exceed the caps established pursuant to 68 O.S. § 2357.206(E), the credit shall be equal to the taxpayer's proportionate share of the cap for the taxable year. [**See**: 68 O.S. § 2357.206(I)]

(2) At least once each taxable year, the educational improvement grant organization shall notify each contributor that Oklahoma law provides for a total statewide cap on the amount of income tax credits allowed annually.

(f) **Annual notification.**

(1) By January 10 each year, the educational improvement grant organization shall provide electronically to the Tax Commission:

(A) The educational improvement grant organization's account number;
(B) The name of each contributor and sufficient other information to accurately determine the identity of each contributor;
(C) The date and amount of each contribution; and
(D) Whether the taxpayer made a written commitment to contribute the same amount for two (2) additional consecutive years.

(2) By February 15 each year, the Tax Commission shall publish the percentage of the contribution which may be claimed as a credit on the Tax Commission's website. The educational improvement grant organization shall notify contributors of that amount annually.

(g) **Annual report.** In order to maintain eligibility, an educational improvement grant organization shall file an annual report with the Tax Commission, on or before September 1 of each year. [See 68 O.S. § 2357.206(L)(3)]

(h) **Ninety percent (90%) requirement** Effective January 1, 2014, a credit will not be allowed by the Tax Commission for contributions made to an eligible educational improvement grant organization if the organization's percentage of funds actually awarded is less than ninety percent (90%). In order to determine this amount, the total amount of funds actually awarded over the most recent twenty-four (24) months shall be divided by the total amount available to award over the most recent twenty-four (24) months.

(i) **Limitations.**

(1) The credit will not reduce the tax liability of the taxpayer to less than zero (0) and any credit allowed but not used may be carried over, in order, to each of the three (3) subsequent taxable years.

(2) The credit is not transferable.

(3) For tax year 2016 and subsequent tax years, credits earned but not allowed due to the application of statewide caps will be considered suspended and authorized to be used in the next immediate tax year and applied to the next year's statewide cap.

[**Source:** Added at 29 Ok Reg 1468, eff 6-25-12; Amended at 32 Ok Reg 1354, eff 8-27-15; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 35 Ok Reg 2066, eff 9-14-18; Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-15-115.1. Credit for contributions to a public school foundation or public school district

(a) **General provisions.** For contributions made on or after January 1, 2022, an income tax credit is available for contributions to an eligible public school foundation or public school district. [68 O.S. § 2357.206]

(b) **Application**. An eligible public school foundation or public school district shall submit an application to the Oklahoma Tax Commission. The Tax Commission shall review and approve or disapprove the application, in consultation with the State Department of Education.

(c) **Credit**. The credit is generally fifty percent (50%) of the total amount of contributions made during a taxable year, not to exceed One Thousand Dollars ($1,000) for each taxpayer or Two Thousand Dollars ($2,000) for married

taxpayers filing jointly, or One Hundred Thousand Dollars ($100,000) for any taxpayer which is a legal business entity, subject to the limitation in (e) of this Section. Tax credits which are allocated by a pass-through entity to equity owners are only limited in amount for the income tax return of a natural person based upon the limitation of the total credit amount to the entity from which the tax credits have been allocated, and not limited to One Thousand Dollars ($1,000.00) for single individuals or limited to Two Thousand Dollars ($2,000.00) for married persons filing a joint return.

(d) **Additional year commitment.** For a taxpayer who makes an eligible contribution and makes a written commitment to contribute the same amount for an additional year, the credit shall be seventy-five percent (75%) of the total amount of the contribution made during the taxable year. The taxpayer shall provide evidence of the written commitment to the Tax Commission when the tax return claiming the credit is filed the first year.

(e) **Limitation of credit.**

(1) If total credits claimed exceed the caps established pursuant to 68 O.S. § 2357.206(E), the credit shall be equal to the taxpayer's proportionate share of the cap for the taxable year. [**See**: 68 O.S. § 2357.206(I)]

(2) At least once each taxable year, the public school foundation or public school district shall notify each contributor that Oklahoma law provides for a total statewide cap on the amount of income tax credits allowed annually.

(f) **Annual notification.**

(1) By January 10 each year, the public school foundation or public school district shall provide electronically to the Tax Commission:

(A) The public school foundation or public school district's federal employer identification number;

(B) The name of each contributor and sufficient other information to accurately determine the identity of each contributor;

(C) The date and amount of each contribution; and

(D) Whether the taxpayer made a written commitment to contribute the same amount for two (2) additional consecutive years.

(2) By February 15 each year, the Tax Commission shall publish the percentage of the contribution which may be claimed as a credit on the Tax Commission's website. The public school foundation or public school district shall notify contributors of that amount annually.

(g) **Annual report.** In order to maintain eligibility, the public school foundation or public school district shall submit an annual report to the Tax Commission, on or before September 1 of each year. [See 68 O.S. § 2357.206(L)(3)]

(h) **Limitations.**

(1) The credit will not reduce the tax liability of the taxpayer to less than zero (0) and any credit allowed but not used may be carried over, in order, to each of the three (3) subsequent taxable years.

(2) The credit is not transferable.

(3) Credits earned but not allowed due to the application of statewide caps will be considered suspended and authorized to be used in the next immediate tax year and applied to the next year's statewide cap.

[**Source:** Added at Amended at 39 Ok Reg 2249, eff 9-11-22]

710:50-15-116. Credit for qualified employers and employees in the vehicle manufacturing industry

(a) **General provisions**. For tax years beginning after December 31, 2018, and ending before January 1, 2026, three (3) credits are allowed against the tax imposed by Section 2355 of Title 68 for the employment of qualified employees:

(1) Credit for qualified employers for tuition reimbursement to qualified employees.

(2) Credit for qualified employers for compensation paid to qualified employees.

(3) Credit for qualified employees.

(b) **Definitions**. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Qualified employee**".

(A) A qualified employee is any person newly employed in Oklahoma by a qualified employer on or after January 1, 2018. A qualified employee may include a person whose prior employment was not as a full-time engineer, or whose employment was not in the state of Oklahoma, even though employed by the same qualified employer.

(B) The qualified employee must have been awarded an undergraduate or graduate degree from a qualified program by an institution.

(C) Qualified employee may include a person who has been awarded an undergraduate or graduate degree from a qualified program by an institution and is employed by a professional staffing company and assigned to work in vehicle manufacturing in this state.

(D) Qualified employee may include a person who was employed in vehicle manufacturing in the state of Oklahoma prior to January 1, 2018, but not as a full-time engineer, prior to being awarded an undergraduate or graduate degree from a qualified program by an institution.

(E) Qualified employee does not include a person employed in vehicle manufacturing in this state immediately preceding employment or contracting with a qualified employer.

(F) Qualified employee does not include any person employed in vehicle manufacturing in the state of Oklahoma as a full-time engineer prior to January 1, 2018.

(2) "**Vehicle manufacturing**", which includes vehicle manufacturing and automotive parts manufacturing, means a private or public company first placed in operation in this state after November 1, 2018, for vehicle manufacturing and November 1, 2019, for automotive parts manufacturing

which is engaged in the research, development, design and manufacture of motor vehicles which may be driven on the avenues of public access or in automotive parts manufacturing. For purposes of this Section, "motor vehicle" does not include low-speed electric vehicles or motor vehicles manufactured primarily, but not exclusively, for off-road use, such as primarily for use on a golf course. For operations placed in service after November 1, 2018, and before November 2, 2019, "motor vehicle" also does not include buses or truck-tractors.

(3) **"Compensation", "institution", "qualified employer", "qualified program**", and "t**uition"** shall be defined as in Section 2357.404 of Title 68 of the Oklahoma Statutes.

(c) **Credit for tuition reimbursement**.

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes based on the amount of tuition reimbursed to a qualified employee.

(2) The credit for tuition reimbursement may only be claimed if the qualified employee has been awarded an undergraduate or graduate degree within one (1) year of starting employment with the qualified employer.

(3) The credit for tuition reimbursement is equal to fifty percent (50%) of the tuition reimbursed to a qualified employee and may be claimed for the first through fourth years of employment with the qualified employer. The credit is only allowed to be claimed in the tax year that the tuition was reimbursed to the qualified employee and may not exceed in any taxable year fifty percent (50%) of the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program at a public institution in Oklahoma.

(4) The credit for tuition reimbursement may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for tuition reimbursement may not be claimed after the fourth year of employment of the qualified employee.

(d) **Credit for compensation paid**.

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for compensation paid to a qualified employee.

(2) The credit for compensation paid equals:

(A) Ten percent (10%) of the compensation paid for the first through fifth years of employment in vehicle manufacturing if the qualified employee graduated from an institution located in this state.

(B) Five percent (5%) of the compensation paid for the first through fifth years of employment in vehicle manufacturing if the qualified employee graduated from an institution located outside this state.

(3) The credit for compensation paid cannot exceed Twelve Thousand Five Hundred Dollars ($12,500.00) for each qualified employee annually.

(4) The credit for compensation paid may not be used to reduce the tax

liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for compensation paid may not be claimed after the fifth year of employment.

(e) **Credit for qualified employees**.

(1) A qualified employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes of up to Five Thousand Dollars ($5,000.00) per year for a period of time not to exceed five (5) years.

(2) The credit authorized by this Section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

(3) Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

(f) **Limitation of credit.**

(1) Effective for tax years beginning on or after January 1, 2019, no more than Three Million Dollars ($3,000,000.00) of credits authorized by (c) and (d) of this Section may be allowed as an offset in a taxable year. The Tax Commission shall determine the percentage which may be claimed as a credit no later than September 1 of each calendar year. In the event the total tax credits authorized by (c) and (d) of this Section exceed Three Million Dollars ($3,000,000.00) in any tax year, the Tax Commission shall permit any excess over Three Million Dollars ($3,000,000.00), but shall factor such excess into the percentage adjustment formula for subsequent years.

(2) Effective for tax years beginning on or after January 1, 2019, no more than Two Million Dollars ($2,000,000.00) of credits authorized by (e) of this Section may be allowed as an offset in a taxable year. The Tax Commission shall determine the percentage which may be claimed as a credit no later than September 1 of each calendar year. In the event the total tax credits authorized by (e) of this Section exceed Two Million Dollars ($2,000,000.00) in any tax year, the Tax Commission shall permit any excess over Two Million Dollars ($2,000,000.00), but shall factor such excess into the percentage adjustment formula for subsequent years.

[**Source:** Added at 36 Ok Reg 1216, eff 8-11-19; Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-15-117. Credit for qualified software or cybersecurity employee

(a) **General provisions**. For tax years beginning on or after January 1, 2020, and ending before January 1, 2030, a qualified software or cybersecurity employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68, subject to the provisions of (d) of this Section.

(b) **Definitions**. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Qualified software or cybersecurity employee**".

(A) A qualified employee is any person newly employed in Oklahoma by

a qualified employer in a qualifying industry on or after November 1, 2019.

(B) The qualified employee must have been awarded a degree in an accredited program from a degree-producing institution as defined in 68 O.S. § 2357.405(A)(1), or has been awarded a certificate or credential in an accredited program from a technology center.

(C) The qualified employee must be employed in a qualifying industry by a qualified employer who pays its qualified employees a qualifying compensation for the county in which the qualified employer has its primary Oklahoma address.

(2) "**Accredited program", "Degree-producing institution", "Qualified employer", "Qualified industry", "Qualifying compensation",** and "**Technology center**" shall have the same meaning as the terms are defined in Section 2357.405 of Title 68 of the Oklahoma Statutes.

(c) **Credit**.

(1) The credit is Two Thousand Two Hundred Dollars ($2,200.00) for a qualified software or cybersecurity employee who has been awarded a bachelor's or higher degree from an accredited program at a degree-producing institution, and One Thousand Eight Hundred Dollars ($1,800.00) for a qualified software or cybersecurity employee who has been awarded an associate's degree from an accredited program at a degree-producing institution or a credential or certificate from an accredited program at a technology center.

(2) The credit may be claimed for a period of time not to exceed seven (7) years.

(3) The credit authorized by this Section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

(d) **Limitation of credit.** Effective for tax years beginning on or after January 1, 2022, no more than Five Million Dollars ($5,000,000.00) of credits may be allowed as an offset in a taxable year. The Tax Commission shall annually determine by the first day of the affected year a percentage by which the credits authorized shall be reduced so the total amount of credits used to offset tax does not exceed Five Million Dollars ($5,000,000.00) per year.

