

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 2190

By: Mass

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 2830, as amended by Section 1, Chapter 323, O.S.L. 1996, 2865, 2866, 2883 and 3024, as last amended by Section 20, Chapter 97, O.S.L. 1996 (68 O.S. Supp. 1996, Sections 2830 and 3024), which relate to ad valorem valuations; transferring duties to adjust, equalize, and monitor ad valorem valuations to the State Auditor and Inspector; changing reference from Oklahoma Tax Commission to State Auditor and Inspector regarding appeal process in Court of Tax Review; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2830, as amended by Section 1, Chapter 323, O.S.L. 1996 (68 O.S. Supp. 1996, Section 2830), is amended to read as follows:

Section 2830. A. ~~The Oklahoma Tax Commission~~ State Auditor and Inspector shall monitor the progress of valuation in each county as it occurs each year. Such monitoring may be conducted by periodic audits of assessments through visits to the county or through an

analysis of assessment activity by means of a computer-assisted monitoring program.

B. ~~The Oklahoma Tax Commission~~ State Auditor and Inspector shall establish guidelines for determining the extent of noncompliance with the applicable law or administrative rules governing valuation of taxable property. Such guidelines shall establish three categories of noncompliance. The categories shall be respectively denominated as Category 1, Category 2 and Category 3. Each category shall represent progressive degrees of noncompliance. Provided, if the ~~Tax Commission~~ State Auditor and Inspector finds that a county assessor is not annually valuing taxable real and personal property within the county as required by Sections 2817 and 2829 of this title, the ~~Tax Commission~~ State Auditor and Inspector shall certify that the county is not in compliance with such statutes and shall be required to take action as prescribed by this section for the appropriate category of noncompliance according to the guidelines established pursuant to the provisions of this subsection. The ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall be authorized to take action as prescribed by this section for each category of noncompliance as follows:

Category 1: ~~The Oklahoma Tax Commission~~ State Auditor and Inspector shall notify the county assessor of the nature of the noncompliance and shall indicate the action required to correct such noncompliance.

Category 2: ~~The Oklahoma Tax Commission~~ State Auditor and Inspector shall order the action to be taken in order to bring the county into compliance. The ~~Oklahoma Tax Commission~~ State Auditor and Inspector is authorized to do any or all of the following:

1. Impose a schedule of required actions by county officials to bring the county into compliance;

2. Establish deadlines for bringing the county into compliance;  
or

3. Impose changes in procedures in the assessor's office, if necessary, to facilitate continued compliance.

Category 3: The ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall notify the board of county commissioners and the county assessor of the affected county that the county is in violation of law or regulations relating to the valuation function for the administration of the ad valorem tax. The ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall conduct a conference, within thirty (30) days after such notice, in that county with the board of county commissioners, the county assessor and the county board of equalization, to formally notify the county of the extent of noncompliance and the measures necessary to correct it. The ~~Oklahoma Tax Commission~~ State Auditor and Inspector is authorized to do any or all of the following:

1. Impose a schedule of required actions by county officials to bring the county into compliance;

2. Establish deadlines for bringing the county into compliance;

3. Impose changes in procedures in the assessor's office, if necessary, to facilitate continued compliance;

4. Place the county valuation function under the temporary supervision of a ~~qualified Oklahoma Tax Commission employee~~ the State Auditor and Inspector;

5. Require additional training for the assessor, deputies or members of the equalization board; or

6. Provide written or oral reports to the board of county commissioners and the county board of equalization of the progress in regaining compliance status for the county. Such reports shall be public records.

The ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall periodically conduct a review of the extent of noncompliance in each

county determined to be in Category 3 noncompliance. When the ~~Oklahoma Tax Commission~~ State Auditor and Inspector determines that such a county is in substantial compliance with the applicable law or administrative regulations governing valuation of taxable property, the ~~Commission~~ State Auditor and Inspector shall so certify.

