

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1203

By: Pope (Clay)

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 47 O.S. 1991, Section 1120, as last amended by Section 3, Chapter 232, O.S.L. 1999 (47 O.S. Supp. 2000, Section 1120), which relates to proportional registration of vehicles; modifying determination of the Oklahoma mileage factor; amending 68 O.S. 1991, Sections 230, as last amended by Section 2, Chapter 407, O.S.L. 1999, 231, as last amended by Section 3, Chapter 407, O.S.L. 1999 and 234, as last amended by Section 4, Chapter 407, O.S.L. 1999 (68 O.S. Supp. 2000, Sections 230, 231 and 234), which relate to uniform tax procedures; modifying certain filing requirement by the Oklahoma Tax Commission; amending 68 O.S. 1991, Section 812, as last amended by Section 4, Chapter 334, O.S.L. 1996 (68 O.S. Supp. 2000, Section 812), which relates to estate tax reporting requirements; modifying provisions related to amount released by financial institutions without certain notification; modifying amounts available for release; modifying amounts available for release to certain entities; amending 68 O.S. 1991, Sections 2817, as last amended by Section 1, Chapter 255, O.S.L. 2000 and 2887, as last amended by Section 2, Chapter 361, O.S.L. 2000 (68 O.S. Supp. 2000, Sections 2817 and 2887), which relate to ad valorem tax; modifying the calculation of the use value of buffer strips; modifying exemption relating to property of charitable institutions; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 1120, as last amended by Section 3, Chapter 232, O.S.L. 1999 (47 O.S. Supp. 2000, Section 1120), is amended to read as follows:

Section 1120. A. The Oklahoma Tax Commission may, when in the interest of the State of Oklahoma and its residents, enter into the

International Registration Plan or other compacts or agreements with other states to permit motor vehicle registration and license taxes on any truck, bus, or truck-tractor on a proportional basis commensurate with the use of Oklahoma highways. Proportional registration under such plans may be permitted for vehicles engaged in interstate commerce or combined interstate and intrastate commerce.

B. The Tax Commission shall require that such proportional registration be based on the percentage of miles actually operated by such ~~vehicles~~ registrant's fleet or fleets of vehicles in the State of Oklahoma in the preceding year in proportion to the total fleet miles operated both within and without Oklahoma. If at least three (3) months mileage data is not available for the preceding ~~calendar year, the Tax Commission may accept the latest twelve-month period available.~~ Such percentage figure, ~~so determined by the Tax Commission, shall be the Oklahoma mileage factor.~~ In computing the ~~taxes under the foregoing formula, the Tax Commission shall first compute the license fees for the entire fleet and then multiply the amount by the Oklahoma mileage factor on a dollar basis~~ estimated mileage is allowed and the Oklahoma Tax Commission shall accept estimated mileage on an initial or renewal application for apportioned registration if the mileage reflects a minimum of twenty percent (20%) of the total estimated miles in Oklahoma and no other jurisdictional mileage percentage exceeds that of Oklahoma.

C. Upon receipt of the Oklahoma license and registration tax, which shall be paid by cash and/or certified funds, as computed under the provisions of the Oklahoma Vehicle License and Registration Act, the Tax Commission shall register all such fleet vehicles, and shall issue a license plate or decal for each of such vehicles identifying it as part of an interstate fleet. The Tax Commission may, upon satisfactory review of the payment history of

an applicant, waive the requirement for payment in cash or certified funds.

D. Vehicles so registered on a prorated basis shall be considered fully licensed in Oklahoma and shall be exempt from all further registration or license fees under the provisions of the Oklahoma Vehicle License and Registration Act; provided that such fleet vehicles are proportionally licensed in some other state, territory or possession of the United States or some foreign province, state or country with which the Tax Commission has entered into a prorating compact or agreement.

If a vehicle is permanently withdrawn from a proportionally registered fleet and a replacement vehicle is added to the fleet in the same calendar quarter, the replacement vehicle shall be considered fully registered as provided in Section 1133 of this title and Section 14-109 of this title, if the replacement vehicle is registered for a weight equal to or less than the vehicle permanently withdrawn, or if additional registration fees are paid when the replacement vehicle is registered for a weight greater than the vehicle withdrawn. If a vehicle is permanently withdrawn from a proportionally registered fleet and is not replaced by another vehicle in the same calendar quarter, credit shall be allowed as otherwise provided in this section.

E. Vehicles subsequently added to a proportionally registered fleet after commencement of the registration year shall be proportionally registered by applying the mileage percentage used in the original application for such fleet for such registration period to the regular registration fees due with respect to such vehicle for the remainder of the registration year.

