

By: Herbert of the Senate
and
Seikel of the House

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 2871, as amended by Section 9, Chapter 337, O.S.L. 1995 (68 O.S. Supp. 1996, Section 2871), which relates to ad valorem taxes; clarifying language; requiring county clerk to prepare order of dismissal or denial of relief to taxpayer; requiring such order to be mailed to address found on complaint; requiring notice of appeal to be filed within certain time period; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2871, as amended by Section 9, Chapter 337, O.S.L. 1995 (68 O.S. Supp. 1996, Section 2871), is amended to read as follows:

Section 2871. A. After delivery of the tax rolls to the county treasurer of any county, no correction or alteration as to any item contained therein as of such date of delivery shall ever be made, except by the county treasurer and on authority of a proper certificate authorized by law or pursuant to order or decree of court in determination of a tax protest or other proper case.

B. A board of tax roll corrections is hereby created and shall consist of the chair of the board of county commissioners as chair, the chair of the county equalization board as vice-chair, the county clerk as nonvoting member and secretary, and the county assessor, a majority of whom shall constitute a quorum. The board is hereby authorized to hear and determine allegations of error, mistake or difference as to any item or items so contained in the tax rolls, in any instances hereinafter enumerated, on application of any person or persons whose interest may in any manner be affected thereby, or by his or her agent or attorney, verified by affidavit and showing that the complainant was not at fault through failure to fulfill any duty enjoined upon him or her by law, or upon discovery by the county treasurer or assessor before the tax has been paid or attempted to be paid and disclosure by statement of fact in writing signed by the treasurer or assessor and verified by the assessor or treasurer as the case may be. Such right shall not be available to

anyone attempting to acquire, or who has acquired, the lien of the county for such tax, whether by purchase, assignment, deed or otherwise. In counties with two county boards of equalization, the chair of each such board shall serve, in alternating years, as the vice-chair of the board of tax roll corrections. When a complaint is pending before the board of tax roll corrections, such taxes as may be owed by the protesting taxpayer shall not become due until thirty (30) days after the decision of the board of tax roll corrections. When a complaint is filed on a tax account which has been delinquent for more than one (1) year, and upon showing that the tax is delinquent, the complaint shall be dismissed, with prejudice.

C. If, upon such hearing, it appears that:

1. Any personal or real property has been assessed to any person, firm, or corporation not owning or claiming to own the same;
2. Property exempt from taxation has been assessed;
3. Exemption deductions allowed by law have not been taken into account;
4. The same property, whether real or personal, has been assessed more than once for the taxes of the same year;
5. Property, whether real or personal, has been assessed in the county for the taxes of a year to which the same was not subject;
6. The county board of equalization has, after delivery of the tax rolls, made a finding of fact under authority of law that, after January 1 of any year and before May 1 of the same year, improvements to real estate or other property assessed have been destroyed by fire, or that the value of land has been impaired, damaged or destroyed by floods or overflow of streams, and has made and entered an adjustment to assessments previously made and entered;
7. Lands or lots have in any manner been erroneously described;
8. Any valuation or valuations assessed and entered are at variance with the valuation finally equalized;
9. Any valuation or valuations returned for assessment and not increased by the county assessor have been entered on the assessment rolls for equalization at variance with the value returned, or in the event of increase by either the county assessor or the county board of equalization and no notice thereof was sent; provided, offer of proof of failure to receive notice may not be heard;
10. Any valuation assessed and entered included, in whole or in part, as of the date of assessment under the law relating thereto, any property that had no taxable situs in the county, did not exist or had been erroneously placed;
11. Any property subject to taxation as of January 1 of any year was thereafter acquired by conveyance of title, including tax title, by the county, or any city, town or school district therein;
12. An error resulted from inclusion in the total of levies computed against the valuation entered, a tax levy or levies certified and final for none or part of which such property was liable in fact and the same be self-evident on recomputation, and involve no question of law;
13. As to personal tax, if there has been an error in the name of the person assessed, or, as to real property, the record owner at the time of assessment desires that his or her name be entered in lieu of whatever other name may have been entered as "owner" upon the roll;
14. There has been any error in the tax extended against the valuation entered, whether by erroneous computation or otherwise;
15. There has been any error in transcribing from the county assessor's permanent survey record to the assessment rolls either as to area or value of lands or lots or as to improvements thereon;
16. The county treasurer has, of his or her own volition, restored to the tax rolls any tax or assessment where the entry upon

the tax rolls shows the same theretofore to have been stricken or reduced by certificate issued by constituted authority, except where restored by specific court order or in conformity to general decree of the Supreme Court of Oklahoma invalidating in mass all such certificates of a class certain, and except if the owner of such property demand its restoration and make payment, in which instance the county treasurer shall require that the owner sign on the face of the owner's receipt a statement that the owner "paid voluntarily without demand, request or duress"; or

