

ENGROSSED HOUSE  
BILL NO. 1715

By: Calvey, Nance and Adkins of  
the House

and

Paddack of the Senate

( revenue and taxation - amending 68 O.S., Sections  
1001.1 and 2884 - gross production taxes -  
attorney fee -  
effective dates )

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1001.1, is  
amended to read as follows:

Section 1001.1 A. The Oklahoma Tax Commission shall ~~adopt~~  
promulgate rules ~~and regulations~~ which establish guidelines for the  
determination of property exempt from ad valorem taxation pursuant  
to the provisions of subsections ~~(p)~~ R and ~~(q)~~ S of Section 1001 of  
this title. ~~Said~~ The guidelines shall include, but are not limited  
to, the following:

1. "Producing leases" means wells or leases or production units  
which have had production during any of the previous three (3)  
calendar years which is subject to the gross production tax levied  
by Section 1001 of this title and which have not been abandoned or  
required to be plugged as required by law on or before January 1 of  
the year for which the assessment or valuation is made;

2. "Payment of gross production tax" means payment of the tax  
levied by Section 1001 of this title on production during any of the  
three (3) calendar years immediately prior to January 1 of the year  
for which the assessment or valuation is made; and

3. Property exempt from ad valorem tax pursuant to the provisions of subsections ~~(p)~~ R and ~~(q)~~ S of Section 1001 of this title shall include, but is not limited to, ~~lease production tanks, lease production meters, and:~~

- a. wellhead equipment,
- b. pumping units and any other devices designed to raise hydrocarbons to the surface,
- c. tubing, casing and other downhole equipment,
- d. production units, separators, heaters, treaters and any other devices designed to remove water and contamination from the hydrocarbons,
- e. flow lines going from wellhead to items of equipment and ending at custody transfer point, regardless of length,
- f. any compression equipment that affects the volume of hydrocarbons being produced,
- g. tanks,
- h. meters which are used by the producer or operator of a lease,
- i. miscellaneous production equipment, including, but not limited to, valves, piping and electrical accessories, and
- j. disposal systems which are not for commercial purposes. Such ~~exempt~~ property shall ~~remain~~ be exempt as long as the property is ~~essential to~~ used in the production of oil and gas in commercial quantities and regardless of who owns the exempt property. The county assessor shall be notified when such property becomes nonexempt pursuant to the provisions of Section 2838 of this title.

B. The rules adopted by the Oklahoma Tax Commission pursuant to subsection A of this section governing the valuation of personal

property described in subsection A of this section that may be subject to ad valorem tax shall provide for a maximum fair cash value that may be used by county assessors in determining the fair cash value for all such property. No county assessor shall assign a fair cash value to any item of tangible personal property as described in subsection A of this section in excess of the maximum fair cash value amount as prescribed by the rules of the Oklahoma Tax Commission.

SECTION 2. AMENDATORY 68 O.S. 2001, 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. If at the time such taxes or any part thereof become delinquent and any such appeal is pending, it shall abate and be dismissed upon a showing that the taxes have not been paid.

B. When such taxes are paid, or by December 31, whichever is earlier, the persons protesting the taxes shall give notice to the county treasurer that an appeal involving such taxes has been taken and is pending, and shall set forth the total amount of tax that has been paid under protest or required by law to be paid prior to April 1 that will be paid under protest. The notice shall be on a form prescribed by the 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, air carriers, 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.

C. It shall be the duty of the county 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 the 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 the protested taxes upon final determination of the appeal.

D. 1. Prior to January 31 of each year, the county treasurer shall determine the amount of ad valorem taxes paid under protest and those ad valorem taxes that will be paid under protest pursuant to subsection B of this section. The county treasurer shall then notify the State Auditor and Inspector of the total amount of paid protested ad valorem taxes and anticipated protested ad valorem taxes, the total amount of protested taxes and anticipated protested taxes by each individual taxpayer, and how such paid protested ad valorem taxes and anticipated protested ad valorem taxes would have been apportioned to each school district and technology center school district by fund had such amount of protested ad valorem taxes not been protested.

2. The State Auditor and Inspector shall compile all of the information submitted by the county treasurers in a format which shall set forth the total amount of paid and anticipated protested taxes for each school district and technology center school district by fund and a total for each school district and technology center

school district by fund. This information shall then be submitted by the State Auditor and Inspector to the State Superintendent of Public Instruction, the Director of the Oklahoma Department of Career and Technology Education, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. If any of the information submitted to the State Auditor and Inspector changes after being submitted, the county treasurer shall notify the State Auditor and Inspector and the State Auditor and Inspector shall submit revised information to the parties enumerated in this paragraph within thirty (30) days of such change.

3. Within ten (10) days of the release of the escrowed ad valorem taxes by the county treasurer, as required by subsection E of this section, the county treasurer shall submit a schedule showing the disposition of the released funds, separated by fund for each school district and technology center school, to the State Auditor and Inspector. The State Auditor and Inspector shall certify the apportionment schedule and transmit a copy to the State Superintendent of Public Instruction and the Director of the Oklahoma Department of Career and Technology Education.

4. The State Auditor and Inspector shall promulgate any necessary rules to implement the provisions of this subsection.

E. 1. In cases involving taxpayers other than railroads, air carriers, or public service corporations, 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 the 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.

2. If upon the final determination of any appeal, the court shall find that the property of the railroad, air carrier, or public service corporation was assessed at too great an amount, the State Board of Equalization from whose order the appeal was taken shall certify the corrected valuation of the property of the railroads, air carriers, and public service corporations to the State Auditor and Inspector in accordance with the decision of the court. Upon receipt of the corrected certificate of valuation, the State Auditor and Inspector shall certify to the county treasurer the correct valuation of the railroad, air carrier, or public service corporation and shall send a copy of the certificate to the county assessor, who shall make the correction as specified in Section 2871 of this title. The difference between the amount paid and the correct amount payable with accrued interest shall be refunded by the treasurer upon the taxpayer filing a proper verified claim, and the remainder paid under protest with accrued interest shall be apportioned according to law.

F. 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.

G. 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.

H. If a taxpayer protests a value regarding any personal property described by paragraph 3 of subsection A of Section 1001.1 of this title and succeeds upon the merits of the controversy with respect to the valuation, the taxpayer, in addition to any other relief authorized by law, shall recover a reasonable attorney fee to be based upon the percentage of the difference between the value of the property as originally sought to be established by the county assessor and the value as finally determined pursuant to this section. The difference between such two values shall be divided by the value as originally sought to be established. The resulting figure shall be the percentage of the taxpayer's attorney fees which shall be paid by the applicable county from such funds as may be authorized by law for payment.

SECTION 3. Section 1 of this act shall become effective January 1, 2006.

SECTION 4. Section 2 of this act shall become effective November 1, 2005.

Passed the House of Representatives the 15th day of March, 2005.

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Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2005.

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Presiding Officer of the Senate