F. If a vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold or otherwise completely removed from service, credit shall be allowed. Such credit shall be a sum equal to the amount paid with respect to such

vehicle when it was first proportionally registered in the registration year, reduced by one-fourth (1/4) for each calendar quarter or fraction thereof elapsing since the beginning of the registration year. The credit may be applied against subsequent additions to the fleet to be prorated or for other additional registration fees assessed. In no event shall credit be allowed for fees beyond such registration year, nor shall any such amount be subject to refund. Provided, further, that vehicles removed from a prorated fleet or sold to a nonprorated fleet for operation in Oklahoma shall be registered in Oklahoma for the remaining portion of the year.

G. Mileage proportions for interstate fleets not operated in this state during the preceding year will be determined by the Tax Commission on the basis of the operations of the fleet the preceding year in other states plus the estimated operation in Oklahoma, or, if no operations were conducted the previous year in this state, a full statement of the proposed method of operation.

H. The records of total mileage operated in all states upon which the application is made for a period of three (3) years following the year upon which the application is based shall be preserved. Upon request of the Tax Commission, such records shall be made available for audit as to accuracy of computation and payments. The Tax Commission may enter into agreements with agencies of other states administering motor vehicle registration laws for joint audits of any such records.

I. The Tax Commission may enter into compacts or agreements with other states or other countries or subdivisions of such countries allowing reciprocal privileges to vehicles based in such other states and operating in interstate commerce if the vehicles are properly registered therein.

J. Interchanged vehicles properly registered in another state may be granted reciprocal privileges when engaged in a continuous

movement in interstate commerce, but must register in this state if used in intrastate commerce.

K. In addition to those taxes or fees imposed by the Oklahoma Vehicle License and Registration Act, the same or substantially the same type or category of tax or fee may be imposed upon an out-of-state resident as is imposed upon residents of Oklahoma for the same or substantially similar use of a vehicle in such other state in the amount, or approximate total amount, of any fee or tax, including property, motor fuel, excise, sales, use or mileage tax required by the laws of such other state to be paid by a resident of this state making the same or similar use of a like vehicle in such state.

The Tax Commission shall have the authority to promulgate rules which provide procedures for implementation of comparable regulatory fees and taxes for vehicles used in this state by residents of other states.

Any revenue derived from this subsection shall be apportioned in the same manner as provided in Section 1104 of this title.

It is the intention of the Legislature that the motor vehicle registration and licensing fees assessed against residents of other states operating similar vehicles in Oklahoma be comparably the same as the motor vehicle registration and licensing fees assessed against residents of Oklahoma operating a similar vehicle for a similar purpose in such other state; and that the Tax Commission diligently monitor the motor vehicle registration and licensing fees assessed against residents of Oklahoma by other states and to provide for uniform treatment of Oklahoma residents operating vehicles in other states and for residents of other states operating vehicles in Oklahoma.

L. The provisions of this section shall not apply to tour bus operations issued permits pursuant to Section 1171 of this title.

M. Until December 1, 2000, the Tax Commission may allow fleet vehicles to be registered on a staggered system, on a quarterly

basis, if the registrant submits its application through electronic means. Effective December 1, 2000, applicants registering fleet vehicles through electronic means may choose their initial monthly period of registration.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 230, as last amended by Section 2, Chapter 407, O.S.L. 1999 (68 O.S. Supp. 2000, Section 230), is amended to read as follows:

Section 230. The Oklahoma Tax Commission may issue to the county clerk of any county of the state a certificate certifying that the person therein named is indebted to the state for a specified state tax in the amount stated. The county clerk shall immediately record and index such certificate using the name of the delinquent taxpayer, the amount certified as being due, a short name of the tax, and the date and time of the filing for record. Such recording shall have the same force and effect as a judgment and shall constitute and be evidence and notice of the state's lien upon the title to any interest in any real property of the taxpayer named in such certificate. Such lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of such unpaid tax, penalty, interest and costs, and such lien shall be paramount and superior to all other liens of whatsoever kind or character attaching to any of said property subsequent to the date of such recording and shall be in addition to any lien provided by Section 234 of this title. Such lien is hereby released and extinguished upon the payment of the tax, penalty, interest and costs, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date upon which such certificate was recorded and indexed by the county clerk; provided, the Tax Commission may, prior to the release and extinguishment of such lien, reissue the certificate of indebtedness ~~one-time~~ to the county clerk. A certificate so reissued shall continue the lien until payment of the tax, penalty, interest and costs, or upon the

expiration of ten (10) years after the date upon which the certificate was re-recorded and indexed by the county clerk. All active liens evidenced by a certificate of indebtedness filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the certificate of indebtedness is not refiled prior to November 1, 2001.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 231, as last amended by Section 3, Chapter 407, O.S.L. 1999 (68 O.S. Supp. 2000, Section 231), is amended to read as follows:

Section 231. A. If any tax, imposed or levied by any state tax law, or any portion of such tax, is not paid before the same becomes delinquent, the Oklahoma Tax Commission may immediately issue a warrant under its official seal. A tax warrant directed to the sheriff of any county of the state shall command the sheriff to levy upon and sell without any appraisal or valuation any real or personal property of the taxpayer found within the county for the payment of the delinquent tax, interest and penalties, and the cost of executing the warrant, and to return such warrant to the Tax Commission, and to pay to it any monies collected by virtue thereof, by a time to be therein specified, not more than sixty (60) days from the date of the warrant.

B. The Tax Commission shall, immediately upon issuance of the warrant, file with the county clerk of the county for which the warrant was issued a copy thereof, and thereupon the county clerk shall record and index such warrant in the same manner as judgments using the name of the taxpayer named in the warrant, a short name for the tax, the amount of the tax or portion thereof, and interest and penalties for which the warrant was issued, and the date and time when such copy was filed. The filing of the warrant in the office of the county clerk of the county, shall constitute and be evidence and notice of the state's lien upon any interest in any real property of the taxpayer against whom such warrant is issued,

until such tax, penalty and interest accruing thereon is paid. Such lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of the unpaid tax, penalty, interest and costs, and such lien shall be paramount and superior to all other liens of whatsoever kind or character, attaching to any of said property subsequent to the date and time of such filing and shall be in addition to any lien provided by Section 234 of this title. The Tax Commission shall, immediately upon issuance of the warrant, mail, by regular mail, a copy of the warrant to the last-known address of the delinquent taxpayer. Such lien is hereby released and extinguished upon the payment of such tax, penalty, interest and costs, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date upon which the warrant was filed with the county clerk; provided, the Tax Commission may, prior to the release and extinguishment of such lien, refile the warrant ~~one-time~~ in the office of the county clerk. A warrant so refiled shall continue the lien until payment of the tax, penalty, interest and costs, or upon the expiration of ten (10) years after the date upon which the warrant was refiled and indexed by the county clerk. All active liens evidenced by a warrant filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the warrant is not refiled prior to November 1, 2001.

C. Except as otherwise provided in subsection D of this section, the Tax Commission shall forward the filed warrant to the sheriff of the county in which the warrant was filed. Upon receipt of the warrant, such sheriff shall thereupon proceed to execute the tax warrant in the same manner prescribed by law for executions against property upon judgment of a court of record; and such sheriff shall execute and deliver to the purchaser a bill of sale or deed, as the case may be.

D. The Tax Commission shall not direct or forward to the sheriff of any county any tax warrant issued pursuant to collection by the Tax Commission. The Tax Commission shall promulgate rules pertaining to tax warrants issued under this section.

E. The Tax Commission may levy upon and sell without any appraisal or valuation any real or personal property of any taxpayer identified by a filed tax warrant. The Tax Commission may execute the tax warrant in the same manner prescribed by law for executions against property upon judgment of a court of record and may execute and deliver to the purchaser a bill of sale or deed, as the case may be.

F. Any purchaser, other than the State of Oklahoma, shall be entitled, upon application to the court having jurisdiction of the property, to have confirmation, the procedure for which shall be the same as is now provided for the confirmation of a sale of property under execution, of such sale prior to the issuance of a bill of sale or deed. The State of Oklahoma shall be authorized to make bids at any such sale to the amount of tax, penalty and costs accrued. In the event such bid is successful, the sheriff shall issue proper muniment of title to the Tax Commission which shall hold such title for the use and benefit of the State of Oklahoma; and any taxpayer, or transferee of such taxpayer, shall have the right, at any time within one (1) year from the date of such sale, to redeem such property, upon the payment of all taxes, penalties and costs accrued to the date of redemption. Such applicant shall not be entitled to a credit upon such taxes, penalties and costs, by reason of revenue that might have accrued to the State of Oklahoma or other purchaser under sale, prior to such redemption. After the expiration of the period of redemption herein provided, the Tax Commission acting for the State of Oklahoma may sell such property at public auction, upon giving thirty (30) days' notice, published in a newspaper of general circulation in the county where such

property is located, to the highest and best bidder for cash; and upon a sale had thereof, or when a redemption is made, the Tax Commission, for and on behalf of the State of Oklahoma, shall issue its bill of sale or quit claim deed, as the case may be, to the successful bidder or to the redemptioner. Such muniment of title shall be executed by the Tax Commission, and attested by its secretary, with the seal of the Tax Commission affixed. The sheriff shall be entitled to the same fee for services in executing the warrant, as the sheriff would be entitled to receive if he or she were executing an execution issued by the court clerk of the county upon a judgment of a court of record.

