

EHB 1485

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THE STATE SENATE  
Monday, April 2, 2007

ENGROSSED

House Bill No. 1485

As Amended

ENGROSSED HOUSE BILL NO. 1485 - By: ADKINS of the House and BINGMAN and BRANAN of the Senate.

[ revenue and taxation - gross production taxes - property exempt from ad valorem taxation - listing property - valuation and assessment of property - apportionment of gross production tax revenues - claims for certain reimbursement - publications to be used to value certain oil and gas equipment and pipeline - penalties for providing false and fraudulent list or refusing to allow inspections - 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

1 personal property is located as of January 1 each year. The  
2 assessment of household personal property as provided by this  
3 section may be altered by the taxpayer listing such property at its  
4 actual fair cash value. For purposes of establishing the value of  
5 household personal property, pursuant to the requirement of Section  
6 8 of Article X of the Oklahoma Constitution, the percentage of value  
7 prescribed by this section for the household personal property shall  
8 be presumed to constitute the fair cash value of the personal  
9 property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21           a. for real property, a ten-year depreciation schedule,  
22                 at the end of which the residual value is twenty

1                   percent (20%) of the value of the facility during its  
2                   first year of operation, and

3                   b.    for personal property, a five-year depreciation  
4                   schedule, at the end of which the residual value is  
5                   zero;

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

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

14                  4.    For the purpose of determining the valuation of  
15                  nonresidential improvements used for poultry production, the  
16                  provisions of this subsection shall be applicable and such  
17                  improvements shall not be considered to be commercial property.

18                  E.    The value of investment in property used exclusively by an  
19                  oil refinery that is used wholly as a facility, device or method for  
20                  the desulphurization of gasoline or diesel fuel as defined in  
21                  Section 2817.3 of this title shall not be included in the  
22                  capitalization used in the determination of fair market value of  
23                  such oil refinery if such property would qualify as exempt property

1 pursuant to Section 2902 of this title, whether or not an  
2 application for such exemption is made by an otherwise qualifying  
3 manufacturing concern owning the property described by Section  
4 2817.3 of this title.

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

- 9 1. That by reason of the transfer of a property there is a  
10 change in the actual use or classification of the property; or
- 11 2. That by reason of the amount of the sales consideration it  
12 is obvious that the use classification prior to the transfer of the  
13 property is not commensurate with and would not justify the amount  
14 of the sales consideration of the property;  
15 then the assessor shall, in either event, reassess the property for  
16 the new use classification for which the property is being used, or,  
17 the highest and best use classification for which the property may,  
18 by reason of the transfer, be classified for use.

19 G. When the term "fair cash value" or the language "fair cash  
20 value, estimated at the price it would bring at a fair voluntary  
21 sale" is used in the Ad Valorem Tax Code, in connection with and in  
22 relation to the assessment of real property, it is defined to mean  
23 and shall be given the meaning ascribed and assigned to it in this

1 section and when the term or language is used in the Code in  
2 connection with the assessment of personal property it shall be  
3 given its ordinary or literal meaning.

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

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

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

1 L. All pipe which is used in the gathering, transportation, or  
2 delivery of petroleum-based products, whether active or idle, shall  
3 be assessed annually at a value no higher than that set forth in the  
4 most current manual published by the Marshall and Swift Company.

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

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

19 B. If any taxpayer, or any official, employee, or agent of ~~such~~  
20 the taxpayer, shall fail or refuse, upon proper request, to permit  
21 the inspection of any property or the examination of any books,  
22 records and papers by any person authorized by the Ad Valorem Tax  
23 Code to do so, or shall fail or refuse to comply with any subpoena

1 duces tecum legally issued under authority of this Code, ~~such~~ the  
2 taxpayer shall be stopped from questioning or contesting the amount  
3 or validity of any assessment placed upon ~~his~~ the property of the  
4 taxpayer to the board of equalization. Nothing in this section  
5 shall impair or impede the right of the taxpayer to appeal any order  
6 of the board of equalization to the district court as provided for  
7 in Section 2880.1 of this title.

8 SECTION 3. This act shall become effective January 1, 2008.

9 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated  
10 3-29-07 - DO PASS, As Amended and Coauthored.