(e) **Letter ruling.** An employer may request a letter ruling to determine whether an employer meets the definition of a "qualified employer". The requesting party must provide sufficient information to demonstrate that the employer meets the following requirements for a qualified employer:

(1) Employer is a sole proprietor, general partnership, limited partnership, limited liability company, corporation or other legally recognized business entity, or governmental entity;

(2) Employer has at least fifteen full-time employees;

(3) Employer's activities are in a "qualified industry", defined or classified in the most recent North American Industry Classification System (NAICS) manual under U.S. Sector Nos. 21, 22, 31-33, 48, 51, 52, 54, 55, 62 and 92;

(4) Employer pays its employees a qualifying compensation for the county

in which the qualified employer has its primary Oklahoma address.

[**Source:** Added at 37 Ok Reg 2227, eff 9-11-20; Amended at 38 Ok Reg 1527, eff 9-1-21]

710:50-15-118. Credit for nonrecurring adoption expenses

(a) **General provisions.** In taxable years beginning after December 31, 2022, an income tax credit is allowed to resident individual taxpayers for nonrecurring adoption expenses paid in connection with the adoption of a minor, or proposed adoption of a minor which did not result in a decreed adoption.

(1) For tax years 2023 through 2025, the amount of the credit is 10% of the qualified expenses but cannot exceed $2,000 per calendar year ($4,000 if married filing joint return).

(2) For taxable years beginning on or after January 1, 2026, the amount of the credit is 15% of the qualified expenses but cannot exceed $3,000 per calendar year ($6,000 if married filing joint return).

(b) **Allowable expenses.** For purposes of this Section "nonrecurring adoption expenses" means and includes:

(1) Adoption fees;

(2) Court costs;

(3) Medical expenses;

(4) Attorney fees;

(5) Expenses directly related to the legal process of the adoption of a child and are not reimbursed by other sources, to include, but not limited to costs related to:

(A) The adoption study;

(B) Health and psychological examinations;

(C) Transportation and reasonable costs of food and lodging for the child or adoptive parents which are incurred to complete the adoption process. Transportation expense by either commercial or private means may be claimed based upon actual unreimbursed costs incurred, or in the case of travel by private means, the mileage rate allowed pursuant to the Internal Revenue Code for determining business travel expense may be elected.

(6) Costs associated with physical remodeling, renovation, or alteration of the adoptive parents' home or property, if incurred in conjunction with the adoption of a special needs child, as authorized by the court.

(c) **"Nonrecurring adoption expenses"** shall not mean or include:

(1) Costs reimbursed by other sources.

(2) Attorney fees incurred from and after the commencement of an action involving a contest of an adoption.

(3) Costs associated with physical remodeling, renovation, or alteration of the adoptive parent's home or property, with the exception noted in (b)(6) of this Section.

(d) **Verification.** A schedule describing the expenses claimed must be enclosed and filed with the claimant's tax return. Receipts supporting the claimed expenses are not required to be submitted with the tax return and

descriptive schedule, but must be retained and be available upon request by the Commission.

[**Source:** Amended at 40 Ok Reg 1265, eff 8-11-23; Amended at 42 Ok Reg 2126, eff 7-15-25; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-119. Parental Choice Tax Credit [REVOKED]

[**Source:** Added at 41 Ok Reg 273, eff 10-27-23 (emergency); Amended at 41 Ok Reg 1638, eff 8-11-24; Revoked at 42 Ok Reg 303, eff 10-10-24 (emergency); Revoked at 42 Ok Reg 2126, eff 7-15-25]

710:50-15-120. Caring for Caregivers Credit

(a) **General provisions**. For tax years beginning on or after January 1, 2024, a nonrefundable income tax credit is allowed in the amount of 50% for eligible expenditures incurred by a family caregiver for the care and support of an eligible family member. The amount of the credit is 50% of the eligible expenditures not to exceed $2,000 per eligible family member per calendar year. If the eligible family member is a veteran or has a diagnosis of dementia from a health care professional, the amount of the credit cannot exceed $3,000.

(b) **Definitions.** For purposes of this Section, "**activities of daily living**", "**eligible expenditure**", "**eligible family member**", and "**family caregiver**" mean the same as these terms are defined in 68 O.S. 2023, § 2357.801(A).

(c) **Multiple caregivers**. If two or more family caregivers claim the tax credit for the same eligible family member, the maximum allowable credit shall be allocated in equal amounts between each of the family caregivers.

(d) **Verification.** OTC Form 592 must be filed with each claimant's tax return, along with any other information or documentation the Tax Commission may require, such as receipts to support the claimed expenses, proof of veteran status and/or documentation to support a diagnosis of dementia for the eligible family member.

(e) **Limitation of credit**. The total credits authorized shall not exceed $1,500,000 annually. The Oklahoma Tax Commission shall calculate and publish, by the first day of the affected year, a percentage by which the credits shall be reduced so the total amount of credits used to offset tax does not exceed $1,500,000 per year.

[**Source:** Added at 41 Ok Reg 1638, eff 8-11-24; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-121. Faculty Preceptorship Credit

(a) **General provisions.** For tax years beginning on or after January 1, 2026, a nonrefundable income tax credit is allowed, subject to the availability of funds, for a faculty preceptor who conducts a preceptorship rotation. The credit is allowed for no greater than 10 preceptorship rotations completed in a calendar year. [See: 68 O.S. § 2357.409]

(b) **Amount of credit.**

(1) **Medical student or resident.** The amount of credit is equal to $290.00 each for the first, second, or third preceptorship rotations and $590.00 each for up to 7 subsequent rotations.
(2) **Physician assistant student or advanced practice registered nursing student.** The amount of credit is equal to $165.00 each for the first, second, or third preceptorship rotations and $340.00 each for up to 7 subsequent rotations.

(c) **Application and verification.** An applicant must submit a completed application to the Health Care Workforce Training Commission (HWTC) on the form designated by HWTC, as well as any supporting documentation requested by HWTC. The HWTC will provide the applicant and the Oklahoma Tax Commission with written notice of the final disposition of the application within 90 calendar days of receipt. [See: OAC 540:60-1-1 through OAC 540:60-3-4].

(d) **Claiming the credit.** Taxpayers may claim the credit on the appropriate Oklahoma income tax return. To claim the credit, the taxpayer must provide a copy of the approval from HWTC as part of the income tax return filed for the applicable period.

(e) **Carryforward.** If the credit allowed pursuant to the provisions of this Section exceeds the amount of income taxes due or if there are no state income taxes due, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding 5 years.

(f) **Tax credits are subject to the availability of funds.** The credits awarded by HWTC each year will not exceed the amount deposited to the appropriate revolving fund during the fiscal year immediately preceding the applicable income tax year.

[**Source:** Added at 43 Ok Reg, Number 20, effective 7-11-26]

PART 9. OKLAHOMA PARENTAL CHOICE TAX CREDIT

710:50-15-170. Purpose

The provisions of this Part have been promulgated to implement and administer the Oklahoma Parental Choice Tax Credit Program authorized by 70 O.S. § 28-100, et seq.

[**Source:** Added at 42 Ok Reg 303, eff 10-10-24 (emergency); Amended at 42 Ok Reg 2126, eff 7-15-25]

710:50-15-171. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Accredited private school" means a private school in Oklahoma that is accredited by the State Board of Education or an accrediting association that means the requirements set forth in 70 O.S. § 28-101(A).

"Curriculum" means *a complete course of study for a particular content area or grade level.* [70 O.S. § 28-101(A)]

"Education service provider" means *a person, business, public school district, public charter school, magnet school, or organization that provides educational goods and/or services to eligible students in this state.* [70 O.S. § 28-101(A)]

"Eligible student" means a resident of Oklahoma who is eligible to enroll in a public school within the state at educational levels of pre-kindergarten (beginning at age 4) through 12th grade. Eligible student shall include:

(A) A student who is enrolled in and attends or is expected to enroll in and attend an accredited private school,

(B) A student who is educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A), (hereafter referred to as "homeschool"),

(C) A student who is enrolled in and attends or is expected to enroll in and attend an accredited private school that exclusively serves students experiencing homelessness,

(D) A student who is enrolled in and attends or is expected to enroll in and attend an accredited private school that primarily serves financially disadvantaged students.

"Fiscal year" means the 12-month period from July 1 through June 30.

"Homeschool" means the full-time education of a student in the home, but does not include:

(A) Education of a student in the home who is enrolled in a virtual charter school.

(B) Tutoring or supplemental education of a student in the home who is also enrolled in public or private school.

(C) Periods when the student is on break from a public or private school, such as during summer.

"Homeschool tax credit" means credits authorized pursuant to 70 O.S. § 28-101(C)(2).

"Oklahoma taxpayer" means:

(A) Any person, resident or non-resident, owing or liable to pay any Oklahoma tax;

(B) Any person, resident or non-resident, required to file a report, a return, or remit any tax required by the provisions of any Oklahoma tax law; or

(C) Any person, resident or non-resident, required to obtain a license or a permit or to keep any records under the provisions of any Oklahoma tax law. [See: 68 O.S. § 202]

"Priority consideration" means an application will be reviewed and considered for approval before other applications received by the Tax Commission, regardless of whether the other applications were submitted on an earlier date and time.

"Private school tax credit" means credits authorized pursuant to 70 O.S. § 28-101(C)(1).

"School year" means two semesters, fall and spring, during which schools are in session and students are attending classes. The school year occurs within the fiscal year.

"Second preceding tax year" means the tax year occurring two taxable years prior to the year for which the tax credit application is submitted. For example, tax credit applications submitted in 2025 for the 2025-2026 school year will utilize the federal adjusted gross income (AGI) from the 2023 income tax return.

"Taxpayer" means an Oklahoma taxpayer who is a biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.

(A) A foster parent, or the foster parents, shall be included within the meaning of other person with legal authority to act on behalf of an eligible student.

(B) Taxpayer shall not include a parent or the parents of an eligible student whose parental rights over the eligible student have been legally terminated.

"Tax year" means the 12-month period from January 1 through December 31.

"Warrant" means an order for payment directing the State Treasurer to disburse funds to a designated payee. A warrant operates like a paper check.

[**Source:** Added at 42 Ok Reg 303, eff 10-10-24 (emergency); Amended at 42 Ok Reg 2126, eff 7-15-25; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-172. Private school tax credit

(a) **General provisions.** For tax year 2024 and fiscal year ending June 30, 2026, and subsequent fiscal years ending June 30, an income tax credit is allowed for qualified expenses paid for an eligible student to attend an accredited private school.

(b) **Qualified expenses.** Qualified expenses for the private school tax credit include tuition and fees at an accredited private school. Fees may, but are not limited to, include enrollment, registration, and application fees; textbook fees; technology fees; activity fees; testing and assessment fees; and fees paid for school uniforms, if paid directly to the school. Qualified expenses for the private school tax credit do not include tuition and fees which are waived, covered, otherwise reduced or discounted by the school.

(c) **Amount of credit.** The amount of credit for an eligible student who attends or will attend an accredited private school shall be equal to the amount of tuition and fees adjusted for aid as verified by the taxpayer for attending the accredited private school for the full school year, less any scholarships or discounts provided by the school, subject to the following limitations:

(1) The maximum credit amount allowed is $7,500 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year does not exceed $75,000;

(2) The maximum credit amount allowed is $7,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than $75,000 but does not exceed $150,000;
(3) The maximum credit amount allowed is $6,500 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than $150,000 but does not exceed $225,000;
(4) The maximum credit amount allowed is $6,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than $225,000 but does not exceed $250,000; or
(5) The maximum credit amount allowed is $5,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than $250,000.
(6) The maximum credit amount allowed is $7,500 for taxpayers who receive income-based government benefits, including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or SoonerCare/SoonerSelect, as of the date of the tax credit application.

(d) **Annual cap and limitation of credit.**
(1) The total amount of private school tax credits authorized by 70 O.S. § 28-101(C)(1) shall not exceed $250,000,000, unless there is an amount carried forward from the immediately preceding fiscal year wherein the cap was not met pursuant to 70 O.S. § 28-101(D)(3).
(2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(I).

(e) **Claiming the private school tax credit.**
(1) **Application.** If an Oklahoma taxpayer incurs or will incur a qualified expense on behalf of an eligible student during the school year, the taxpayer may be eligible to claim the private school tax credit. To apply for the credit, the taxpayer shall complete and submit an online application for each eligible student and include the following documentation and information with the application:
(A) The name, address, and social security number or taxpayer identification number (ITIN) of the taxpayer.
(B) The name, address, date of birth, and social security number or ITIN of the eligible student.
(C) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parental consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.
(D) Income verification of the parents or legal guardian of the eligible student, according to one of the following:

(i) Verification of federal AGI for the second preceding tax year of the parents or legal guardians of the eligible student, which may include providing copies of the applicable Oklahoma income tax return(s) or federal income tax return(s). If, at the time of submission of the tax credit application, the taxpayer has not filed the second preceding year's tax return, but had a filing requirement, and therefore AGI cannot be verified, the tax credit application will be denied and must be resubmitted once the second preceding tax year return is filed and received by the Oklahoma Tax Commission. The resubmission date and time of a complete application will determine the applicant's place in line.