G. If any sheriff shall refuse or neglect to levy upon and sell any real or personal property of any taxpayer as directed by any warrant issued by the Tax Commission, or shall refuse or neglect, on demand, to pay over to the Tax Commission, its agents or attorneys, all monies collected or received under any warrant issued by the Tax Commission, at any time after collecting or receiving the same, such sheriff or other officer shall, upon motion of the Tax Commission in court, and after thirty (30) days' notice thereof, in writing, be amerced in the amount for which any such warrant was issued by the Tax Commission, together with all penalties and costs and with an additional penalty of ten percent (10%) thereon, to and for the use of the State of Oklahoma. Every surety of any sheriff or officer shall be made a party to the judgment rendered as aforesaid against the sheriff or other officer.

H. The Tax Commission may expend funds from the Oklahoma Tax Commission Fund in the State Treasury to reimburse the sheriff for travel and administrative costs actually and necessarily incurred while performing duties required by this section. Such costs shall be assessed against the delinquent taxpayer, shall be added to the amount necessary to satisfy the tax warrant, and upon collection thereof shall be deposited in the Oklahoma Tax Commission Fund.

I. A tax warrant issued and filed under authority of this section shall:

1. Constitute and be evidence and notice of the state's lien upon real property; and

2. Not be subject to the provisions of any dormancy statute which would limit the enforceability, effect or operation of the lien, except as otherwise provided in this section.

J. After July 1, 1993, the Tax Commission shall not issue any certificates of indebtedness pursuant to the provisions of Section 230 of this title.

K. When a tax warrant has been issued and filed as provided in this section, the Tax Commission shall have all of the remedies and may take all of the proceedings thereon for the collection thereof which may be had or taken upon a judgment of the district court.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 234, as last amended by Section 4, Chapter 407, O.S.L. 1999 (68 O.S. Supp. 2000, Section 234), is amended to read as follows:

Section 234. A. All taxes, interest and penalties imposed by the provisions of Section 201 et seq. of this title, or any state tax law, are hereby declared to constitute a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax, whether such property is employed by such person in the prosecution of business, or is in the hands of an assignee, trustee or receiver for the benefit of creditors, from the date the taxes are due and payable under the provisions of the state tax laws levying such taxes. The lien shall be in addition to any lien accrued by the filing of a tax warrant or tax certificate as provided by Sections 230 and 231 of this title. The lien shall be prior, superior and paramount to all other liens, claims, or encumbrances on the property of whatsoever kind or character, except those of any bona fide mortgagee, pledgee, judgment creditor, or

purchaser, whose right shall have attached prior to the date of the filing and indexing in the office of the county clerk in the county in which the property is located, of the notice of the lien of the state under a tax certificate as provided by Section 230 of this title, or under a tax warrant as provided by Section 231 of this title, and who have filed or recorded the mortgages and conveyances in the office of the county clerk of the county in which the property is located. Such taxes, penalties and interest shall at all times, constitute a prior, superior and paramount claim as against the claims of unsecured creditors. The lien of the state shall continue until the amount of the tax and penalty due and owing, and interest subsequently accruing thereon, is paid, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date of the filing and indexing in the office of the county clerk in the county in which the property is located, of the notice of the lien of the state under a tax certificate as provided by Section 230 of this title, or under a tax warrant as provided by Section 231 of this title; provided, the Oklahoma Tax Commission may, prior to the expiration of the ten-year period provided for herein, refile the notice of the lien ~~one time~~ with the county clerk. A notice so refiled shall continue the lien until payment of the tax, penalty, interest and costs, or upon the expiration of ten (10) years after the date upon which the notice was refiled. All active liens evidenced by a notice of lien filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the notice of lien is not refiled prior to November 1, 2001.

B. In any action affecting the title to real estate or the ownership or right to possession of personal property, the State of Oklahoma may be made a party defendant, for the purpose of determining its lien upon the property involved therein only in cases where notice of the lien of the state has been filed and

indexed as provided in Sections 230 and 231 of this title. In any such action, service of summons upon the Oklahoma Tax Commission, by serving any member thereof, shall be sufficient service and binding upon the State of Oklahoma. In all such actions or suits, the complaint or pleading shall include the name and address of the taxpayer whose liability created the lien and the identifying number evidencing the lien.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 812, as last amended by Section 4, Chapter 334, O.S.L. 1996 (68 O.S. Supp. 2000, Section 812), is amended to read as follows:

Section 812. A. 1. When the president or managing officer of a safe deposit company, trust company, bank, or other financial institution operating in this state, or person or persons, holding securities or assets of a decedent who was a resident of this state receives actual notice, from the person or persons entitled or claiming to be entitled to the securities or assets, from a source deemed reliable by the safe deposit company, trust company, bank, or other financial institution or from the Oklahoma Tax Commission, of the death of the decedent, such safe deposit company, trust company, bank, or other financial institution operating in this state, or person or persons, holding securities or assets of a such decedent shall not deliver or transfer the same except as provided for in subsection (d) of Section 811 of this title, to the beneficiary or joint survivor, executor, administrator, or legal representatives of the decedent, or upon their order or request, unless notice of the time and place of such intended transfer be served upon the Oklahoma Tax Commission at least ten (10) days prior to ~~the~~ said transfer or delivery. No such safe deposit company, trust company, bank, or other financial institution, person or persons, shall deliver or transfer any securities or assets of the estate of a decedent except as provided for in subsection (d) of Section 811 of this title, without retaining a sufficient portion or amount thereof to pay any

tax which may thereafter be assessed on account of the transfer of such securities or assets pursuant to the provisions of Section 801 et seq. of this title, unless the Oklahoma Tax Commission consents to such delivery or transfer in writing, and it shall be lawful for the Oklahoma Tax Commission, personally or by representative, to examine the securities or assets at the time of such delivery or transfer. Failure to serve such notice of transfer and to retain a sufficient portion of the amount to pay the tax provided for in this section, after having received actual notice of the death of the owner of any such securities or assets, shall render such safe deposit company, trust company, bank, or other financial institution, person or persons, liable for the payment of the tax.

2. In all cases, regardless of the aggregate amount of deposits of money in ~~any~~ such safe deposit company, trust company, bank, or other financial institution:

- a. to the credit of the decedent and any other person or persons not the spouse or a lineal descendant of the decedent, as joint tenants, or
- b. to the credit of the decedent individually, with any other person or persons not the spouse or lineal descendant of the decedent as payable-on-death beneficiary or beneficiaries,

not more than ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Five Thousand Dollars (\$5,000.00) or ninety percent (90%) of the amount of deposits of money, whichever is greater, may be released or paid out by such institutions without notifying the Oklahoma Tax Commission.

3. From deposits of money in ~~any~~ such safe deposit company, trust company, bank, or other financial institution:

- a. to the credit of the decedent and ~~a~~ one or more lineal ~~descendant~~ descendants as joint tenants, or

b. to the credit of the decedent individually with one or more lineal descendants as payable-on-death beneficiary or beneficiaries,
not more than Ten Thousand Dollars (\$10,000.00) may be released or paid out by such institutions without notifying the Oklahoma Tax Commission, and a combined total of not more than One Hundred Seventy-five Thousand Dollars (\$175,000.00) in the aggregate or ninety percent (90%) of the deposits, whichever is greater, including any previous release of money to such person or persons after decedent's death, may be released or paid out by such institutions ten (10) days after receipt of notification in writing to the Oklahoma Tax Commission.

4. Any funds held:

a. jointly as a beneficiary with by the decedent and the surviving spouse only, or

b. by the decedent individually with the surviving spouse as the only payable-on-death beneficiary,

without limit, may be released or paid out by such institutions without notifying the Tax Commission.

B. No safe deposit company, trust company, bank, or other financial institution, or an officer thereof, or person or persons holding securities or assets of a decedent, shall be held liable for the wrongful release of deposits within the limits of this section.

C. The restrictions of this section shall not be applicable to oil and gas producing monies, received after date of death, whether from royalties, working interests, overriding royalties or otherwise.

D. 1. This section shall not be applicable to deposit accounts and safe deposit boxes held by a trust other than a grantor trust. The restrictions of this section shall apply to a grantor trust upon the death of a grantor.

2. For purposes of this subsection, a "grantor trust" means a trust for which the grantor is the trustee or a co-trustee and the right to revoke the trust is retained by the grantor or a nonadverse party, or both. A grantor trust includes a trust where a husband and wife are the grantors and the husband or wife is the trustee or a co-trustee and either the husband or wife or a nonadverse party, or both, retain the right to revoke the trust.