C. The ~~Oklahoma Tax Commission~~ State Auditor and Inspector may request the Court of Tax Review to order a county determined to be in Category 3 noncompliance to reimburse the ~~Oklahoma Tax Commission~~ State Auditor and Inspector from the county assessor's budget as established in Section 2823 of this title for all costs incurred as a result of the assumption of the valuation function by the ~~Commission~~ State Auditor and Inspector. The salary of the county assessor shall not be paid during the time that ~~a qualified employee of the Oklahoma Tax Commission~~ the State Auditor and Inspector is supervising the valuation function in the county, but shall be restored as of the date the ~~Commission~~ State Auditor and Inspector certifies to the board of county commissioners that noncompliance has been corrected.

D. The county assessor shall have the right to appeal an order issued by the ~~Oklahoma Tax Commission~~ State Auditor and Inspector to correct Category 2 noncompliance or to appeal a decision finding Category 3 noncompliance in the manner provided by Section 2883 of this title.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2865, is amended to read as follows:

Section 2865. A. The ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall render its findings as to the adjustment and equalization of the valuation of real and personal property of the several counties of the state by reporting to the State Board of Equalization the ratio derived from comparing the assessed value of the real property of each county to the full or fair cash value of

the real property of such county; and such findings shall, on or before December 1 of each calendar year, be presented to the State Board of Equalization as recommendations for its final action under Section 21 of Article X of the Oklahoma Constitution.

B. All duties, powers and authority relating to the adjustment and equalization of the valuation of real and personal property of the several counties of the state, shall be vested in the ~~Oklahoma Tax Commission~~ State Auditor and Inspector, excepting only the duties, powers and authority of the State Board of Equalization, as fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

C. In the assessment of all property which it is their duty to assess for taxation, all county officers shall continue to perform all the duties required of them, and to exercise all the powers and authority vested in them, by law.

D. In the performance of ~~its~~ the duties, as ~~herein~~ defined in this section, the ~~Oklahoma Tax Commission, or any duly authorized representative thereof,~~ State Auditor and Inspector shall have the power to administer oaths, to conduct hearings, and to compel the attendance of witnesses and the production of the books, records and papers of any person, firm, association or corporation, or of any county; and to enter any business or commercial premises and inspect the property of the taxpayer.

E. Prior to entering the business or commercial premises of any taxpayer for purposes of discovering personal property, the ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall request permission to enter the business or commercial premises and shall state the reason for the inspection. If access to the business or commercial premises is denied, the ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall be required to obtain a search warrant in order to conduct an inspection of the interior of the business or commercial premises. A search warrant may be obtained upon a showing of

probable cause that personal property located within particularly described business or commercial premises is subject to ad valorem taxation, but not listed or assessed for ad valorem taxation as required by law.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 2866, is amended to read as follows:

Section 2866. A. For purposes of reporting to the State Board of Equalization the ratio derived from comparing the assessed value of the real property of each county to the full or fair cash value of such real property, the ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall conduct and publish an equalization ratio study for each county annually in accordance with the requirements of this section.

B. The equalization ratio study shall be conducted in a manner that ensures:

1. The ratio of assessed value to the fair cash value of properties in a sample extracted from a county is expressed as a median of the ratios determined for all properties included in the sample;

2. Sample data gathered for purposes of establishing the fair cash value of properties within the sample relates to the applicable assessment date of the study in a manner that produces reliable ratio study results;

3. Sample sizes of sufficient numbers to produce an estimated ratio for a use category within a county or a ratio for an entire county at a ratio that accurately estimates the true, but unknown, assessment level;

4. Appraisals selected for inclusion in the ratio study are representative of the use category or stratum of properties included in the sample;

5. Sales files containing adequate information are developed and maintained for purposes of appraisals; and

6. Uniformity of assessments within a use category or stratum for a county do not exceed a coefficient of dispersion value of twenty percent (20%).