(ii) If the parents or legal guardians had no tax filing requirement for the second preceding tax year, the taxpayer shall attest within the application that they did not have a tax filing requirement.

(iii) If a taxpayer is a recipient of income-based government benefits including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or SoonerCare/SoonerSelect, the taxpayer shall not be required to provide additional income verification. The taxpayer must attach documentation that shows he or she is a current recipient of the above-listed government benefits at the time of the tax credit application. Failure to attach the required documentation, without any other income verification documentation, may result in denial of the application. The resubmission date and time of a complete application will determine the applicant's place in line.

(E) An enrollment verification form completed by the private school in which the eligible student is enrolled or is expected to enroll with the following information:

(i) The name, address and date of birth of eligible student;

(ii) The school year during which the qualified expenses will be paid;

(iii) The name and address of the private school;

(iv) The name and telephone number of a contact person(s) with the private school; and

(v) The amount of qualified tuition and fees to be charged to the taxpayer for the full school year, less any scholarship or tuition and fees discounted or otherwise reduced by the school.

(2) **Review and submission.** The applicant is responsible for reviewing the information contained within the enrollment verification form and verifying its accuracy.

(A) Once the enrollment verification form is submitted with an application, the information included within the enrollment verification form cannot be changed until after the application is approved or denied.

(B) In order to adjust any enrollment verification information after the application has been submitted, but before approval or denial, a

taxpayer must withdraw their application, request a new enrollment verification form from the private school, and submit a new application. The date and time of the new application will be used to determine the applicant's place in line for the credit.

(C) To request adjustments to the enrollment verification information after an application has been approved, the taxpayer must request a tuition adjustment or school change as set forth in (7) of this subsection.

(3) **Application period.** For the 2025-2026 school year, the application period will open on February 15, at 9:00 a.m. (CST), prior to the beginning of the applicable school year, and will close no later than December 31, 2025. To ensure payment of the credit by August 30, 2025, applications must be submitted no later than July 15, 2025.

(A) Beginning with the 2026-2027 school year and subsequent school years, the application period will begin on March 15 and close on June 15 prior to the beginning of the applicable school year.

(B) If March 15 falls on a Saturday, Sunday or legal holiday, the application will open on the net day that is not a Saturday, Sunday or official State of Oklahoma holiday.

(4) **Priority consideration.** The priority period is the first 60 calendar days of the application period.

(A) First priority is given to applications for an eligible student whose parents or legal guardians have a combined federal AGI that does not exceed $150,000, as long as the application was submitted within the first 60 days of the application period.

(B) Second priority is given to applications for eligible students of taxpayers who received the credit in the prior year, as long as the application was submitted within the first 60 days of the application period.

(C) After all timely-filed applications entitled to priority consideration have been reviewed and processed, the Tax Commission will review and process remaining applications for the credit in the order received, provided the annual cap has not been reached.

(5) **Notification of approval or denial.** Notification of tax credit approval will be sent to the applicant by email once a determination has been made that the application is complete and qualifies for the credit. For those applications that are denied, an email will be sent to the applicant, stating the reason for denial.

(6) **Payment of the credit.** For school year 2025-2026, the approved credit will be paid in two payments disbursed on or before August 30, 2025 and January 15, 2026. Beginning with school year 2026-2027, and subsequent school years, the full credit will be paid by August 30 of the applicable school year.

(A) Payment of the credit will be made by the Tax Commission with an individual warrant made payable to the taxpayer and mailed to the private school identified on the application. The taxpayer may collect the

check from the school or may choose to use all or part of the tax credit to pay the student's tuition and fees.

(B) In the event funds have to be recaptured, the taxpayer is responsible for repayment.

(C) If a student changes schools prior to the issuance of the check, the taxpayer must submit a school change notification via OkTAP to redirect the check to the new school. If a school change notification is not submitted prior to the issuance of the check, but a student changes schools, the taxpayer is responsible for collecting the check from the school identified in the approved application.

(7) **Tuition and fees adjustment.** Taxpayers may submit a request to adjust the amount of tuition and fees used to calculate the amount of their approved tax credit.

(A) Adjustment requests may be made in the following situations:

(i) Student is changing schools to another participating private school and the tuition/fees are higher or lower at the receiving school

(ii) Student is not changing schools but the tuition/fees at their school increased or decreased after the application was approved.

(iii) Student received a scholarship or discount not otherwise included in the enrollment verification information provided by the school.

(B) Adjustment requests must be made via OkTAP and will be available from July 1 immediately preceding the applicable school year through December 31 immediately following the start of that school year.

(C) Adjustment requests are only available after an application has been approved.

(D) All adjustment requests must be accompanied by new enrollment verification information.

(i) If the student is changing schools, the receiving school must submit enrollment verification information for that student.

(ii) If the student is not changing schools, but still requesting an adjustment, the current school must edit the enrollment verification information previously submitted for that student.

(E) Adjustments that result in an increase of the approved credit amount may be reflected in the disbursement amount of the check or require the disbursement of an additional check. Adjustments that result in a decrease of the approved credit amount may be subject to repayment if there is a balance due.

(F) Adjustment requests will be processed in the order in which received. Those based upon an increase of the tuition and fees may be approved subject to the annual cap and maximum allowable credit amount.

(8) **Reconciliation.** No later than June 15 of each year, each participating private school shall provide required reconciliation information to confirm student enrollment and tuition for each just completed school year. Failure

to provide all reconciliation information by the required date may result in removing the school from participating in the Parental Choice Tax Credit Program the following school year.

(A) Reconciliation information must be provided electronically.

(B) Participating private schools may be required to provide and/or verify the following information:

(i) The name and permanent physical address of the private school;

(ii) The total number of instructional days;

(iii) The total number of instructional days the eligible student was enrolled in the private school;

(iv) The amount of tuition and fees paid on behalf of the eligible student for the applicable year;

(v) Scholarships and discounts received by that student that were not included in the enrollment verification information provided by the school;

(vi) Student information; and

(vi) Any other information requested by the Tax Commission.

(9) **No carryover.** The credit can be claimed only for the school year for which the qualified expenses are incurred. Where qualified expenses are incurred in excess of the allowable credit for any given year, the excess of the qualified expenses shall not be used in claiming the credit for any other year.

(10) **AGI determination.** The total federal AGI of an eligible student's parents or legal guardians shall be determined as follows:

(A) If the eligible student's parents or legal guardians have an income tax filing status of "married, filing jointly", the federal AGI reported on the parents' or legal guardians' second preceding year tax return will be used.

(B) If the eligible student's parents or legal guardians have an income tax filing status of "married, filing separately", the parents' or legal guardians' federal AGI reported on each tax return for the second preceding tax year will be added together to determine the federal AGI.

(11) **School registration.** Each accredited private school that intends to issue enrollment verification forms for the Oklahoma Parental Choice Tax Credit Program, shall annually complete an online registration with the Tax Commission. Registration shall include the following information:

(A) Name, mailing address, phone number, FEIN, and website of the private school;

(B) Permanent physical address of the school location in Oklahoma;

(C) Primary and secondary contact information for the private school, including proof of employment;

(D) Proof of accreditation from the State Board of Education or another accrediting association; and

(E) Other school identification information as requested by the Tax Commission.

(12) **Notification of non-use.** Taxpayers that claimed the credit shall notify the Tax Commission electronically no later than 30 days after the date on which the eligible student:

(A) Enrolls in a public school, including an open-enrollment charter school;

(B) Enrolls in a nonaccredited private school;

(C) Is no longer enrolled in an accredited private school;

(D) Graduates from high school; or

(E) Is no longer utilizing private school tax credits for any reason.

(13) **Recapture.** The Tax Commission shall recapture private school tax credits if:

(A) The credit was claimed for expenditures that were not qualified expenses;

(B) The taxpayer has claimed an eligible student who no longer attends an accredited private school or has enrolled in a public school for the period for which the credit was claimed; or

(C) Taxpayer fails to comply with the applicable Oklahoma statutes and regulations.

[**Source:** Added at 42 Ok Reg 303, eff 10-10-24 (emergency); Amended at 42 Ok Reg 2126, eff 7-15-25; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-173. Homeschool tax credit

(a) **General provisions.** Beginning with tax year 2024, an income tax credit is allowed for qualified expenses paid by an Oklahoma taxpayer for the homeschool education of an eligible student. The amount of the credit is 100% of qualified expenses, not to exceed $1,000 per eligible student per calendar year.

(b) **Claiming the credit.**

(1) The homeschool tax credit may be claimed on the applicable tax year's Oklahoma income tax return and must include legible copies of receipts of eligible expenses.

(2) The credit can be claimed only for the tax year the qualified expenses are incurred and paid. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.

(3) The credit cannot be claimed for eligible homeschool expenses incurred during any semester when the student was enrolled in a public or private school.

(4) The credit cannot be claimed for expenses incurred during summer or winter breaks between semesters when the student is enrolled in a public or private school.

(c) **Qualified homeschool expenses.**

(1) Qualified expenses for the homeschool tax credit include the following expenditures:

(A) Tuition and fees for nonpublic learning programs, which may be online or in-person.
(B) Academic tutoring services, which are provided by an individual or a private academic tutoring facility.
(C) Textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider. Instructional materials mean all materials that are designed for use by students and their teachers as a learning resource and help students to acquire facts, skills, or opinions or to develop cognitive processes.
(D) Costs or fees for nationally standardized assessments including, but not limited to college admission assessments and advanced placement examinations, as well as the tuition and fees for tutoring or preparatory courses for the assessments or examinations.

(2) Qualified expenses for the homeschool credit do not include the following, which is not intended to be an exhaustive list:
(A) Internet access;
(B) Out-of-state field trips.

(3) Each eligible homeschool expense can be claimed only once, even if a taxpayer is claiming the credit for multiple students. For example, the parent of two homeschool students may claim only one the cost of an online learning program subscription even though both students have access to and benefit from the subscription.

(d) **Annual cap and limitation of credit.** For tax year 2025, and subsequent tax years, the total amount of credits shall not exceed $5,000,000 annually. The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

(e) **Recapture.** The Tax Commission will recapture credits if an audit shows the credits were not claimed for a qualified homeschool expense, the student was enrolled in public or private school for two semesters in that year, or the taxpayer fails to comply with the applicable statutes and regulations.

[**Source:** Added at 42 Ok Reg 303, eff 10-10-24 (emergency); Amended at 42 Ok Reg 2126, eff 7-15-25; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-174. Credit for students attending an accredited private school exclusively serving students experiencing homelessness

(a) **General provisions.** Beginning with the 2024–2025 school year, an Oklahoma taxpayer may claim an income tax credit for an eligible student who attends an accredited private school in Oklahoma that exclusively serves students experiencing homelessness.

(b) **Claiming the credit.** To apply for the credit, the taxpayer shall complete and submit an application for each eligible student and include the following documentation and information with the application:

(1) The name, address, and social security number or ITIN of the taxpayer.

(2) The name, address, date of birth, and social security number or ITIN of the eligible student.

(3) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parental consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.

(4) Documentation from the school that specifies the amount of the cost to educate the eligible student at the private school for the school year for which the application is submitted.

(c) **Amount of the credit.**

(1) The amount of the credit for students attending an accredited private school in Oklahoma that exclusively serves students experiencing homelessness shall be $7,500 or the amount of the cost to educate the eligible student at the private school per school year, whichever is less.

(2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(I).

(d) **Payment of the credit.**

(1) For school year 2025-2026, the approved credit will be paid in two payments disbursed on or before August 30, 2025, and January 15, 2026. Beginning with school year 2026-2027, and for subsequent school years, the full credit will be paid by August 30 of the applicable school year.

(2) Payments will be issued by the Tax Commission with an individual warrant made payable to the taxpayer and mailed to the private school identified on the application.

(3) If a student changes schools prior to the issuance of the check, a school change notification must be submitted online to redirect the check to the new school. If a school change notification is not submitted prior to the issuance of the check, but a student changes schools, the taxpayer is responsible for picking up the check from the school identified in the approved application.

(e) **Notification.** Notification of approval will be sent to the applicant by email once a determination has been made that the taxpayer qualifies for the credit. If the application is denied, an email will also be sent to the applicant, stating the reason for denial and how to dispute the determination.