3. a. In all cases, regardless of the aggregate amount of deposits of money in ~~any~~ such safe deposit company, trust company, bank, or other financial institution to the credit of decedent's grantor trust, upon request of the trustee of the grantor trust, not more than ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Five Thousand Dollars (\$5,000.00) or ninety percent (90%) of the amount of deposits of money, whichever is greater, may be released or paid out by such institution to a person or persons not the spouse or a lineal descendant of the decedent without notifying the Oklahoma Tax Commission.

b. From deposits of money in ~~any~~ such safe deposit company, trust company, bank, or other financial institution to the credit of decedent's grantor trust, upon request of the trustee of the grantor trust as authorized under the terms of the grantor trust, not more than Ten Thousand Dollars (\$10,000.00) in the aggregate may be released or paid out by such institutions to one or more lineal descendants of the decedent without notifying the Oklahoma Tax Commission and a combined total of not more than One Hundred Seventy-five Thousand Dollars (\$175,000.00) in the aggregate or ninety percent (90%) of the deposits, whichever is greater, including any previous

distributions to such person or persons after decedent's death, may be released or paid out to a one or more lineal ~~descendant~~ descendants of the decedent ten (10) days after receipt of notification in writing to the Oklahoma Tax Commission.

c. Any funds held to the credit of the decedent's grantor trust, if paid out or released by the trustee of the grantor trust as authorized under the terms of the grantor trust, to the surviving spouse of decedent, may be released or paid out without notifying the Oklahoma Tax Commission.

SECTION 6. AMENDATORY 68 O.S. 1991, Section 2817, as last amended by Section 1, Chapter 255, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2817), is amended to read as follows:

Section 2817. A. All taxable personal property, except intangible personal property, personal property exempt from ad valorem taxation, or household personal property, shall be listed and assessed each year at its fair cash value, estimated at the price it would bring at a fair voluntary sale, as of January 1.

The fair cash value of household personal property shall be valued at ten percent (10%) of the appraised value of the improvement to the residential real property within which such personal property is located as of January 1 each year. The assessment of household personal property as provided by this section may be altered by the taxpayer listing such property at its actual fair cash value. For purposes of establishing the value of household personal property, pursuant to the requirement of Section 8 of Article X of the Oklahoma Constitution, the percentage of value prescribed by this section for the household personal property shall be presumed to constitute the fair cash value of the personal property.

All unmanufactured farm products shall be assessed and valued as of the preceding May 31. Every person, firm, company, association, or corporation, in making the assessment, shall assess all unmanufactured farm products owned by the person, firm, company, association or corporation on the preceding May 31, at its fair cash value on that date instead of January 1.

Stocks of goods, wares and merchandise shall be assessed at the value of the average amount on hand during the preceding year, or the average amount on hand during the part of the preceding year the stock of goods, wares or merchandise was at its January 1 location.

B. All taxable real property shall be assessed annually as of January 1, at its fair cash value, estimated at the price it would bring at a fair voluntary sale for:

1. The highest and best use for which the property was actually used during the preceding calendar year; or

2. The highest and best use for which the property was last classified for use if not actually used during the preceding calendar year.

The Ad Valorem Division of the Tax Commission shall be responsible for the promulgation of rules which shall be followed by each county assessor of the state, for the purposes of providing for the equitable use valuation of locally assessed real property in this state. Agricultural land and nonresidential improvements necessary or convenient for agricultural purposes shall be assessed for ad valorem taxation based upon the highest and best use for which the property was actually used, or was previously classified for use, during the calendar year next preceding January 1 on which the assessment is made.

C. The use value of agricultural land shall be based on the income capitalization approach using cash rent. The rental income shall be calculated using the direct capitalization method based upon factors including, but not limited to:

1. Soil types, as depicted on soil maps published by the Natural Resources Conservation Service of the United States Department of Agriculture;

2. Soil productivity indices approved by the Ad Valorem Division of the Tax Commission;

3. The specific agricultural purpose of the soil based on use categories approved by the Ad Valorem Division of the Tax Commission; and

4. A capitalization rate to be determined annually by the Ad Valorem Division of the Tax Commission based on the sum of the average first mortgage interest rate charged by the Federal Land Bank for the immediately preceding five (5) years, weighted with the prevailing rate or rates for additional loans or equity, and the effective tax rate.

The final use value will be calculated using the soil productivity indices and the agricultural use classification as defined by rules promulgated by the State Board of Equalization. This subsection shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to valuation of the counties as fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

However, in calculating the use value of buffer strips as defined in Section ~~2~~ 2817.2 of this ~~act~~ title, ~~primary~~ exclusive consideration shall be based on income production from such buffer strips, not including federal or state subsidies, when valued as required by subsection C of Section ~~2~~ 2817.2 of this ~~act~~ title.

D. The use value of nonresidential improvements on agricultural land shall be based on the cost approach to value estimation using currently updated cost manuals published by the Marshall and Swift Company or similar cost manuals approved by the Ad Valorem Division of the Tax Commission. The use value estimates for the nonresidential improvements shall take obsolescence and depreciation

into consideration in addition to necessary adjustments for local variations in the cost of labor and materials. This section shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to equalization of valuation of the counties as determined and defined by Section 21 of Article X of the Oklahoma Constitution.

