

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 1485

By: Adkins of the House

and

Bingman and Branam of the  
Senate

7  
8  
9  
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 68  
12 O.S. 2001, Section 2817, as last amended by Section  
13 70, Chapter 16, O.S.L. 2006 (68 O.S. Supp. 2006,  
14 Section 2817), which relates to determinations of  
15 value for ad valorem tax purposes; prescribing  
16 valuation methodology for certain personal property  
17 used in certain exploration activity; amending 68  
18 O.S. 2001, Section 2945, which relates to procedures  
19 for determination of values of taxable personal  
20 property; providing for statutory construction  
21 regarding rights of appeal; authorizing deduction of  
22 certain costs from gross production tax; defining  
23 terms; providing for certain cost allocations;  
24 requiring Oklahoma Tax Commission to promulgate  
certain rules; providing for codification; and  
providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2817, as  
last amended by Section 70, Chapter 16, O.S.L. 2006 (68 O.S. Supp.  
2006, Section 2817), is amended to read as follows:

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

6 The fair cash value of household personal property shall be  
7 valued at ten percent (10%) of the appraised value of the  
8 improvement to the residential real property within which such  
9 personal property is located as of January 1 each year. The  
10 assessment of household personal property as provided by this  
11 section may be altered by the taxpayer listing such property at its  
12 actual fair cash value. For purposes of establishing the value of  
13 household personal property, pursuant to the requirement of Section  
14 8 of Article X of the Oklahoma Constitution, the percentage of value  
15 prescribed by this section for the household personal property shall  
16 be presumed to constitute the fair cash value of the personal  
17 property.

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

24

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

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

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

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

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

23 C. The use value of agricultural land shall be based on the  
24 income capitalization approach using cash rent. The rental income

1 shall be calculated using the direct capitalization method based  
2 upon factors including, but not limited to:

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

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

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

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

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

24

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

6        D. The use value of nonresidential improvements on agricultural  
7 land shall be based on the cost approach to value estimation using  
8 currently updated cost manuals published by the Marshall and Swift  
9 Company or similar cost manuals approved by the Ad Valorem Division  
10 of the Tax Commission. The use value estimates for the  
11 nonresidential improvements shall take obsolescence and depreciation  
12 into consideration in addition to necessary adjustments for local  
13 variations in the cost of labor and materials. This section shall  
14 not be construed in a manner which is inconsistent with the duties,  
15 powers and authority of the Board as to equalization of valuation of  
16 the counties as determined and defined by Section 21 of Article X of  
17 the Oklahoma Constitution.

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

20        1. The Ad Valorem Division of the Tax Commission is hereby  
21 directed to develop a standard system of valuation of both real and  
22 personal property of such facilities, which shall be used by all  
23 county assessors in this state, under which valuation based on the  
24

1 following shall be presumed to be the fair cash value of the  
2 property:

3 a. for real property, a ten-year depreciation schedule,  
4 at the end of which the residual value is twenty  
5 percent (20%) of the value of the facility during its  
6 first year of operation, and

7 b. for personal property, a five-year depreciation  
8 schedule, at the end of which the residual value is  
9 zero;

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

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

18 4. For the purpose of determining the valuation of  
19 nonresidential improvements used for poultry production, the  
20 provisions of this subsection shall be applicable and such  
21 improvements shall not be considered to be commercial property.

22 E. The value of investment in property used exclusively by an  
23 oil refinery that is used wholly as a facility, device or method for  
24 the desulphurization of gasoline or diesel fuel as defined in

1 Section 2817.3 of this title shall not be included in the  
2 capitalization used in the determination of fair market value of  
3 such oil refinery if such property would qualify as exempt property  
4 pursuant to Section 2902 of this title, whether or not an  
5 application for such exemption is made by an otherwise qualifying  
6 manufacturing concern owning the property described by Section  
7 2817.3 of this title.

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

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

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

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

22 G. When the term "fair cash value" or the language "fair cash  
23 value, estimated at the price it would bring at a fair voluntary  
24 sale" is used in the Ad Valorem Tax Code, in connection with and in

1 relation to the assessment of real property, it is defined to mean  
2 and shall be given the meaning ascribed and assigned to it in this  
3 section and when the term or language is used in the Code in  
4 connection with the assessment of personal property it shall be  
5 given its ordinary or literal meaning.

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

12 I. If any real property shall become taxable after January 1 of  
13 any year, the county assessor shall assess the same and place it  
14 upon the tax rolls for the next ensuing year. When any building is  
15 constructed upon land after January 1 of any year, the value of the  
16 building shall be added by the county assessor to the assessed  
17 valuation of the land upon which the building is constructed at the  
18 fair cash value thereof for the next ensuing year. However, after  
19 the building has been completed it shall be deemed to have a value  
20 for assessment purposes of the fair cash value of the materials used  
21 in such building only, until the building and the land on which the  
22 building is located shall have been conveyed to a bona fide  
23 purchaser or shall have been occupied or used for any purpose other  
24 than as a sales office by the owner thereof, or shall have been