(f) **School registration.** Each participating accredited private school that exclusively serves students experiencing homelessness shall annually complete an online registration with the Tax Commission. Registration shall include the following information:

(1) Name, mailing address, phone number, FEIN, and website of the private school;

(2) Permanent physical address of the school location in Oklahoma;

(3) Primary and secondary contact information for the private school, including proof of employment;

(4) Proof of accreditation from the State Board of Education or another accrediting association; and

(5) Attestation from the principal or head of the private school that the private school exclusively serves students experiencing homelessness;
(6) The amount of the cost to educate an eligible student at the private school; and
(7) Other school identification information as requested by the Tax Commission.

(g) **Annual verification.** No later than June 15 of each year, each participating private school shall provide reconciliation information. Failure to provide all reconciliation by the required date may result in removing the school from participating in the Parental Choice Tax Credit Program the following school year. The participating private school shall provide student enrollment information for the just completed school year:
(1) The name and permanent physical address of the private school;
(2) The total number of instructional days;
(3) The total number of instructional days the eligible student was enrolled in the private school;
(4) Student information; and
(5) Any other information requested by the Tax Commission.

(h) **Recapture.** The Tax Commission shall recapture tax credits from the taxpayer if:
(1) The taxpayer has claimed an eligible student who did not or no longer attends the accredited private school that exclusively serves students experiencing homelessness;
(2) The private school no longer qualifies as a private school that exclusively serves students experiencing homelessness; or
(3) The taxpayer fails to comply with the applicable statutes and regulations.

(i) **Notification of non-use.** Taxpayers claiming the credit shall notify the Tax Commission electronically no later than 30 days after the date on which the eligible student no longer attends the accredited private school that exclusively serves students experiencing homelessness. The taxpayer is responsible for repayment of the portion of the tax credit attributable to the time in which the student was not enrolled in an accredited private school that exclusively serves students experiencing homelessness.

[**Source:** Added at 42 Ok Reg 303, eff 10-10-24 (emergency); Amended at 42 Ok Reg 2126, eff 7-15-25; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-175. Credit for students attending an accredited private school primarily serving financially disadvantaged students

(a) **General provisions.** Beginning with the 2024–2025 school year, an income tax credit is allowed for an eligible student who attends an accredited private school in Oklahoma that primarily serves financially disadvantaged students.

(b) **Claiming the credit.** To apply for the credit, the taxpayer shall complete and submit an application for each eligible student and include the following documentation and information with the application:

(1) The name, address, and social security number or individual taxpayer identification number (ITIN) of the taxpayer.
(2) The name, address, date of birth, and social security number or ITIN of the eligible student.
(3) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parent consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.
(4) Documentation from the school that specifies the amount of the cost to educate the eligible student at the private school for the school year for which the application is submitted.

(c) **Amount of the credit.**
(1) The amount of the credit for students attending an accredited private school in Oklahoma that primarily serves financially disadvantaged students shall be $7,500 or the amount of the cost to educate the eligible student at the private school per school year, whichever is less.
(2) The total amount of credits allowed may be reduced pursuant to the provisions of 70 O.S. § 28-101(I).

(d) **Payment of the credit.**
(1) For school year 2025-2026, the approved credit will be paid in two payments disbursed on or before August 30, 2025, and January 15, 2026. Beginning with school year 2026-2027, and for subsequent school years, the full credit will be paid by August 30, of the applicable school year.
(2) Payments shall be made by the Tax Commission with an individual warrant made payable to the taxpayer and mailed to the private school identified on the application.
(3) If a student changes schools prior to the issuance of the checks, a school change notification must be submitted online to redirect the check to the new school. If a school change notification is not submitted prior to the issuance of the check, but a student changes schools, the taxpayer is responsible for picking up the check from the school identified in the approved application.

(e) **Notification.** Notification of approval will be sent to the applicant by email once a determination has been made that the taxpayer qualifies for the credit. If the application is denied, an email will be sent to the applicant, stating the reason for denial and how to dispute the determination.

(f) **School registration.** Each participating accredited private school that primarily serves financially disadvantaged students shall annually complete an online registration with the Tax Commission. Registration shall include the following information:
(1) Name, mailing address, phone number, FEIN, and website of the private school;
(2) Permanent physical address of the school location in Oklahoma;
(3) Primary and secondary contact information for the private school, including proof of employment;

(4) Proof of accreditation from the State Board of Education or another accrediting association; and

(5) Attestation from the principal or head of the private school that 90% of the private school's admissions are based on enrolling students whose gross family income is 250% of the federal poverty threshold or below;

(6) The amount of the cost to educate an eligible student at the private school; and

(7) Other school identification information as requested by the Tax Commission.

(g) **Annual verification.** No later than June 15 of each year, each participating private school shall provide reconciliation information. Failure to provide all the reconciliation by the required date may result in removing the school from participating in the Parental Choice Tax Credit Program the following school year. The participating private school shall provide student enrollment information for the spring 2025 semester. For all subsequent reconciliations, beginning June 15, 2026, the participating private school shall provide student enrollment information for the just completed school year:

(1) The name and address of the private school;

(2) The total number of instructional days;

(3) The total number of instructional days the eligible student was enrolled in the private school;

(4) Student information; and

(5) Any other information requested by the Tax Commission.

(h) **Recapture.** The Tax Commission shall recapture tax credits from the taxpayer if:

(1) The taxpayer has claimed an eligible student who no longer attends the accredited private school that primarily serves financially disadvantaged students;

(2) The private school no longer qualifies as a private school that primarily serves financially disadvantaged students; or

(3) Taxpayer fails to comply with the applicable statutes and regulations.

(i) **Notification of non-use.** Taxpayers claiming the credit shall notify the Tax Commission electronically no later than thirty (30) days after the date on which the eligible student no longer attends the accredited private school that primarily serves financially disadvantaged students. The taxpayer is responsible for repayment of the portion of the tax credit attributable to the time in which the student was not enrolled in an accredited private school that primarily serves financially disadvantaged students.

[**Source:** Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-15-176. Protest

(a) If a taxpayer is denied the Parental Choice Tax Credit set forth in 710:50-15-172, 710:50-15-174, or 710:50-15-175, the taxpayer may file a written protest using OTC Form L-27.

(b) Protests must be filed within 15 calendar days from the date of the denial email notification. Failure to submit a protest within the 15-day window will result in the denial becoming final in accordance with 68 O.S. § 221.
(c) The following supporting information and documentation must be included with the protest:

(1) A clear explanation of the alleged error(s) committed by the Tax Commission;
(2) The legal authority the taxpayer intends to rely upon at hearing; and
(3) A statement of the relief requested.

(d) The protest may be submitted either online or by mail to the address indicated on the form.
(e) The taxpayer must indicate on OTC Form L-27 whether they would like a hearing in front of an Administrative Law Judge or have the matter decided without a hearing based upon the information submitted with the application and the protest.

(1) If a hearing is selected, it will be conducted pursuant to the rules set forth in OAC 710:1-5-21 through 710:1-5-49, but on an expedited schedule to comply with the statutory 60-day window to have a final resolution.
(2) If a taxpayer does not wish to have a hearing, the matter will be presented to the Administrative Law Judge to determine based on the application information, the information submitted with the protest, and any other information related to the matter.

(f) Assessments, corrections, or adjustments made to returns claiming the Parental Choice Tax Credit set forth in 710:50-15-173 may be protested under 68 O.S. § 221(C).

[**Source:** Added at 43 Ok Reg, Number 20, effective 7-11-26]

SUBCHAPTER 17. OKLAHOMA TAXABLE INCOME FOR CORPORATIONS
PART 1. GENERAL PROVISIONS

710:50-17-1. Corporate returns

(a) Any corporation doing business within or deriving income from sources within Oklahoma is required to file an Oklahoma Corporation Income Tax Return, whether or not a tax is due. All Oklahoma corporate income tax returns, beginning with tax year 2020 returns, must be filed electronically in the format prescribed by the Commission.
(b) Any corporation is subject to Oklahoma income taxes if it has "nexus" with Oklahoma. The purpose of this Subchapter is to provide guidelines for determining what constitutes "nexus", that is, what business activities are needed for any corporation to be subject to Oklahoma income taxes.

[**Source:** Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-17-2. Definitions

The following words or terms, when used in this Subchapter, shall have the

following meaning, unless the context clearly indicates otherwise:

"Business location" means a location which includes, but is not limited to: a repair shop, parts department, purchasing office, employment office, warehouse, meeting place for directors, sales office, permanent sample or display room, research facility or a recreational facility for use of employees or customers. A residence of an employee or representative is not ordinarily considered a "**business location**" of the employer unless the facts indicate otherwise. It could be considered a business location under one or more of the following conditions:

(A) a portion of the residence is used exclusively for the business of the employer;

(B) the employee's phone is listed in the business pages of a telephone directory under the name of the employer;

(C) the employee used supplies, equipment or samples furnished by the employer; or,

(D) the space is used by the employee to interview prospective employees, hold sales meetings, or discuss business with customers.

"Representative" does not include an independent contractor. A person may be considered a representative even though he or she may not be considered an employee for other purposes such as the withholding of income tax from commissions. If a person is subject to the direct control of the corporation, he or she may not qualify as an independent contractor under Public Law 86-272. Herff Jones Company vs. State Tax Commission, Oregon Supreme Court, 430 P.2d 998 (Ore. 1967).

"Solicitation" must be limited to the acts which lead to the placing of an order. The term does not include those acts which follow as a natural result of the placing of an order.

710:50-17-3. What constitutes "Nexus"

(a) If a corporation has one or more of the following activities in Oklahoma, it is considered to have **"nexus"** and shall be subject to Oklahoma income taxes:

(1) Maintenance of any business location in Oklahoma, including any kind of office.

(2) Ownership of real estate in Oklahoma.

(3) Ownership of a stock of goods in a public warehouse or on consignment in Oklahoma.

(4) Ownership of a stock of goods in the hands of a distributor or other non-employee representative in Oklahoma, if used to fill orders for the owner's account.

(5) Usual or frequent activity in Oklahoma by employee or representative soliciting orders with authority to accept them.

(6) Usual or frequent activity in Oklahoma by employee or representative engaged in a purchasing activity or in the performance of services (including construction, installation, assembly, or repair of equipment).

(7) Operation of mobile stores in Oklahoma (such as trucks with driver-salespersons), regardless of frequency.

(8) Other miscellaneous activities by employees or representatives in Oklahoma such as credit investigations, collection of delinquent accounts, conducting training classes or seminars for customer personnel in the operation, repair and maintenance of its products.
(9) Leasing of tangible property and licensing of intangible rights for use in Oklahoma.
(10) The sale of other than tangible personal property such as real estate, services and intangibles in Oklahoma.
(11) The performance of construction contracts or service contracts in Oklahoma.

(b) The guidelines expressed in (a) of this Section as to what activities constitute "nexus" should not be considered all-inclusive. Questions may be sent to the Oklahoma Tax Commission, Audit Services Division, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma 73102.

[**Source:** Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 23 Ok Reg 2836, eff 6-25-06]

710:50-17-4. Federal limitations on taxation of foreign corporations

(a) Under Federal law a state may not impose its income tax on a business selling tangible personal property, if the only activity of that business is the solicitation of orders by its salesman or representative which orders are sent outside the state for approval or rejection, and are filled by delivery from a point outside the state. The activity must be limited to solicitation. If there is any activity which exceeds solicitation, the immunity from taxation is lost.

(b) Immunity from income taxation by states under Federal law does not extend to:

(1) Those businesses which sell services, real estate or intangibles in more than one state;
(2) Domestic Corporations;
(3) Foreign nation corporations, i.e., those not incorporated in the United States.

(c) If the only activities in Oklahoma of a corporation selling tangible personal property are those described below, the corporation is not subject to Oklahoma Income Taxes.

(1) Usual or frequent activity in Oklahoma by employees or representatives soliciting orders for tangible personal property, which orders are sent outside this state for approval or rejection.
(2) Solicitation activity by non-employee independent contractors, conducted through their own office or business location in Oklahoma. [**See:** 15 U.S.C.A. § 381]

710:50-17-5. Tax rate for corporations

(a) For all taxable years beginning before January 1, 1985, the corporate tax rate is four percent (4%).

(b) For all taxable years beginning after December 31, 1984, the corporate tax rate is five percent (5%).

(c) For all taxable years beginning after December 31, 1989, the corporate tax rate is six percent (6%).
(d) For all taxable years beginning after December 31, 2021, the corporate tax rate is four percent (4%).

710:50-17-6. Filing requirements for corporations
(a) Every corporation doing business in Oklahoma shall file an OTC Form 512 to report taxable income or loss for each period in which a Federal Tax Return is required. Every return shall be properly prepared, showing the name of corporation, address, identification number and bearing an authorized signature. Page one of the return shall also be completed with all pertinent information entered on appropriate lines. (The returns will not process otherwise).
(b) In the case of a complete liquidation or the dissolution of a corporation, the return shall be filed on or before the 15th day of the fourth month following the month in which the corporation is completely liquidated or dissolved.