17. Any personal property assessment and personal tax charge has been entered upon the assessment and tax rolls except upon proper return of assessment by the taxpayer or increase thereof with due notice, or as a delinquent assessment made by the county assessor or deputies in detail either on view or reliable information; then, in the event any of the grounds stated in this subsection are present, it shall be the duty of the board of tax roll corrections to make and the secretary to enter its findings of fact and to correct such error, if such exists, by issuing its order, in words and figures, to accomplish such:

- a. if such error increases the amount of tax charged, the county clerk shall issue a certificate of error to the county assessor ordering the assessor to certify such correction or increase to the county treasurer for entry on the tax rolls, and
- b. if such error does not increase the amount of tax charged, the county clerk shall issue a certificate of error to the county treasurer if the tax be not paid, stating the amount or other effect of such order, and it shall be the duty of such county treasurer to make and enter such correction upon the tax rolls and, if there be a decrease to the amount of tax charged, to enter a credit, in lieu of cash, for the amount of decrease of tax shown in such certificate.

D. If, prior to such hearing by the board, as provided by this section, the tax has been paid, no certificate shall issue; but if less than one (1) year shall have elapsed after the payment of the tax and before the filing of such application for correction of error, and after such hearing the findings of fact disclose that less tax was due to have been paid than was paid, then the person who paid the tax, or such person's heirs, successors, or assigns, may execute a cash voucher claim setting forth facts and findings, verify it, and file it with the county clerk, who shall thereupon deliver such claim to the county treasurer for designation of the fund from which the claim must be paid and approval of the claim as to availability of funds by the county treasurer. If taxes have been paid under protest, the county treasurer must designate the refund to be paid from such protest fund. If taxes have been paid but not paid under protest and if there are funds available in current collections of the taxing unit which received the taxes paid, then the county treasurer must designate the refund to be paid from such current collections of such taxing unit. The county clerk shall thereupon issue a cash voucher against the appropriate fund of the county, directing the county treasurer to pay to such person the amount so found to be erroneous. The word "person" as used in this subsection shall comprehend the person, firm, or corporation who paid such tax and the heirs, assigns or successors, as the case may be. No such claim for refund shall be allowed and paid unless the same be filed within six (6) months after the effective date of the order of correction.

E. If there be any error in the taxes collected from any person, the overpayment or duplicate payment of any such taxes collected in error may be recovered by the taxpayer, and the county treasurer may make such payment from the resale property fund of the

county if funds are not available as stated in subsection D of this section.

F. Beginning January 1, 1987, notwithstanding the one-year limitations period for filing a claim for refund as provided in subsection D of this section, if there be any error in taxes collected from any person on property constitutionally exempt under Section 6B of Article X of the Oklahoma Constitution, by the county treasurer in counties with a population in excess of five hundred thousand (500,000) persons, according to the latest Federal Decennial Census, to the extent that such county has been reimbursed from the Ad Valorem Reimbursement Fund provided by Section 193 of Title 62 of the Oklahoma Statutes, the overpayment or duplicate payment of any such taxes collected in error may be recovered by the taxpayer in equal annual installments over a five-year period and the county treasurer may make such payment from the resale property fund of the county if funds are not available as stated in subsection D of this section.

G. Upon dismissal of a complaint or denial of relief to the taxpayer, the county clerk, as secretary of the board of tax roll corrections, shall prepare a letter order of dismissal or denial which shall be mailed to the taxpayer or person at the address found on the complaint.

H. Both the taxpayer and the county assessor shall have the right of appeal from any order of the board of tax roll corrections to the district court of the same county. In case of appeal the trial in the district court shall be de novo.

I. Notice of appeal shall be served upon the county clerk, as secretary of the board of tax roll corrections, and a copy served upon the county assessor. The appeal shall be filed in the district court within fifteen (15) days of the date of the mailing of the order of the board of tax roll corrections to the taxpayer.

SECTION 2. This act shall become effective November 1, 1997.