HB1485 FA1-A1 DormanJo-MAH
3/13/2007 1:27:31 pm

AMENDMENT

HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend amendment number 1 to HB1485 Of the printed Bill

Page _____ Section _____ Lines _____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Joe Dorman

Adopted: _____

_____
Reading Clerk

STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

FLOOR SUBSTITUTE
FOR
HOUSE BILL NO. 1485 By: Adkins of the House

and

Bingman of the Senate

FLOOR SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 1001.1, which relates to gross production taxes; deleting requirement for the Oklahoma Tax Commission to adopt rules; clarifying references; clarifying property exempt from ad valorem taxation pursuant to certain provisions; providing for performance of certain duties and responsibilities by the Tax Commission with respect to certain personal property; prescribing procedures; prescribing procedures for resolution of certain disputes involving personal property; prescribing exclusive procedures; providing for resolution pursuant to arbitration; providing for presentation of evidence; providing for findings of fact and conclusions of law; prescribing effect of findings and conclusions; authorizing appeal of determination; prescribing procedures for appeal; specifying scope of review by district court; requiring certain training by Oklahoma Tax Commission; 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 1001.1, is amended to read as follows:

Section 1001.1 A. The ~~Oklahoma Tax Commission~~ following definitions shall ~~adopt rules and regulations which establish guidelines for~~ apply in 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 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; and

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~~ B. It is the intent of the Legislature to clarify property exempt from ad valorem ~~tax~~ taxation 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 disposal~~:

1. Wellhead equipment;

2. Pumping units and any other devices, including compressors, designed to raise hydrocarbons to the surface;

3. Tubing, casing and other downhole equipment;

4. Production units, separators, heaters, treaters and any other devices designed to remove water and contamination from the hydrocarbons;

5. Flow lines going from wellhead to items of equipment on the production location;

6. Tanks;

7. Meters on the production location which are used by the producer or operator of a lease;

8. Miscellaneous production equipment including, but not limited to, valves, piping and electrical accessories;

9. Electrical distribution systems used in oil and gas production; and

10. Disposal systems which are not for commercial purposes.

~~Such exempt~~ C. The property described in subsection B of this section 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.

SECTION 2. 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. The Oklahoma Tax Commission shall notify each county assessor that the Tax Commission will, if specifically requested by the county assessor, perform all functions related to the determination of the taxable or exempt status of personal property that may eligible for exemption pursuant to Section 1001.1 of Title 68 of the Oklahoma Statutes or all functions related to the determination of the fair cash value of any such personal property that is not exempt.

B. If a county assessor affirmatively requests the Tax Commission to perform such functions, the county assessor shall notify the Tax Commission in writing on such form as may be prescribed for such purpose by the Commission.

C. If the Tax Commission performs the functions authorized by this section at the request of a county assessor with respect to such personal property, the provisions of Section 3 of this act shall be applicable to the resolution of any dispute regarding the Tax Commission's determination of taxable or exempt status or the determination of fair cash value and the provisions of Section 3 shall be the exclusive means of resolving such disputes.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1001.5 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other provisions of the Ad Valorem Tax Code or any other provision of law to the contrary, for purposes of

resolving any dispute regarding the valuation of personal property used in the production of oil or gas and which may be taxable pursuant to the provisions of Section 1001.1 of Title 68 of the Oklahoma Statutes or for purposes of resolving any dispute regarding the taxable or exempt status of personal property used in the production of oil or gas as authorized by Section 1001.1 of Title 68 of the Oklahoma Statutes, the provisions of this section shall be the exclusive remedy pursuant to which such disputes may be resolved if the Tax Commission exercises the authority pursuant to Section 2 of this act to perform such duties.

B. A taxpayer that disputes the determination of the county Tax Commission regarding the valuation of personal property described in subsection A of this section or a taxpayer that disputes the determination of the Tax Commission regarding the taxable or exempt status of such personal property shall file a written protest with the Oklahoma Tax Commission, upon such form as the Commission may prescribe for such purpose, and the taxpayer shall mail a copy of the written protest to the county assessor of the county in which the personal property which is the subject of the dispute is located. The written protest shall be filed within thirty (30) days of the final determination of the Tax Commission or the determination shall not be subject to any other form of review or appeal.

C. The dispute shall be submitted to mandatory and nonbinding arbitration. The Tax Commission and the taxpayer shall select one person who is a member of the American Arbitration Association as may be mutually agreed upon. In the event that the Tax Commission and the taxpayer are unable to agree upon the selection of an arbitrator, the Tax Commission and the taxpayer shall notify the American Arbitration Association and an arbitrator selected by the Association shall serve until the conclusion of the protest process.

D. The Tax Commission and the taxpayer shall be authorized to present such evidence during the arbitration proceeding in support of the determination regarding taxable or exempt status or fair cash value as deemed relevant by the arbitrator. The arbitration shall be conducted according to such rules of procedure as the arbitrator shall specify. Unless specifically made applicable to the proceedings by action of the arbitrator, the provisions of the Oklahoma Evidence Code shall not apply to the presentation of evidence during the proceedings.

E. The arbitrator shall have the authority to make findings of fact and conclusions of law regarding the issues involved in the protest.

F. If the taxpayer and the Tax Commission each agree with the findings and conclusions of the arbitrator, the county assessor of the affected county shall abide by the findings and conclusions.

G. If either the Tax Commission or the taxpayer reject the findings and conclusions of the arbitrator, the Tax Commission or the taxpayer shall have the right to appeal the findings and recommendations to the district court of the county in which the personal property which is the subject of the protest is located.

H. A district court shall not be authorized to hear any evidence de novo, but shall have appellate jurisdiction only and shall not reverse the findings or conclusions of the arbitrator unless the district court finds that such findings and conclusions are clearly against the weight of the evidence.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1001.6 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission shall provide specific training to any county assessor who requests such training regarding the proper valuation methodology to be used for any personal property used in the production of oil, gas or other hydrocarbons. Such training shall be provided both the county assessor and to all employees of the assessor who have duties and responsibilities related to the valuation of such personal property and the determination of the taxable or exempt status of such personal property.

SECTION 5. This act shall become effective January 1, 2008.

51-1-7575 MAH 03/12/07