

ENROLLED HOUSE
BILL NO. 1485

By: Adkins, Reynolds and
McMullen of the House

and

Bingman and Branam of the
Senate

An Act relating to revenue and taxation; amending 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), which relates to determinations of value for ad valorem tax purposes; prescribing valuation methodology for certain personal property used in certain exploration activity; amending 68 O.S. 2001, Section 2945, which relates to procedures for determination of values of taxable personal property; providing for statutory construction regarding rights of appeal; authorizing deduction of certain costs from gross production tax; defining terms; providing for certain cost allocations; 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:

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 2817.2 of this title, exclusive consideration shall be based only on income from production agriculture from such buffer strips, not including federal or state subsidies, when valued as required by subsection C of Section 2817.2 of this 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 value of investment in property used exclusively by an oil refinery that is used wholly as a facility, device or method for the desulphurization of gasoline or diesel fuel as defined in

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

F. 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.

G. 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.

H. 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.

I. 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, after the building has been completed it 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. One who purchases a lot for the purposes of constructing and selling a building on such lot shall not be deemed to be a bona fide purchaser for purposes of this section. However, if the lot is held for a period longer than two (2) years before construction, then the assessor may consider the lot to have been conveyed to a bona fide purchaser. 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.

J. 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.

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

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

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

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

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

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

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

1. Costs for compressing the gas sold;
2. Costs for dehydrating the gas sold;
3. Costs for sweetening the gas sold; and
4. Costs for delivering the gas to the purchaser.

C. Marketing costs do not include:

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

D. Marketing costs are determined by adding:

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

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

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

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

5. Ad valorem taxes paid on the marketing facility.

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

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

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

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

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

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

Passed the House of Representatives the 23rd day of May, 2007.

Presiding Officer of the House of
Representatives

Passed the Senate the 24th day of May, 2007.

Presiding Officer of the Senate