[**Source:** Amended at 9 Ok Reg 3031, eff 7-13-92]

710:50-17-7. Amended income tax returns for corporations
In order to assist in the processing of a corporation's amended income tax return, corporations must use OTC Form 512X for tax years prior to 2013. Beginning with tax year 2013, OTC Form 512 must be used and the appropriate box indicating that the return is an amended return must be marked. The documentation described in (1) through (4) of this subsection must be included, when applicable, or an explanation when not applicable, or the refund may be denied:

(1) Copy of the Federal Form 1120X or 1139. If the taxpayer files a federal consolidated income tax return, Form 1120X must detail the changes by entity.
(2) Proof of disposition by the Internal Revenue Service.
(3) Copy of complete Revenue Agent's Report. If the taxpayer files a federal consolidated income tax return, the Revenue Agent's Report must detail the changes by entity.
(4) Schedule of NOL carryback/carryover.

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 38 Ok Reg 1527, eff 9-1-21]

PART 3. CONSOLIDATED RETURNS

710:50-17-30. Consolidated returns
A consolidated Oklahoma Income Tax Return is required if a Federal Consolidated Return is filed, and each member of the consolidated group derives all of its income from sources within Oklahoma.

710:50-17-31. Filing a consolidated Oklahoma return
(a) In filing a Consolidated Income Tax Return for Oklahoma, the Oklahoma taxable income for each corporation is computed separately on its own factors

and then combined for one total income upon which the tax is computed.
(b) A Consolidated Oklahoma Income Tax Return is generally recognized as a combined return.
(c) A corporation's election to file a separate return or consolidated return is made with the timely filing of the return. Once the election is made, it is irrevocable for all future tax years unless the Oklahoma Tax Commission releases the affiliated group of corporations from such election.
(d) When an election is made to file an Oklahoma Combined Return the following criteria must be met.

(1) A federal consolidated returns must have been filed.

(2) All companies doing business in Oklahoma must be included in the Oklahoma Combination.

(3) Only those corporations included in the federal consolidation may be included in the Oklahoma combined return.

(4) The Parent Corporation name should be used for the Oklahoma return and all corporations must be included in one filing. Returns belonging to a Oklahoma Combination will not be accepted if mailed in separately. [**See:** 68 O.S. §2367]

[**Source:** Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94]

710:50-17-32. When a consolidated return is not required

A Consolidated Oklahoma Income Tax Return is not required if two or more corporations file Federal Consolidated Returns, and one or more of such corporations derive a portion of their income from sources without Oklahoma; except, if such group files an appropriate election to file a Consolidated Oklahoma Income Tax Return, such a grouping will be allowed.

710:50-17-33. Examples of consolidated Oklahoma income tax returns

The following are examples of situations in which the corporations may file a Consolidated Oklahoma Income Tax Return:

(1) Corporations A, B and C, filing a Federal Consolidated Return and all of their income is derived from Oklahoma sources, would be required to file an Oklahoma Consolidated Return.

(2) Corporations A, B and D, filing a Federal Consolidated Return and any of them derives a portion of its income from without Oklahoma are not required, but may elect to file a Consolidated Oklahoma Return. This election may be made by attaching a statement to the return, stating the facts.

(3) Corporations A, B and E filing a Federal Consolidated Return and any of them received all of its income from sources without Oklahoma are not required, but may elect to file an Oklahoma Consolidated Return.

710:50-17-34. Computation of Oklahoma taxable income on consolidated return

(a) To arrive at Oklahoma taxable income on a Consolidated Return, the group's

consolidated income, loss or deductions shall be determined in accordance with the provisions of 68 O.S. § 2358 and 68 O.S. 2362. Therefore, each member of the group shall determine its Oklahoma net taxable income by whatever method is proper (direct accounting, unitary, etc.) and then, the net taxable income of each member shall be aggregated into a taxable total.

Example: The Federal Net Income reported for the following groups of corporations was as follows:

Corporation A	$10,000.00
Corporation B	5,000.00
Corporation C	(14,000.00)
Corporation D	1,000.00
Corporation E	6,000.00
Consolidated Federal Net Income	$8,000.00

Assume only corporations (A), (B) and (C) operate in Oklahoma. Also assume corporation (A) and (C) are unitary business while corporation (B) is not of a unitary nature and is on direct accounting. If, in this example, Oklahoma's portion, using the three factor formula, was 10% and 5% for corporations (A) and (C) respectively, and $2,500.00 of Corporation (B) income was earned from sources in Oklahoma, the computation of Oklahoma's taxable income is as follows:

Corporation A (10% of 10,000.00)	$1,000.00
Corporation B Direct	2,500.00
Corporation C (5% of (14,000.00))	(700.00)
Oklahoma Taxable Income	$2,800.00 (On a Consolidated Basis)

(b) The correct procedure for filing a combined return is as follows:

(1) Only one (1) "page 1" of Form 512 will be used as the tax computation and transmittal page for the combined group.

(2) Immediately behind page 1 will be a summary schedule reflecting each member of the combined group's name, Federal Employer's Identification Number (EIN) and net Oklahoma taxable income or loss as computed on separate schedule A or B for each company as applicable. The net income or loss from the summary sheet will be the amount shown on line 1 page 1 of Form 512. The accrual of Oklahoma Income Tax, if any, will be computed on the combined net income as shown on the summary sheet.

(3) Supporting schedules such as Investment/New Jobs Credit and Gas Used In Manufacturing will follow the summary sheet. There will be a separate schedule for each company in the group with identifying name and EIN number. The total credit amounts, if any, will be combined and brought forward to the proper line on page 1 of the Form 512.

(4) Behind the supporting schedules will be a separate Schedule A or B, as applicable for each company in the group, for the Oklahoma Form 512. The amounts shown on the separate schedules A or B will be the amounts brought forward to the summary sheet. Each company's name and EIN number will be shown on each respective schedule A or B.

(5) Behind the Schedules A or B will be all other forms and schedules such as

the Federal Form 1120 and supporting schedules for each company in the group.

(c) If it is the Taxpayer's intention to file a combined return but a separate Form 512 for each company is filed, the returns will be treated as separate returns by the Tax Commission.

(d) The taxpayer should state on the face of the Form 512 the following: "This is a combined return-do not separate".

PART 5. DETERMINATION OF TAXABLE CORPORATE INCOME

710:50-17-50. Computation of income attributable to Oklahoma

The starting point for computing Oklahoma taxable corporate income is the taxable income shown before the Net Operating Loss and Special Deduction Line of the Federal Income Tax Return. All adjustments provided for under Oklahoma Income Tax Statutes are made from the starting point of Federal taxable income. Federal taxable income is used for each separate corporation doing business in Oklahoma, whether a Consolidated Federal or a Consolidated Oklahoma Income Tax Return is filed.

710:50-17-51. Adjustments to arrive at Oklahoma taxable income for corporations

The following is a partial list and not inclusive of all the allowable and unallowable adjustments that may be made to federal taxable income to arrive at Oklahoma taxable income for corporations: [**See:** 68 O.S. § 2358]

(1) **Taxes based on income.** [**See:** 68 O.S. § 2358(A)(5)]

(A) Taxes based on or measured by income shall not be allowed as a deduction.

(B) Type of taxes that are based on or measured by income are:

(i) State and Local Income Taxes,

(ii) Foreign Income Taxes, and

(iii) some Franchise Taxes that are based on or measured by income.

(2) **Federal income taxes.** Federal income taxes are not deductible.

(3) **Federal loss carryback/carryforward.** A federal net operating loss carryover or carryback will not be utilized in determining Oklahoma taxable income. For the allowance of Oklahoma net operating loss deduction refer to (4) of this Section.

(4) **Oklahoma net operating loss carryback/carryover.** A net operating loss (NOL) may be carried back or forward to the extent permitted under Internal Revenue Code § 172 and 68 O.S. § 2358. A taxpayer entitled to a carryback may elect to forego the carryback period by making the election on a timely filed original Oklahoma loss year return. The election may be made by checking the designated box on the return or, if the checkbox is not present, by attaching a written statement to the return.

(A) **Oklahoma net operating loss.** [**See:** 68 O.S. § 2358(A)(3)]

(i) An Oklahoma NOL may be carried back or over in accordance with 26 U.S.C.A. § 172 until December 31, 1992. However, no Oklahoma NOL can be carried back to years beginning before January 1, 1981 unless there is a federal NOL carryback from the same loss year to the same carryback year.

(I) For net operating losses incurred for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2007, the loss **carryback** shall be for a period as allowed in the Internal Revenue Code; and

(II) For tax years beginning after December 31, 2007, and ending before January 1, 2009, the loss carryback period shall be for a period of 2 years; and

(III) For tax years beginning after December 31, 2008, the loss carryback period shall be for a period as allowed by Section 172 of the Internal Revenue Code.

(ii) Any Oklahoma NOL carryback not allowed, due to no federal loss carryback to the same year, may still be carried back to the years beginning after December 31, 1980, or carried over until utilized, without regard to a federal loss.

(B) **Oklahoma net operating loss computation for carryback to years beginning before January 1, 1981.** The following shall apply to Oklahoma net operating loss before January 1, 1981:

(i) Consolidated federal filing: In the loss year, the percentage of the Oklahoma loss to all loss companies in the consolidation. (If no consolidated loss, there is no NOL allowable.)

(ii) Separate company federal filing: In the loss year, the percentage of the Oklahoma loss to federal loss. (If no federal loss, there is no NOL allowable.) This percentage is then applied to the federal NOL (each loss year separately) when it is taken (absorbed) on the filed federal return. The Oklahoma NOL can be used in the same Oklahoma year it is used on the filed federal return year.

(5) **Oklahoma accrued income tax.**

(A) Oklahoma will allow a deduction for Oklahoma accrued income tax. The Oklahoma accrued income tax is computed as follows:

(i) Divide the Oklahoma net income by the number 26 for tax years beginning before January 1, 1985.

(ii) Divide the Oklahoma net income by the number 21 for tax years beginning after December 31, 1984 and ending before January 1, 1990.

(iii) Divide the Oklahoma net income by the number 17.667 for tax years beginning after December 31, 1989 and ending before January 1, 2022.

(iv) Divide the Oklahoma net income by the number 26 for tax years beginning after December 31, 2021.

(B) There is no deduction for Oklahoma accrued income tax when Oklahoma net income is a loss. [**See:** 68 O.S. § 2358(A)(5)] When credits

are allowed, the accrual of Oklahoma tax will not be allowed on the amount of Oklahoma taxable income that is covered by the credit, except for credits that have been acquired by transfer. The amount paid for credits that have been acquired by transfer can be used as a payment of tax for purposes of computing the deduction for Oklahoma accrued tax. Tax accrual is allowed on the amount of income for which tax is actually paid. The example in Appendix A of this Chapter shows how the accrual should be calculated. A schedule such as the example should be attached and submitted with Form 512.

(6) **Expenses allocated to nontaxable income**. 68 O.S. § 2358(A)(4) provides that deductions should be allocated to assets that may produce nontaxable income.

(A) An adjustment is required when a corporation has an investment in assets which produce income which is non-unitary, or separately allocable. Such items may include, but are not limited to, investments in subsidiaries, other corporation's bonds, U.S. Obligations or other types of securities that produce income which is excluded from Oklahoma income.

(B) A ratio is used to allocate expenses between unitary business operations and all other activities that do not produce unitary income. The manner in which this adjustment is made is as follows: A fraction, or percentage, is computed by dividing the average of investment in assets, the income from which is allocable, by the average of total assets. This percentage is then applied to certain expenses claimed on the return to arrive at the amount of expenses related to non-unitary business, and the resulting amount is added back to federal taxable income.

(C) Generally, interest expense is the only expense against which the adjustment described in subparagraph (B) of this paragraph is applied. However, facts and circumstances may indicate that other expenses should be considered in this allocation. This adjustment will be considered in all cases where deemed appropriate. [**See**: 68 O.S. § 2358(A)(4)] [See example in Appendix E of this Chapter]

(7) **Interest income.**

(A) **U.S. obligations.** Interest income from U.S. obligations is excluded from federal taxable income to arrive at Oklahoma taxable income. Interest income received from FNMA, GNMA, or the Internal Revenue Service is not income from an obligation of the U.S. government and cannot be excluded to arrive at Oklahoma taxable income.

(B) **Other interest income.**

(i) Interest income is to be directly allocated to the domiciliary situs of the taxpayer; except that interest income received from accounts receivable income shall be included in apportionable income.