1 leased, whichever event shall first occur. The county assessor  
2 shall continue to assess the building based upon the fair market  
3 value of the materials used therein until the building and land upon  
4 which the building is located shall have been conveyed to a bona  
5 fide purchaser or is occupied or used for any purpose other than as  
6 a sales office by the owner thereof, or is leased, whichever event  
7 shall first occur. However, the fair cash value of a lot in any  
8 platted addition or a subdivision in a city, town or county zoned  
9 for residential, commercial, industrial or other use shall be deemed  
10 to be the total purchase price paid by the developer of the addition  
11 or subdivision for the land comprising the platted addition or  
12 subdivision divided by the number of lots contained in the addition  
13 or subdivision until the lot with building or buildings located  
14 thereon shall have been conveyed to a bona fide purchaser or shall  
15 have been occupied other than as a sales office by the owner  
16 thereof, or shall have been leased, whichever event shall first  
17 occur. One who purchases a lot for the purposes of constructing and  
18 selling a building on such lot shall not be deemed to be a bona fide  
19 purchaser for purposes of this section. However, if the lot is held  
20 for a period longer than two (2) years before construction, then the  
21 assessor may consider the lot to have been conveyed to a bona fide  
22 purchaser. The cost of any land or improvements to any real  
23 property required to be dedicated to public use, including, but not  
24 limited to, streets, curbs, gutters, sidewalks, storm or sanitary

1 sewers, utilities, detention or retention ponds, easements, parks or  
2 reserves shall not be utilized by the county assessor in the  
3 valuation of any real property for assessment purposes.

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

17 K. All taxable personal property used in the exploration of  
18 oil, natural gas, or other minerals, including drilling equipment  
19 and rigs, shall be assessed annually at the value set forth in the  
20 first Hadco International monthly bulletin published for the tax  
21 year, using the appropriate depth rating assigned to the drawworks  
22 by its manufacturer and the actual condition of the rig.

23 SECTION 2. AMENDATORY 68 O.S. 2001, Section 2945, is  
24 amended to read as follows:

1 Section 2945. A. If any person shall knowingly and willfully  
2 make or give under oath or affirmation a false and fraudulent list  
3 of ~~his~~ taxable personal property, or a false and fraudulent list of  
4 any taxable personal property under ~~his~~ the control of the person or  
5 required to be listed by ~~him~~ the person, or shall knowingly and  
6 willfully make false answer to any question which may be put ~~to him~~  
7 under oath by any person, board or commission authorized to examine  
8 persons under oath in relation to the value or amount of any taxable  
9 personal property, ~~such~~ the person shall be deemed guilty of the  
10 felony of perjury, and upon conviction ~~thereof~~ shall be punished  
11 ~~therefor~~ as is provided by law for the punishment of the felony of  
12 perjury.

13 B. If any taxpayer, or any official, employee, or agent of ~~such~~  
14 the taxpayer, shall fail or refuse, upon proper request, to permit  
15 the inspection of any property or the examination of any books,  
16 records and papers by any person authorized by the Ad Valorem Tax  
17 Code to do so, or shall fail or refuse to comply with any subpoena  
18 duces tecum legally issued under authority of this Code, ~~such~~ the  
19 taxpayer shall be stopped from questioning or contesting the amount  
20 or validity of any assessment placed upon ~~his~~ the property of the  
21 taxpayer to the board of equalization. Nothing in this section  
22 shall impair or impede the right of the taxpayer to appeal any order  
23 of the board of equalization to the district court as provided for  
24 in Section 2880.1 of this title.

1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1001.4 of Title 68, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. Producers of natural gas and casinghead gas who incur  
5 marketing costs of the gas produced may deduct such costs from the  
6 gross value when computing the gross value subject to the taxes  
7 levied pursuant to Sections 1001 and 1101 of Title 68 of the  
8 Oklahoma Statutes.

9 B. Marketing costs are nonproduction costs incurred by the  
10 producer to enable the transport of gas from the well to the market,  
11 including:

- 12 1. Costs for compressing the gas sold;
- 13 2. Costs for dehydrating the gas sold;
- 14 3. Costs for sweetening the gas sold; and
- 15 4. Costs for delivering the gas to the purchaser.

16 C. Marketing costs do not include:

- 17 1. Costs incurred in producing the gas;
- 18 2. Costs incurred in normal lease separation of the oil, gas or  
19 condensate; or
- 20 3. Insurance premiums on the marketing facility.

21 D. Marketing costs are determined by adding:

- 22 1. Charges for depreciation of the marketing facility being  
23 used, provided that, if the facility is rented, the actual rental  
24 fee is added;

1           2. A return on the producer-owned investment equal to six  
2 percent (6%) per year on the average depreciable balance;

3           3. Costs of direct or allocated labor associated with the  
4 marketing facility;

5           4. Costs of materials, supplies, maintenance, repairs, and fuel  
6 associated with the marketing facility; and

7           5. Ad valorem taxes paid on the marketing facility.

8           E. If the facility is used for a purpose other than marketing  
9 the gas being sold, the cost shall be allocated accordingly.

10          F. If the facility is handling gas for outside parties, the  
11 average cost for handling all of the gas shall be applied against  
12 the facility owner's gas.

13          G. The actual cost being charged a producer by an outside party  
14 for marketing functions may be used for tax purposes if no other  
15 benefit or value accrues to the producer.

16          H. A producer receiving a cost reimbursement from the gas  
17 purchaser shall include the reimbursement in the gross value and is  
18 entitled to deduct the actual marketing costs incurred.

19          I. The Oklahoma Tax Commission shall promulgate rules which  
20 establish guidelines to implement the provisions of this section  
21 including requirements to submit any additional information as  
22 deemed necessary to implement and administer this deduction.

23

24

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

SECTION 4. This act shall become effective January 1, 2008.

51-1-8132 MAH 05/17/07