The use value of facilities used for poultry production shall be determined according to the following procedures:

1. The Ad Valorem Division of the Tax Commission is hereby directed to develop a standard system of valuation of both real and personal property of such facilities, which shall be used by all county assessors in this state, under which valuation based on the following shall be presumed to be the fair cash value of the property:

- a. for real property, a ten-year depreciation schedule, at the end of which the residual value is twenty percent (20%) of the value of the facility during its first year of operation, and
- b. for personal property, a five-year depreciation schedule, at the end of which the residual value is zero;

2. Such facilities shall be valued only in comparison to other facilities used exclusively for poultry production. Such a facility which is no longer used for poultry production shall be deemed to have no productive use;

3. During the first year such a facility is placed on the tax rolls, its fair cash value shall be presumed to be the lesser of the actual purchase price or the actual documented cost of construction; and

4. For the purpose of determining the valuation of nonresidential improvements used for poultry production, the

provisions of this subsection shall be applicable and such improvements shall not be considered to be commercial property.

E. The transfer of real property without a change in its use classification shall not require a reassessment thereof based exclusively upon the sale value of the property. However, if the county assessor determines:

1. That by reason of the transfer of a property there is a change in the actual use or classification of the property; or

2. That by reason of the amount of the sales consideration it is obvious that the use classification prior to the transfer of the property is not commensurate with and would not justify the amount of the sales consideration of the property;

then the assessor shall, in either event, reassess the property for the new use classification for which the property is being used, or, the highest and best use classification for which the property may, by reason of the transfer, be classified for use.

F. When the term "fair cash value" or the language "fair cash value, estimated at the price it would bring at a fair voluntary sale" is used in the Ad Valorem Tax Code, in connection with and in relation to the assessment of real property, it is defined to mean and shall be given the meaning ascribed and assigned to it in this section and when the term or language is used in the Code in connection with the assessment of personal property it shall be given its ordinary or literal meaning.

G. Where any real property is zoned for a use by a proper zoning authority, and the use of the property has not been changed, the use and not zoning shall determine assessment. Any reassessment required shall be effective January 1 following the change in use. Taxable real property need not be listed annually with the county assessor.

H. If any real property shall become taxable after January 1 of any year, the county assessor shall assess the same and place it

upon the tax rolls for the next ensuing year. When any building is constructed upon land after January 1 of any year, the value of the building shall be added by the county assessor to the assessed valuation of the land upon which the building is constructed at the fair cash value thereof for the next ensuing year. However, the building shall be deemed to have a value for assessment purposes of the fair cash value of the materials used in such building only, until the building and the land on which the building is located shall have been conveyed to a bona fide purchaser or shall have been occupied or used for any purpose other than as a sales office by the owner thereof, or shall have been leased, whichever event shall first occur. The county assessor shall continue to assess the building based upon the fair market value of the materials used therein until the building and land upon which the building is located shall have been conveyed to a bona fide purchaser or is occupied or used for any purpose other than as a sales office by the owner thereof, or is leased, whichever event shall first occur. However, the fair cash value of a lot in any platted addition or a subdivision in a city, town or county zoned for residential, commercial, industrial or other use shall be deemed to be the total purchase price paid by the developer of the addition or subdivision for the land comprising the platted addition or subdivision divided by the number of lots contained in the addition or subdivision until the lot with building or buildings located thereon shall have been conveyed to a bona fide purchaser or shall have been occupied other than as a sales office by the owner thereof, or shall have been leased, whichever event shall first occur. The cost of any land or improvements to any real property required to be dedicated to public use, including, but not limited to, streets, curbs, gutters, sidewalks, storm or sanitary sewers, utilities, detention or retention ponds, easements, parks or reserves shall not be utilized

by the county assessor in the valuation of any real property for assessment purposes.

I. In case improvements on land or personal property located therein or thereon are destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, or the value of land is impaired, damaged or destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, after January 1 and before the adjournment of the county board of equalization during any year, the county board of equalization, in cooperation with the county assessor, shall determine the amount of damage, and shall make an order directing the assessment of the property for that year at the fair cash value of the property, as defined herein, taking into account the damage occasioned by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause.