(ii) There shall be added to Oklahoma taxable income, interest income on obligations of any state or political subdivision thereof which is not otherwise exempted pursuant to federal laws or laws of

this State, to the extent said interest is not included in federal taxable income or adjusted gross income.

(8) **Dividends.** Dividends are to be allocated to the domiciliary situs of the taxpayer. [**See:** 68 O.S. § 2358(A)(4)(b)]

(A) For purposes of calculating Oklahoma taxable income, foreign earnings deemed repatriated pursuant to 26 U.S.C. § 965 shall be considered dividend income and shall be allocated to the domiciliary situs of the taxpayer.

(i) To the extent such income is not included in the calculation of a taxpayer's federal taxable income due to inclusion on an IRC 965 Transition Tax Statement rather than the income tax return, the income shall be included on the Oklahoma return as an addition to net taxable income.

(ii) If a taxpayer elects to make installment payments of tax pursuant to the provisions 26 U.S.C. § 965, such election may also apply to the payment of Oklahoma income tax, attributable to the income upon which such installment payments are based.

(B) For purposes of calculating Oklahoma taxable income, foreign income inclusions under 26 U.S.C. § 951A (Global Intangible Low-Taxed Income, prior to repeal, or Net CFC Tested Income) shall be considered dividend income and shall be allocated to the domiciliary situs of the taxpayer.

(9) **Domestic International Sales Corporation (DISC) and Foreign Sales Corporation (FSC) Commission Expense.** Expenses incurred in producing DISC and FSC Dividend income shall be allocated on the same basis as the DISC and FSC Dividend income. [**See:** 68 O.S. § 2358(A)(4)]

(10) **Net oil and gas income.** Income or loss from oil and mining production or royalties, and gains or losses from sales of such property, shall be allocated in accordance with the situs of such property. General and administrative expenses will be allocated on the basis of Oklahoma direct expense to total direct expense. [**See**: 68 O.S. § 2358(A)(4)(a)]

(11) **Oklahoma 22% depletion.** Oklahoma depletion on oil and gas may be computed at 22% of gross income derived from each Oklahoma property during the taxable year.

(A) For tax years beginning on or after January 1, 2001, and ending on or before December 31, 2011, and for tax years beginning on or after January 1, 2014, major oil companies, as defined by 52 O.S. § 288.2(4), shall be limited to 50% of net income for such property (computed without allowance for depletion).

(B) During years not specified herein, the Oklahoma depletion allowance, for all taxpayers, shall not exceed 50% of the net income of the taxpayer (computed without allowance for depletion) from the property.

(C) The percentage depletion calculated shall not be a duplication of the depletion allowed on the federal income tax return. [**See:** 68 O.S. § 2353(10)]

(12) **Net rental income and safe harbor leasing.** The following provisions apply to the treatment of net rental income and safe harbor leasing:

(A) Net rental income is separately allocated. [**See:** 68 O.S. § 2358(A)(4)]

(B) A schedule of net rental income is required to be filed with the return showing gross income and all expenses (depreciation, repairs, taxes, interest, general and administrative expense, etc.).

(13) **Royalties; patents; copyrights.** [**See:** 68 O.S. § 2358(A)(5)]

(A) Income from patent or copyright royalties is apportionable.

(B) Income from which expenses have been deducted in producing such patent or copyright royalties in arriving at apportionable income (including the purchase of such patent or copyright royalties) shall be apportionable.

(14) **Capital gains or loss - 4797 gains or loss.**

(A) Gains (losses) from the sale or other disposition of unitary assets or any other assets used in the unitary enterprise are apportionable. [**See:** 68 O.S. § 2358(A)(5)]

(B) Gains (losses) from sale of property, the income from which is separately allocated shall also be separately allocated.

(15) **Partnership income or loss from corporate partners.**

(A) Partnership income or loss shall be separately allocated. [**See:** 68 O.S. § 2358(A)(4)]

(B) The Oklahoma distributive share of partnership income as determined under 68 O.S. § 2358 and 68 O.S. § 2362 shall be allocated to Oklahoma.

(16) **Overhead allocation.** The Commission may adjust or allocate overhead expenses to or from a parent or subsidiary, or between divisions in order to more accurately reflect the overhead expenses. [**See:** 68 O.S. § 2366]

(17) **Federal new jobs credit deduction.** For tax years beginning after December 31, 1980, the Federal New Jobs deduction is disallowed due to Oklahoma's own Investment/New Jobs Credit.

(18) **Deductions related to directly allocated income/loss.** Deductions incurred in producing income of a nonunitary nature shall be allocated on the same basis as the income. (Examples: Liquidation of subsidiaries, worthless stock loss, bad debts due subsidiaries on sale of stock, etc.) [**See:** 68 O.S. § 2358(A)(4)]

(19) **Intercompany eliminations.** There are no provisions to allow intercompany eliminations in computing the income of each company filing an Oklahoma Consolidated Return.

(20) **Other income.** Generally, other income, unless it is separately allocable under 68 O.S. § 2358(A)(4) is apportionable. [**See:** 68 O.S. § 2358(A)(5)]

(21) **Add-back of federal bonus depreciation for Oklahoma income tax purposes.** Generally, corporations claiming the federal bonus depreciation (as allowed under provisions of the federal *Job Creation and Workers Assistance Act of 2002*, the provisions of the federal *Economic Stimulus Act of 2008* or the federal *American Recovery and Reinvestment Act of*

2009) are required to add back a portion of the bonus depreciation and then claim it in later years for Oklahoma income tax purposes.

(A) Corporations filing Oklahoma income tax returns will have to add back 80% of any bonus depreciation claimed under provisions of the federal *Job Creation and Workers Assistance Act of 2002*, the federal *Economic Stimulus Act of 2008* or the federal *American Recovery and Reinvestment Act of 2009*). Any amount added back can be claimed in later years. Twenty-five percent of the amount of bonus depreciation added back may be subtracted in the first taxable year beginning after the bonus depreciation was added back, and 25% of the bonus depreciation added back may be deducted in each of the next three succeeding taxable years.

(B) The provisions relating to the add-back of the federal bonus depreciation apply only to C-Corporations and are not applicable to corporations which have elected to be treated as Subchapter S Corporations pursuant to 26 U.S.C. § 1361 et seq. of the Internal Revenue Code, nor to Limited Liability Companies.

(22) **Add-back of applicable Section 179 expenses.** For tax years beginning on or after January 1, 2009 and ending on or before December 31, 2009, any amount in excess of $175,000 which has been deducted as a small business expense under Internal Revenue Code Section 179 as provided in the federal *American Recovery and Reinvestment Act of 2009* must be added back to Oklahoma taxable income.

(23) **Add-back of federal depreciation for Oklahoma income tax purposes**.

(A) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one 100% bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.

(B) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.

(C) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

[**Source:** Amended at 9 Ok Reg 3031, eff 7-13-92; Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 13 Ok Reg 3105, eff 7-11-96; Amended at 14 Ok Reg 2699, eff 6-26-97; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 20 Ok Reg 320, eff 12-10-02 (emergency); Amended at 20 Ok Reg 2165, eff 6-26-03; Amended at 21 Ok Reg 2571, eff 6-25-04, Amended at 22 Ok Reg 1544, eff 6-11-05; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 29 Ok Reg 1475, eff 6-25-12; Amended at 31 Ok Reg 2427, eff 9-12-14; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 36 Ok Reg 1216, eff 8-11-19; Amended at 39 Ok Reg 2249, eff 9-11-22; Amended at 40 Ok Reg 1265, eff 8-11-23; Amended at 40 Ok Reg 148, eff 10-12-22 (emergency); Amended at 41 Ok Reg 1638, eff 8-11-24; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-17-52. Payment of rents and interest to a captive Real Estate Investment Trust (REIT)

(a) **General provisions**. Taxpayers that make rent or interest payments to a captive real estate investment trust (REIT) must add back those expenses to arrive at Oklahoma taxable income. For purposes of this subsection, the constructive ownership rules of Section 318(a) of the Internal Revenue Code of 1986, as amended, as modified by Section 856(d)(5) of the Internal Revenue Code of 1986, as amended, will apply in determining the ownership of stock, assets, or net profits of any person.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Real estate investment trust**" or "REIT" is any entity as defined in Section 856 of the Internal Revenue Code of 1986, as amended, as a real estate investment trust.

(2) "**Captive real estate investment trust**" is any real estate investment trust that has shares or beneficial interests that are not regularly traded on an established securities market and in which more than 50% of the voting power or value of the beneficial interests or shares are owned or controlled, either directly or indirectly, by a single entity treated as an association taxable as a corporation under the Internal Revenue Code of 1986, as amended, and is not exempt from federal income tax pursuant to the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended. "Captive real estate investment trust" does not include real estate investment trusts that are intended to be regularly traded on an established securities market, and that satisfies the requirements of Section 856(a)(5) and (6) of the U.S. Internal Revenue Code by reason of Section 856(h)(2) of the Internal Revenue Code.

(3) "**Association taxable as a corporation**" does not include the following entities:

(A) real estate investment trusts as defined in subsection (b)(1) other than a "captive real estate investment trust";
(B) qualified real estate investment trust subsidiaries defined under Section 856(i) of the Internal Revenue Code of 1986, as amended, other than a qualified REIT subsidiary of a "captive real estate investment trust";
(C) Listed Australian Property Trusts (meaning an Australian unit trust registered as a "Managed Investment Scheme" under the Australian Corporations Act in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market), or entities organized as a trusts, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, seventy-five percent (75%) or more of the voting power or value of the beneficial interests or shares of such trust;
(D) Qualified Foreign Entities, including corporations, trusts, associations or partnerships organized outside the laws of the United States and which satisfy the following criteria:
(i) at least seventy-five percent (75%) of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in Section 856(c)(5)(B) of the Internal Revenue Code of 1986, as amended, thereby including shares or certificates of beneficial interest in any real estate investment trust, cash and cash equivalents, and U.S. Government securities,
(ii) the entity receives a dividend-paid deduction comparable to Section 561 of the Internal Revenue Code of 1986, as amended, or is exempt from entity level tax,
(iii) the entity is required to distribute at least eighty-five percent (85%) of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest on an annual basis,
(iv) not more than ten percent (10%) of the voting power or value in such entity is held directly or indirectly or constructively by a single entity or individual, or the shares or beneficial interests of such entity are regularly traded on an established securities market; and
(v) the entity is organized in a country which has a tax treaty with the United States.

[**Source:** Added at 26 Ok Reg 2330, eff 6-25-09]

PART 7. APPORTIONMENT AND ALLOCATION OF CORPORATE INCOME AND EXPENSE

710:50-17-70. Unitary income; unitary business

"Unitary income" means income derived from the conduct of each separate business in more than one state, all the factors of which are essential to determining the ultimate gain derived from the business enterprise as a whole,

and not from its component parts which are too closely connected and necessary to each other to justify division or separate allocation. Each corporation must calculate its own Oklahoma Taxable Income/Loss separately, even when included in a Consolidated Return.

710:50-17-71. Apportionment formula factors

Income or loss derived from a unitary business enterprise shall be apportioned to Oklahoma on the basis of the average of three factors consisting of property, payroll and sales or gross revenue. Notwithstanding the general rule on averaging of the three apportionment factors, for corporations that, on or after July 1, 1997, make an initial investment in property or expansion of their property or facilities in Oklahoma and such initial investment cost or expansion investment costs equals or exceed Two Hundred Million Dollars ($200,000,000.00), the three factors shall be apportioned with property and payroll each comprising twenty-five percent (25%) and sales comprising fifty percent (50%). For such an initial investment or expansion investment occurring after January 1, 2000, a corporation shall qualify for use of the specially-weighted apportionment on or after the time it first incurs any amount or part of such investment cost, if the total amount thereof equals or exceeds Two Hundred Million ($200,000,000.00) within a period not exceeding three (3) years. [**See:** 68 O.S. § 2358(A)(5)]

(1) **Sales factor**.

(A) **Sales factor**. The sales factor shall include only sales and does not include sales or revenue which are separately allocated. [**See:** 68 O.S. § 2358(A)(5)(c)]

(i) Oklahoma does not allow receipts from items other than sales to be included in the formula even though other types of income (royalties, interest, capital gains, and other income) are included in the apportioned income.

(ii) Receipts from the performance of services shall be included in the numerator of the fraction if the receipts are derived from customers within this state or if the receipts are otherwise attributable to this state's marketplace. [**See** 68 O.S. § 2358(A)(5)]. A "**customer within Oklahoma**" means

(I) a customer that is engaged in a trade or business and maintains a regular place of business in Oklahoma, or

(II) a customer that is not engaged in a trade or business whose billing address is in Oklahoma. A "**billing address**" means the location indicated in the books and records of the taxpayer as the address of record where the bill relating to the customer's account is mailed.

