

ENROLLED SENATE
BILL NO. 390

By: Williams (Don) and Long
(Ed) of the Senate

and

Begley, Settle, Smith
(Dale), Erwin, Stites and
Widener of the House

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 2881 and 2884, as amended by Sections 3 and 4, Chapter 360, O.S.L. 1992 (68 O.S. Supp. 1994, Sections 2881 and 2884), which relate to ad valorem taxes; requiring that certain complaint and notice be in certain form and specifying requirements thereof; requiring copy of complaint to be sent to Oklahoma Tax Commission; providing that amount of protested taxes by certain taxpayers not exceed certain amount; providing exception to certain procedure; providing for apportionment of certain taxes paid under protest; requiring certain notification; providing for computation and certification of correct amount of taxes payable and for refund of difference thereof; specifying time within which such refund must be made; providing that certain procedures be applicable to taxes paid on or after certain date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2881, as amended by Section 3, Chapter 360, O.S.L. 1992 (68 O.S. Supp. 1994, Section 2881), is amended to read as follows:

Section 2881. A. The secretary of the State Board of Equalization shall notify all railroads and public service corporations of the ad valorem tax assessments rendered by the State Board, including the valuation, assessment ratio and total amount of assessment. The notice shall clearly be marked with the date upon which the notice was prepared. Such notice shall be mailed within one (1) working day of such date. The taxpayer shall have twenty (20) calendar days from date of such notice in which to file, with the Clerk of the Court of Tax Review, a written complaint on a form prescribed by the Oklahoma Tax Commission, specifying grievances, and the pertinent facts in relation thereto in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The complaint shall specify the amount of Oklahoma assessed valuation protested and the grounds for the protest. The taxpayer shall be required to send a copy of the complaint to the Oklahoma Tax Commission.

B. After the filing of a complaint as provided for in subsection A of this section the State Board of Equalization shall have fifteen (15) days within which to file an answer. The Court of Tax Review shall set a date of hearing, conduct such hearing and render its decision within sixty (60) days of the date of the notice which caused the filing of the complaint. The Court of Tax Review shall be authorized and empowered to take evidence pertinent to said complaint, and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the valuation, as required by law.

C. At the time of hearing upon a complaint filed pursuant to this section, the State Board of Equalization shall bear the burden of proof of supporting its action which is the subject matter of the complaint.

D. Either the State Board of Equalization or the party filing a complaint pursuant to this section may appeal the decision of the Court of Tax Review by filing a notice of intent to appeal with the Clerk of the Court of Tax Review within ten (10) calendar days of the date the final decision is rendered. Appeal shall be made to the Oklahoma Supreme Court which shall give precedence to such appeals and affirm the decision of the Court of Tax Review if supported by competent evidence.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2884, as amended by Section 4, Chapter 360, O.S.L. 1992 (68 O.S. Supp. 1994, Section 2884), is amended to read as follows:

Section 2884. A. The full amount of the taxes assessed against the property of any taxpayer who has appealed from a decision affecting the value or taxable status of such property as provided by law shall be paid at the time and in the manner provided by law; and if at the time such taxes or any part thereof become delinquent, any such appeal is pending, it shall abate and be dismissed upon a showing that such taxes have not been paid.

B. When such taxes are paid, the persons paying the same shall give notice to the county treasurer that an appeal involving such taxes has been taken and is pending, and that a specified portion of the tax amount is being paid under protest. The notice shall be on a form prescribed by the Oklahoma Tax Commission. If taxes are paid in two equal installments and the amount paid under protest does not exceed fifty percent (50%) of the full amount of assessed taxes, all protested taxes shall be specified in the second installment payment. If such amount does exceed fifty percent (50%) of the full amount of assessed taxes, then the portion of protested taxes that exceeds fifty percent (50%) of the full amount of assessed taxes shall be specified in the first installment payment and the entire second installment shall be specified to be paid under protest. The

taxpayer shall attach to such notice a copy of the petition filed in the court or other appellate body in which the appeal was taken. For railroads and public service corporations, the amount of taxes protested shall not exceed the amount of tax calculated on the protested assessed valuation specified in the complaint filed pursuant to the provisions of subsection A of Section 2881 of this title. Except as otherwise provided by subsection E of this section, it shall be the duty of such treasurer to hold taxes paid under protest separate and apart from other taxes collected. Any portion of such taxes not paid under protest shall be apportioned as provided by law. The treasurer shall invest such protested taxes in the same manner as the treasurer invests surplus tax funds not paid under protest, but shall select an investment medium which will permit prompt refund or apportionment of such protested taxes upon final determination of the appeal. If upon the final determination of any such appeal, the court shall find that the property was assessed at too great an amount, the board of equalization from whose order the appeal was taken shall certify the corrected valuation of the property of such taxpayers to the county assessor, in accordance with the decision of the court, and shall send a copy of such certificate to the county treasurer. Upon receipt of the corrected certificate of valuation the county assessor shall compute and certify to the county treasurer the correct amount of taxes payable by such taxpayer. The difference between the amount paid and the correct amount payable with accrued interest shall be refunded by the treasurer to the taxpayer upon the taxpayer filing a proper verified claim therefor, and the remainder paid under protest with accrued interest shall be apportioned as provided by law.

C. If an appeal is upon a question of valuation of the property, then the amount paid under protest by reason of the question of valuation being appealed shall be limited to the amount of taxes assessed against the property for the year in question less the amount of taxes which would be payable by the taxpayer for that year if the valuation of the property asserted by the taxpayer in the appeal were determined by the court to be correct.

D. If an appeal is upon a question of assessment of the property, then the amount paid under protest by reason of the question of assessment being appealed shall be limited to the amount of taxes assessed against the property for the year in question less the amount of taxes which would be payable by the taxpayer for that year if the assessment of the property asserted by the taxpayer in the appeal was determined by the court to be correct.

E. Taxes paid under protest on property of railroads and public service corporations for an appeal upon a question of assessment of the property shall be apportioned as provided by law. The county treasurer shall notify each recipient of such taxes in writing that the taxes are being paid under protest and that repayment of the taxes and interest thereon will be required if the court finds in favor of the taxpayer upon final determination of the appeal. If upon final determination of any appeal, the court shall find in favor of the taxpayer, the State Board of Equalization shall compute and certify the correct amount of taxes payable by the taxpayer in accordance with the decision of the court. The difference between the amount paid and the correct amount payable, with accrued interest computed pursuant to the provisions of Section 727 of Title 12 of the Oklahoma Statutes, shall be refunded by the county treasurer to the taxpayer upon the taxpayer filing a proper verified claim therefor. The refund shall be made within eighteen (18) months of the date of the final determination of the appeal.

F. The procedure for payment of taxes pending resolution of appeals as provided by this section shall be applicable to any such payment of taxes made on or after July 1, 1992. The procedures for apportionment, escrow and refunds of taxes paid under protest as

provided in this section, as amended, shall be applicable to any taxes paid on or after July 1, 1995; provided, the provisions of subsection E of this section shall be applicable to taxes paid under protest on or after July 1, 1994, and such taxes shall be apportioned as provided by law within thirty (30) days of the effective date of this act.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.