SECTION 7. AMENDATORY 68 O.S. 1991, Section 2887, as last amended by Section 2, Chapter 361, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2887), is amended to read as follows:

Section 2887. The following property shall be exempt from ad valorem taxation:

1. All property of the United States, and such property as may be exempt by reason of treaty stipulations existing at statehood between the Indians and the United States government, or by reason of federal laws in effect at statehood, during the time such treaties or federal laws are in force and effect. In instances where a federal agency has obtained title to property through foreclosure, voluntary or involuntary liquidation or bankruptcy, which was previously subject to ad valorem taxation, the property may continue to be assessed for ad valorem taxes if such federal agency has agreed to pay such taxes;

2. All property of this state, and of the counties, school districts, and municipalities of this state, including property

acquired for the use of such entities pursuant to the terms of a lease-purchase agreement which provides for the passage of title or the release of security interest, if applicable, upon payment of all rental payments and an additional nominal amount;

3. All property of any college or school, provided such property is devoted exclusively and directly to the appropriate objects of such college or school within this state and all property used exclusively for nonprofit schools and colleges;

4. The books, papers, furniture and scientific or other apparatus pertaining to any institution, college or society referred to in paragraph 3 of this section, and devoted exclusively and directly for the purpose above contemplated, and the like property of students in any such institution or college, while such property is used for the purpose of their education;

5. All fraternal orphan homes and other orphan homes;

6. All property used for free public libraries, free museums, public cemeteries, or free public schools;

7. All property used exclusively and directly for fraternal or religious purposes within this state.

For purposes of administering the exemption authorized by this section and in order to determine whether a single family residential property is used exclusively and directly for fraternal or religious purposes, the fair cash value of a single family residential property, for which an exemption is claimed as authorized by this subsection, in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) for the applicable assessment year shall not be exempt from taxation;

8. All property of any charitable institution organized or chartered under the laws of this state as a nonprofit or charitable institution, provided the net income from such property is used exclusively within this state for charitable purposes and no part of such income inures to the benefit of any private stockholder and

that its facilities are available to any person regardless of their ability to pay, including property which is not leased or rented to any person other than a governmental body, a charitable institution or a member of the general public who is authorized to be a tenant in property owned by a charitable institution under Section 501(c)(3) of the Internal Revenue Code, and which additionally satisfies the income standards set forth in Internal Revenue Service Revenue Procedure 96-32 if the property provides residential rental accommodations regardless of whether services or meals are provided;

9. All property used exclusively and directly for charitable purposes within this state, provided the charity using said property does not pay any rent or remuneration to the owner thereof unless the owner is a charitable institution described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), or a veterans' organization described in Section 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(19) and that its facilities are available to any person regardless of their ability to pay;

10. All property of any hospital established, organized and operated by any person, partnership, association, organization, trust, or corporation, as a nonprofit and charitable hospital, provided the property and net income from such hospital are used directly, solely, and exclusively within this state for charitable purposes and that no part of such income shall inure to the benefit of any individual, person, partner, shareholder, or stockholder, and provided further that such hospital facilities shall be open to the public without discrimination as to race, color or creed and regardless of ability to pay, and that such hospital is licensed and otherwise complies with the laws of this state relating to the licensing and regulation of hospitals;

11. All libraries and office equipment of ministers of the Gospel actively engaged in ministerial work in the State of

Oklahoma, where said libraries and office equipment are being used by said ministers in their ministerial work, shall be deemed to be used exclusively for religious purposes and are declared to be within the meaning of the term "religious purposes" as used in Article X, Section 6 of the Constitution of the State of Oklahoma;

12. Household goods, tools, implements and livestock of every person maintaining a home, not exceeding One Hundred Dollars (\$100.00) in value or One Thousand Dollars (\$1,000.00) in value if Article X, Section 6 of the Oklahoma Constitution provides for an exemption in such amount; and in addition thereto, there shall be exempt from taxation on personal property the further sum of Two Hundred Dollars (\$200.00) to all enlisted and commissioned personnel, whether on active duty or honorably discharged, who served in the Armed Forces of the United States during:

- a. the Spanish-American War,
- b. the period beginning on April 6, 1917, and ending on July 2, 1921,
- c. the period beginning on December 6, 1941, and ending on such date as the state of national emergency as declared by the President of the United States shall cease to exist, or
- d. any other or future period during which a state of national emergency shall have been or shall be declared to exist by the Congress or the President of the United States.

All surviving spouses made so by the death of such enlisted or commissioned personnel, who are bona fide residents of this state, shall be entitled to the above additional exemption provided in this paragraph;

13. Family portraits;

14. All food and fuel provided in kind for the use of the family not to exceed provisions for one (1) year's time, and all

grain and forage necessary to maintain for one (1) year the livestock used to provide food for the family. No person from whom pay is received or expected for board shall be considered a member of the family within the intent and meaning of this paragraph;

15. All growing crops; and

16. All game animals, fowl and reptile, which are not being grown for food or sale and which are kept exclusively for propagation or exhibition, in private grounds or public parks in this state.

SECTION 8. This act shall become effective November 1, 2001.

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