(iii) The provisions of (A), (A)(i) and (A)(ii) of this paragraph apply to the sales factor for most corporations with the exception of gross receipts being used as a basis for a financial organization or other organizations whose sales do not represent their principal activity.

(B) **Throwback of Oklahoma sales.** If taxpayer is not doing business in the destination state of the shipment, then those sales of tangible personal property are considered to have a situs in Oklahoma if the property is shipped from an office, warehouse, factory or other place of storage in Oklahoma.

(C) **Railroad/railway.** The numerator of the fraction shall not be less than the allocation of revenues to this state as shown in its Annual Report to the Oklahoma Corporation Commission. [**See:** 68 O.S. § 2358(A)(5)(c)(2)]

(D) **Airline, truck or bus enterprise or freight car, tank car, refrigerator car or other railroad equipment enterprise.** The numerator of the fraction shall include a portion of revenue from interstate transportation in the proportion that interstate mileage traveled in Oklahoma bears to total interstate mileage traveled. [**See:** 68 O.S. § 2358(A)(5)(c)(3)]

(E) **Oil, gasoline or gas pipeline enterprise.** The numerator of the fraction shall be either the total of traffic units of the enterprise within Oklahoma or the revenue allocated to Oklahoma based on miles moved, at the option of the taxpayer, the denominator of which shall be the total of traffic units of the enterprise or the revenue of the enterprise everywhere as appropriate to the numerator. A "traffic unit" is defined as the transportation for a distance of one mile of one barrel of oil, one gallon of gasoline or one thousand cubic feet of natural or casinghead gas, as the case may be. [**See:** 68 O.S. § 2358(A)(5)(c)(4)]

(F) **Telephone or telegraph or other communication enterprise.** The numerator of the fraction shall include both income attributable to interstate operations, and income from intrastate operations. The determination of gross revenues are to be as prescribed by accounting systems and procedures promulgated by the Federal Communications Commission. [**See:** 68 O.S. § 2358(A)(5)(c)(5)]

(2) **Property factor.**

(A) **Original costs (average).** The property factor is the average value at original cost of the taxpayer's real and tangible personal property owned or rented and used in this State during the tax period to the total average of all real and tangible personal property owned or rented and used everywhere. [**See:** 68 O.S. § 2358(A)(5)(a)]

(B) **Rolling stock-buses, trucks, trailers, airplanes, automobiles, and other similar equipment.** The numerator of the fraction shall include a portion of the investment in transportation and other equipment having no fixed situs, in the proportion that miles traveled in Oklahoma by such equipment bears to total miles traveled. [**See:** 68 O.S. § 2358(A)(5)(a)(1)]

(C) **Rental property.** Rental property is valued at eight (8) times the net annual rent expense. [**See:** 68 O.S. § 2358(A)(5)(a)(2)]

(D) **Property separately allocated.** Property, the income from which is separately allocated in 68 O.S. § 2358(A)(4), shall not be included in

determining the property factor. [**See:** 68 O.S. § 2358(A)(5)(a)(1)]

(3) **Payroll factor.**

(A) **Payroll factor.** The numerator is the total compensation for services rendered in the state during the tax period, and the denominator is the total compensation for services rendered everywhere during the tax period.

(B) **Prior to 1983.** Salaries, wages and other compensation properly classified as general and administrative, are not part of the computation of the payroll factor for years before 1983.

(C) **Officers.** Officers' salaries, wages and other compensation are not part of the computation of the payroll factor, for tax years beginning after December 31, 1982. [**See:** 68 O.S. § 2358(A)(5)(b)]

(D) **Transportation enterprises.** The numerator of the fraction shall include a portion of such expenditure in connection with employees operating equipment over a fixed route, such as trainmen, airline pilots, or bus drivers, in the proportion that mileage traveled in Oklahoma bears to total mileage traveled by such employees. [**See:** 68 O.S. § 2358(A)(5)(b)(1)]

(E) **Itinerant employees/traveling salesmen.** The numerator of the fraction shall include a portion of such expenditures in connection with itinerant employees in this state only a part of the time, in the proportion that time spent in Oklahoma bears to total time spent in furtherance of the enterprise by such employees. [**See:** 68 O.S. § 2358(A)(5)(b)(2)]

[**Source:** Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 27 Ok Reg 2281, eff 7-11-10]

SUBCHAPTER 19. OKLAHOMA TAXABLE INCOME FOR PARTNERSHIPS

710:50-19-1. Partnership return

(a) **General provisions**. The Oklahoma distributive share of partnership income shall be the same portion of that reported for Federal Income Tax purposes. OTC Form 514 is used to report income. [**See**: 68 O.S. §§2358, 2362, 2363]

(1) **Oklahoma source income or loss**. When a partnership has source income or loss then that partnership must file a return showing the income or loss applicable to Oklahoma. The partnership shall also furnish a detailed schedule stating the amount of income distributable to each partner from Oklahoma sources.

(2) **Duty to file and report; determination of shares**. All resident partners must file individual income tax returns with Oklahoma if they are required to file individual Federal Income Tax Returns. All nonresident partners that have gross income of $1,000.00 must file an Oklahoma Return even though their net may actually be a loss. The partnership income for Oklahoma may be apportioned using the three factor formula unless its operations are from real and tangible personal property, such as rents, oil and mining production or royalties, and gains or losses from sales of such property; then

the income or loss shall be allocated in accordance with the situs of such property. The partner's distributive share of Oklahoma income or loss shall be the same proportion to the partner's distributive share of income or loss shown on the Federal Partnership Return.

(3) **No credit for income taxes paid other jurisdictions**. Neither residents nor nonresidents are allowed a credit for income taxes paid to other jurisdictions on partnership income.

(4) **Composite returns**. For tax years beginning on or after January 1, 2013, Oklahoma will allow partnerships with two or more partners to file composite returns for nonresident partners as set forth in (A) through (D) of this paragraph.

(A) **Individual partners and trust partners**. Compute each nonresident individual or trust partner's share of Oklahoma distributive income and income tax as follows:

(i) Calculate the Oklahoma distributive share of each nonresident individual and trust partner's income as if all of the partnership income was earned in Oklahoma. In determining taxable income of individual partners filing a composite return, no deductions for the standard deduction, personal exemptions, federal income tax paid, or dependents is permitted.

(ii) Using the Oklahoma individual income tax rates for the applicable tax year, compute a base tax for each partner using the highest marginal tax rate, based on the taxable income from (i) of this subparagraph.

(iii) Calculate the actual Oklahoma distributive share of income of each partner.

(iv) The base tax determined from (ii) of this subparagraph is to be prorated to determine the Oklahoma income tax of each partner. Divide each partner's actual Oklahoma distributive share as determined in (iii) of this subparagraph, by each partner's distributive income from all sources as determined by (i) of this subparagraph. Multiply this percentage times the base tax to calculate the actual Oklahoma income tax of each partner. Nothing in this section shall be construed to allow for more than one hundred percent (100%) of a nonresident partner's income to be taxed.

(B) **Corporate partners, S Corporation partners and Partnership partners**. Compute each nonresident corporate, S corp or partnership partner's share of Oklahoma distributive income, using the partner's share of Oklahoma distributive income and the Oklahoma corporate income tax rates, to compute each partner's Oklahoma tax.

(C) **Form**. The income and tax of all partners included in the composite return must be combined on Oklahoma Tax Commission Form 514.

(D) **Schedule to be provided**. Oklahoma Tax Commission Form 514 PT must be enclosed with the Form 514 to show the computation of each nonresident partner's Oklahoma distributive income and Oklahoma tax.

The schedule of nonresident partner's information may be provided on magnetic media, electronically, or in another format which meets Tax Commission guidelines.

(b) **When electronic filing is required**.

(1) **Schedule K-1.** For tax years beginning on or after December 31, 2004, partnerships with more than one hundred (100) partners are required to electronically file their Schedule K-1's with the Oklahoma Tax Commission. The format for filing electronically will be in either a spreadsheet format, such as Lotus 1-2-3 or Excel; or a database format, such as DBF or Access. A partnership is deemed to have "more than one hundred (100) partners" if, over the course of the partnership's tax year, the partnership had more than one hundred (100) partners at any time.

(2) **Oklahoma partnership income tax return**. For tax years beginning on or after January 1, 2020, all Oklahoma partnership income tax returns must be filed electronically in the format prescribed by the Commission.

(c) **Waiver of electronic filing requirement for hardship**. Partnerships may also obtain a waiver from the electronic filing requirement if the partnership demonstrates that a hardship would result if it were required to file electronically.

[**Source:** Amended at 20 Ok Reg 2165, eff 6-26-03; Amended at 21 Ok Reg 2571, eff 6-25-04; Amended at 22 Ok Reg 1546, eff 6-11-05; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-19-2. Amended return for partnerships

If after the partnership files its income tax return, it later becomes aware of any changes to be made to income, deductions, credits, etc.; or if corrected due to an Internal Revenue Service audit; the Partnership shall file OTC Form 514 labeled "Amended" at the top of page 1. Attach a copy of the Federal Amended 1065 or a copy of the Federal Audit Changes to the Oklahoma Amended Return. Each partner shall be given a corrected K-1, reflecting Oklahoma distributable income, as adjusted.

[**Source:** Amended at 9 Ok Reg 3031, eff 7-13-92]

710:50-19-3. Reporting the gain on the sale, exchange, or other disposition of property for which a Section 179 expense deduction was passed through to partners

(a) The gain on the sale, exchange, or other disposition of property for which a Section 179 expense deduction was passed through to partners is reported as Supplemental Information on the Federal K-1. For Oklahoma purposes, report such gain on OTC Form 514. Additional information is also required, as follows:

(1) A description of the property;
(2) The date the property was acquired;
(3) The date the property was sold;
(4) The gross sales price;
(5) The cost or other basis, plus expense of sale, including the partnership's

basis reduction in the property due to the Section 179 expense deduction;
(6) The depreciation allowed or allowable, excluding the Section 179 expense deduction; and,
(7) The amount of Section 179 expense deduction, if any, passed through to each partner for the property, and the partnership's tax year(s) in which the amount was passed through.

(b) If the software used to prepare the return has already been programmed to report the gain on another line of Income, Part 2 or Part 3, of OTC Form 514, this method is also acceptable, but all information set out in subsection (a) must be provided.

[**Source:** Added at 22 Ok Reg 1547, eff 6-11-05]

710:50-19-4. Partnerships that make an election under the Pass-Through Entity Tax Equity Act of 2019

Pursuant to the Pass-Through Entity Tax Equity Act of 2019 (68 O.S. § 2355.IP-1 et seq.), a partnership may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years. The Oklahoma income, gains, losses or deductions of a partnership that is an electing pass-through entity shall not be used to calculate the Oklahoma taxable income of the partners, members or shareholders. [See: 710:50:3-47]

[**Source:** Added at 38 Ok Reg 1527, eff 9-1-21; Amended at 42 Ok Reg 2126, eff 7-15-25]

710:50-19-5 Add-back of federal depreciation for Oklahoma income tax purposes

(a) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.

(b) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.

(c) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

[**Source:** Added at 40 Ok Reg 1265, eff 8-11-23; Amended at 41 Ok Reg 1638, eff 8-11-24]

SUBCHAPTER 20. LIMITED LIABILITY COMPANIES

710:50-20-1. Limited liability companies

(a) A limited liability company (LLC) which registers with the Secretary of State shall file an income tax return in the same manner as required under the Internal Revenue Code as amended. All rulings as issued by the Internal Revenue Service shall be binding in regards to the filing of tax returns and the reporting of income. A domestic limited liability company shall be treated the same and taxed as a domestic partnership and a foreign limited liability company shall be treated the same and taxed as a foreign partnership, provided that such domestic or foreign limited liability companies are classified as partnerships for federal purposes. [**See:** 68 O.S. §202]

(b) Income from the organization (LLC) shall be reported to Oklahoma as provided for under 68 O.S. §2358 and on the same form as prescribed under federal regulations.

(c) Operations carried on within and without the State of Oklahoma by an LLC shall be the same as for corporations, sub S corporations, partnerships, and any other organization which are covered under Public Law 86-272. The activities set out by Subsection A of 18 O.S. §2049 shall not be considered when determining the transaction of business for Oklahoma income tax purposes. [**See:** 18 O.S. §2049(C)]

[**Source:** Added at 10 Ok Reg 3837, eff 7-12-93; Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 28 Ok Reg 935, eff 6-1-11]

SUBCHAPTER 21. OKLAHOMA TAXABLE INCOME FOR SUBCHAPTER "S" CORPORATIONS

710:50-21-1. Subchapter "S" corporations and 512S Oklahoma returns

(a) A corporation having an election in effect under Subchapter S of the Internal Revenue Code shall not be subject to the Oklahoma income tax on the corporation. However, if any of the shareholders of such corporation are nonresidents of Oklahoma during any part of the corporation's taxable year, the corporation shall be taxed for such year on the nonresident shareholder's distributive share of income, unless the corporation files with its return for such year an agreement executed by each nonresident stockholder stating that such nonresident will file an Oklahoma income tax return reporting his or her portion of Oklahoma taxable income.