C. ~~The Oklahoma Tax Commission~~ State Auditor and Inspector shall provide for a computer system that permits the equalization ratio study to be conducted pursuant to the requirements of this section. Such computer system shall be designed to permit monitoring and analysis of assessment performance in the several counties and to detect noncompliance with legal standards for valuation of taxable property in order to fulfill the duties imposed by Section 2830 of this title. The provisions of this subsection shall not be construed to authorize the ~~Oklahoma Tax Commission~~ State Auditor and Inspector to install a mainframe computer capable of remote monitoring of or making inputs into computers in the offices of the various county assessors.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 2883, is amended to read as follows:

Section 2883. A. A county assessor may appeal the decision of the ~~Oklahoma Tax Commission~~ State Auditor and Inspector to correct Category 2 noncompliance or a decision ordering corrective action for Category 3 noncompliance as authorized by Section 30 of this act 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.

B. After the filing of a notice of intent to appeal as provided for in subsection A of this section the ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall have fifteen (15) days within which to file an answer. The Court of Tax Review shall set a date of hearing within sixty (60) days of the date of the answer date. The Court of Tax Review shall be authorized and empowered to take evidence pertinent to said appeal, 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 order of the ~~Oklahoma Tax Commission~~ State Auditor and Inspector, as required by law.

C. At the time of hearing upon a complaint filed pursuant to this section, the ~~Oklahoma Tax Commission~~ State Auditor and Inspector shall bear the burden of proof of supporting its action which is the subject matter of the appeal.

D. Either the county assessor or the ~~Oklahoma Tax Commission~~ State Auditor and Inspector 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 affirm the decision of the Court of Tax Review if supported by competent evidence.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 3024, as last amended by Section 20, Chapter 97, O.S.L. 1996 (68 O.S. Supp. 1996, Section 3024), is amended to read as follows:

Section 3024. A. There is hereby created a Court of Tax Review. The Court of Tax Review shall be comprised of one district judge from each judicial district in the state. The district judge representing each judicial district shall be selected by the Justices of the Oklahoma Supreme Court. Each case brought before the Court of Tax Review pursuant to this subsection will be heard by a panel of three judges. The three judges assigned to hear each case will be selected by the Chief Justice of the Oklahoma Supreme Court and will be from congressional districts different from the congressional district in which the property or county which is the subject of the case is located. In the event that the property which is the subject of the case is located in each congressional district, then the case shall be heard by a panel of three judges of the Court of Civil Appeals, appointed by the Chief Justice of the Supreme Court to hear such case. A majority of the three-judge

panel shall be required to render a decision in each case. The Oklahoma Supreme Court shall establish court rules for the Court of Tax Review and the Clerk of the Oklahoma Supreme Court shall serve as Clerk of the Court of Tax Review. The Court of Tax Review is hereby vested with jurisdiction over and shall hear complaints regarding valuation of public service corporation property by the State Board of Equalization as authorized by Section 2881 of this title, complaints regarding actions of the State Board of Equalization regarding either intracounty or intercounty property value equalization as authorized by Section 2882 of this title, and appeals as authorized by Section 2830 of this title concerning Category 2 or Category 3 noncompliance as determined by the ~~Oklahoma Tax Commission~~ State Auditor and Inspector. The Court of Tax Review shall determine if a county deemed to be in Category 3 noncompliance is required to reimburse the ~~Oklahoma Tax Commission~~ State Auditor and Inspector from the county assessor's budget for all costs incurred as a result of the assumption of the valuation function by the ~~Commission~~ State Auditor and Inspector.

B. The Court of Tax Review shall prescribe procedures for the purpose of hearing properly filed protests against alleged illegal levies, as shown on the annual budgets filed with the State Auditor and Inspector. The Court shall reconvene as often as deemed necessary by the Court until final determination has been made as to all protested levies. The judges shall be paid their traveling and living expenses while acting as members of the Court, out of the funds now provided by law for payment of district judges' expenses when holding court outside the counties of their residence. Decisions of the Court of Tax Review concerning alleged illegal levies shall be subject to the provisions of Sections 3025, 3026, 3027, 3028 and 3029 of this title.

SECTION 6. This act shall become effective November 1, 1997.

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