(b) The shareholders of a Subchapter "S" Corporation shall include in their taxable income their distributive share of such corporation's federal income,

subject to the modifications as set forth in 68 O.S. §2358 and 68 O.S. §2362.
(c) A Subchapter "S" corporation that files its return without including necessary nonresident shareholder agreements, shall be taxed on such nonresident(s) shareholders distributive share of income. The method of filing the return shall be irrevocable for each tax period once the return is filed. However, if a nonresident shareholder fails to file his or her individual Oklahoma income tax return the corporation will be assessed the tax.

[**Source**: Amended at 40 Ok Reg 1265, eff 8-11-23; Amended at 41 Ok Reg 1638, eff 8-11-24]

710:50-21-2. Amended return for subchapter "S" corporations

If after the Subchapter "S" Corporation files its income tax return, it later becomes aware of any changes it must make to income, deductions, credits, etc., or if corrected due to an Internal Revenue Service audit, the Subchapter "S" shall file OTC Form 512S labeled "Amended" at the top of page 1. Attach a copy of the Federal Amended 1120S or a copy of the Federal Audit changes to the Oklahoma Amended Return. Each shareholder shall be given a corrected K-1 reflecting Oklahoma Distributable Income as adjusted.

710:50-21-3. Reporting the gain on the sale, exchange, or other disposition of property for which a Section 179 expense deduction was passed through to shareholders

(a) The gain on the sale, exchange, or other disposition of property for which a Section 179 expense deduction was passed through to shareholders is reported as Supplemental Information on the Federal K-1. For Oklahoma purposes, report such gain on OTC Form 512S. Additional information is also required, as follows:

(1) A description of the property;
(2) The date the property was acquired;
(3) The date the property was sold;
(4) The gross sales price;
(5) The cost or other basis, plus expense of sale, including the partnership's basis reduction in the property due to the Section 179 expense deduction;
(6) The depreciation allowed or allowable, excluding the Section 179 expense deduction; and,
(7) The amount of Section 179 expense deduction, if any, passed through to each shareholder for the property, and the S-Corporation's tax year(s) in which the amount was passed through.

(b) If the software used to prepare the return has already been programmed to report the gain on another line of Income, Part 2 or Part 3, of OTC Form 512S, this method is also acceptable, but all information set out in subsection (a) must be provided.

[**Source**: Added at 22 Ok Reg 1547, eff 6-11-05]

710:50-21-4. S Corporations that make an election under the Pass-Through Entity Tax Equity Act of 2019

Pursuant to the Pass-Through Entity Tax Equity Act of 2019 (68 O.S. § 2355.lP-1 et seq.), a Subchapter S Corporation may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years. The Oklahoma income, gains, losses or deductions of a Subchapter S Corporation that is an electing pass-through entity shall not be used to calculate the Oklahoma taxable income of the partners, members or shareholders. [See: 710:50:3-47]

[**Source:** Added at 38 Ok Reg 1527, eff 9-1-21; Amended at 42 Ok Reg 2126, eff 7-15-25]

710:50-21-5. Add-back of federal depreciation for Oklahoma income tax purposes

(a) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.

(b) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.

(c) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

[**Source:** Added at 41 Ok Reg 1638, eff 8-11-24]

SUBCHAPTER 23. FIDUCIARY REPORTING

710:50-23-1. Fiduciaries

(a) **State income tax reporting requirements.**

(1) The income tax period of an estate is initially established the day following the date of death and the estate representative may elect an annual closing period for the estate to be the last day of any month not to exceed twelve months. Once an estate tax period has been established, it will remain the same throughout the period of administration up to and including the final

decree and court order for distribution.

(2) During the period of the administration of an estate, the liability for the filing of an Oklahoma income tax return for the estate and the payment of any tax due, shall be that of the representative of the estate.

(3) Only that income properly paid, credited or distributed to the beneficiaries, pursuant to a court order or under the terms of the will, may be deducted from the income of the estate.

(4) The Court Order for Final Decree is deemed to distribute both income and corpus, therefore the amounts of income generated during such final period must be shown on the final Oklahoma income tax return of the estate as a distribution showing also the name, address and social security number of each beneficiary, as well as the amounts and types of income so distributed to each.

(5) The representative of the estate, such as the administrator, executor or personal representative, is responsible for reporting the correct amount of income tax due for all years of the estate and must secure a certificate of clearance from the Oklahoma Tax Commission, disclaiming any further Oklahoma income taxes due or owing by the decedent or the estate for which the representative acts.

(6) Wills and/or trust instruments shall be filed with the initial filing of trust or estate return, so the flow of income can be determined.

(7) Returns of trusts and estates are due on the 15th day of the fourth month following the close of the taxable year.

(b) **Certificate of clearance.** Prior to the issuance of a certificate of clearance, all taxes due from decedent's prior years' returns must be paid.

(c) **Resident/nonresident.**

(1) Domicile is the primary determining factor in interpretation.

(2) A residence at death creates a resident estate throughout probate. A testamentary trust of such an estate is likewise a resident until distributed.

(3) Grantor trusts follow the situs of the grantor.

(4) Intervivos trust depends upon the trust language.

(5) The residence of the executor, administrator or trustee has no bearing on the residence of the estate or trust.

(d) **Characteristics of income and deductions.** Income and deductions shall retain the same characteristics as reported to and allowed by the Internal Revenue Service (I.R.S.). Example: Personal service income reported to the I.R.S. shall be treated as personal service income to Oklahoma and not as business income or any other type of income.

(e) **Deductions on fiduciary return.** There is no deduction for state estate tax for income in respect of the decedent. There is no deduction for interest paid on payments for federal estate tax, unless the election is made to deduct this interest on the federal fiduciary income tax return. The election to deduct administration expenses and losses on the fiduciary return in lieu of the estate tax return; must follow the federal election. There is no deduction for federal income tax paid on the fiduciary return.

[**Source:** Amended at 9 Ok Reg 3031, eff 7-13-92; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:50-23-2. Amended return for fiduciaries

(a) If a fiduciary is required or elects to file a Fiduciary Amended Return, the Fiduciary shall file an OTC Form 513, write "Amended" on the face of the return and attach the following or attach an explanation if the following is not applicable:

(1) A copy of the Amended Federal Fiduciary Return, Form 1041, or Federal Form 1045.

(2) Proof that Internal Revenue Service has accepted the claim, such as a copy of the statement of adjustment, any correspondence from Internal Revenue Service, or a copy of the deposit slip of the Federal refund.

(3) Supporting documents for any adjustments to Federal Taxable Income to arrive at the Oklahoma Taxable Income.

(4) An explanation for the filing of a Fiduciary Amended Tax Return.

(b) If multiple years returns are filed, each year shall be filed under separate cover.

SUBCHAPTER 25. BANKRUPTCY

710:50-25-1. General provisions; bankruptcy

The fiduciary must file OTC Form 513 for the estate of an individual involved in bankruptcy proceedings, if a federal income tax return is required for the bankruptcy estate. Use OTC Form 513 as a transmittal for OTC Form 511. Complete the tax for the Bankruptcy Estate on the OTC Form 511, by using the instructions and tax rate schedules for a married person, filing separately.

[**Source:** Amended at 43 Ok Reg, Number 20, effective 7-11-26]

SUBCHAPTER 27. BANKS AND CREDIT UNIONS

710:50-27-1. Banks and credit unions subject to "in lieu" tax

(a) Every state banking association, national banking association and credit union organized under the laws of this State, located or doing business within the limits of the State of Oklahoma is subject to a privilege tax. The basis of the tax shall be United States taxable income as defined by 68 O.S. 2353(10) and any adjustments as determined pursuant to 68 O.S. 2358 and the adjustments under 68 O.S. 2370(D)(1) and 68 O.S. 2370(D)(2).

(b) State and national banks and state credit unions making a Federal Subchapter "S" election, shall not pay the "in lieu" tax. Rather, the income or loss in these cases shall be reported at the shareholder level, pursuant to the provisions of 68 O.S. §§2363 and 2370.2.

[**Source:** Amended at 18 Ok Reg 2810, eff 6-25-01]

APPENDIX A. COMPUTATION OF TAX ACCRUAL WHEN TAX CREDITS ARE ALLOWABLE

1. Oklahoma Income **before** tax accrual _____
2. Allowable Oklahoma credits _____

COMPUTATION OF ACCRUED TAX ALLOWED

A. Oklahoma Income (**Line 1** above) _____
B. Amount from **Line 2**, above, divided by 4% _____
C. Subtract **Line B** from **Line A** _____
D. Divide **Line C** by 26 _____
(If **Line D** is less than 0, enter 0)

3. Subtract **Line D** from **Line 1** above _____
(Enter **Line 3** above on **Line 1, Page 1,** of your **Oklahoma Corporation Income Tax Form 512**.)

TOTAL TAX DUE _____
TAX ACCRUAL ALLOWED _____
TAX CREDIT ALLOWED _____

[**See**: 710:50-17-51. **Adjustments to arrive at Oklahoma taxable income for corporations**]

[**Source:** Added at 9 Ok Reg 3031, eff 7-13-92]

APPENDIX B. COMPUTATION OF OKLAHOMA NET OPERATING LOSS [REVOKED]

[Source: Added at 11 Ok Reg 3497, eff 6-26-94; Revoked at 17 Ok Reg 2669, eff 6-25-00]

APPENDIX C. COMPUTATION OF OKLAHOMA NET OPERATING LOSS [REVOKED]

[**Source**: Added at 11 Ok Reg 3497, eff 6-26-94; Revoked at 17 Ok Reg 2669, eff 6-25-00]

APPENDIX D. OKLAHOMA NET OPERATING LOSS [REVOKED]

[**Source**: Added at 11 Ok Reg 3497, eff 6-26-94; Revoked at 17 Ok Reg 2669, eff 6-25-00]

APPENDIX E. COMPUTATION OF ADJUSTMENT FOR EXPENSES ALLOCATED TO NONTAXABLE INCOME

Figure 1

A non-Oklahoma domiciled taxpayer has the following beginning of year and end of year balance sheets (assets only):

ASSET:	BOY	EOY	COMMENT
Cash	5,000	10,000	
Accounts Receivable	100,000	150,000	These assets are the result of the sales of the products sold by the unitary business
Inventory	80,000	120,000	These assets are the products on hand to be sold by the unitary business
US Government Obligations (A)	25,000	50,000	These assets generate interest income from US government obligations not taxable in Oklahoma
Other Current Assets	8,000	10,000	These assets relate to the unitary business
Investments in Subsidiaries (A)	500,000	600,000	These assets may generate dividend income or gain (loss) on sale that is allocated to the taxpayer's domiciliary situs (commercial domicile)
Investments in Corporate Stock (A)	5,000	5,000	These assets may generate dividend income or gain (loss) on sale that is allocated to the taxpayer's domiciliary situs (commercial domicile)
Investments in Partnerships (A)	100,000	120,000	These assets generate partnership income (loss) that is allocated to the state (s) where the partnership has business operations or gain (loss) on sale that is allocated to the taxpayer's domiciliary situs (commercial domicile)
Fixed Assets (Net)	1,000,000	1,500,000	These assets are used in the unitary business to produce the products sold
Intangible Assets (Net)	500,000	600,000	These assets are used in the unitary business to produce the products sold
Long Term Notes Receivable (A)	100,000	100,000	These assets generate interest income not related to working capital that is allocated to the taxpayer's domiciliary situs (commercial domicile)
Other Assets	50,000	50,000	These assets relate to the unitary business
Total Assets	2,473,000	3,315,000	

Figure 2

The taxpayer incurs interest expense on borrowed funds necessary to operate their overall business. Oklahoma utilizes an asset based ratio to allocate the interest expense incurred between the unitary business operations and all other activities that do not produce unitary income as follows:

ASSET:	BOY	EOY	COMMENT
Assets that may produce allocable or nontaxable income [sum of (A)]	730,000	875,000	
Average assets that may produce allocable or nontaxable income		802,500	73,000 plus 875,000 divided by 2
Average total assets		2,894,000	2,473,000 plus 3,315,000 divided by 2
Ratio of assets that may produce allocable or nontaxable income to total assets		0.27729786	

[**Source:** Added at 33 Ok Reg 1068, eff 8-25-16]