

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1485

By: Adkins

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6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 1001.1, which relates to gross
9 production taxes; deleting requirement for the
10 Oklahoma Tax Commission to adopt rules; clarifying
11 references; clarifying property exempt from ad
12 valorem taxation pursuant to certain provisions;
13 amending 68 O.S. 2001, Section 2817, as last amended
14 by Section 70, Chapter 16, O.S.L. 2006 (68 O.S. Supp.
15 2006, Section 2817), which relates to valuation and
16 assessment of property; specifying certain
17 publications to be used to value certain oil and gas
equipment and pipeline; amending 68 O.S. 2001,
Section 2844, as last amended by Section 19, Chapter
272, O.S.L. 2006 (68 O.S. Supp. 2006, Section 2844),
which relates to assessment of omitted property;
modifying interest rate; amending 68 O.S. 2001,
Section 2945, which relates to penalties for
providing false and fraudulent list or refusing to
allow inspections; allowing certain taxpayers the
right to appeal certain orders to district court; and
providing an effective date.

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

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

23 Section 1001.1 A. ~~The Oklahoma Tax Commission following~~
24 definitions shall ~~adopt rules and regulations which establish~~

1 ~~guidelines for~~ apply in the determination of property exempt from ad
2 valorem taxation pursuant to the provisions of subsections ~~(p)~~ R and
3 ~~(q)~~ S of Section 1001 of this title. ~~Said guidelines shall include,~~
4 ~~but are not limited to, the following:~~

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

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

15 ~~3. Property B.~~ It is the intent of the Legislature to clarify
16 property exempt from ad valorem tax taxation pursuant to the
17 provisions of subsections ~~(p)~~ R and ~~(q)~~ S of Section 1001 of this
18 title shall include, but is not limited to, ~~lease production tanks,~~
19 ~~lease production meters, and disposal:~~

20 1. Wellhead equipment;

21 2. Pumping units and any other devices designed to raise
22 hydrocarbons to the surface;

23 3. Tubing, casing and other downhole equipment;

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

4 5. Flow lines going from wellhead to items of equipment and
5 ending at custody transfer point, regardless of length;

6 6. Any compression equipment that affects the volume of
7 hydrocarbons being produced;

8 7. Tanks;

9 8. Meters which are used by the producer or operator of a
10 lease;

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

13 10. Electrical distribution systems used in oil and gas
14 production; and

15 11. Disposal systems which are not for commercial purposes.

16 ~~Such exempt~~ C. The property described in subsection B of this
17 section shall remain be exempt as long as the property is essential
18 to used in the production of oil and gas in commercial quantities
19 and regardless of who owns the exempt property. The county assessor
20 shall be notified when such property becomes nonexempt pursuant to
21 the provisions of Section 2838 of this title.

22 SECTION 2. AMENDATORY 68 O.S. 2001, Section 2817, as
23 last amended by Section 70, Chapter 16, O.S.L. 2006 (68 O.S. Supp.
24 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.

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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.

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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
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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 L. All pipe which is used in the gathering, transportation, or
24 delivery of petroleum-based products, whether active or idle, shall

1 be assessed annually at a value no higher than that set forth in the
2 most current manual published by the Marshall and Swift Company.

3 SECTION 3. AMENDATORY 68 O.S. 2001, Section 2844, as
4 last amended by Section 19, Chapter 272, O.S.L. 2006 (68 O.S. Supp.
5 2006, Section 2844), is amended to read as follows:

6 Section 2844. A. If any real, personal, railroad, air carrier
7 or public service corporation property is omitted in the assessment
8 of any prior year or years, and the property thereby escapes just
9 and proper taxation, at any time and as soon as such omission is
10 discovered, the county assessor or the county board of equalization,
11 or the State Board of Equalization in the case of public service
12 corporation property or railroad and air carrier property, whose
13 duty it is to assess the class of property which has been omitted,
14 shall at any time cause such property to be entered on the
15 assessment rolls and tax rolls for the year or years omitted, not to
16 exceed the last fifteen (15) years as to real property and the last
17 three (3) years as to personal property, and shall, after reasonable
18 notice to the parties affected, in order that they be heard, assess
19 such omitted property for said periods and cause to be extended
20 against the same on the tax rolls for the current year all arrearage
21 of taxes properly accruing against it, including therein interest
22 thereon at the prime rate ~~of twelve percent (12%) per annum as~~
23 listed in the first edition of the Wall Street Journal published

1 each tax year plus four percent (4%), calculated from the time such
2 tax should have become delinquent.

3 B. If any tax on property subject to taxation is prevented from
4 being collected for any year or years by reason of any erroneous
5 proceedings, or failure to give notice, or otherwise, the amount of
6 such tax which such property should have paid or should have been
7 paid thereon shall be added to the tax on such property for the
8 current year, and if for want of sufficient time or for any cause
9 such assessment cannot be entered, and the tax thereon extended on
10 the tax rolls for the current year, the same shall be done the
11 following year.

12 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2945, is
13 amended to read as follows:

14 Section 2945. A. If any person shall knowingly and willfully
15 make or give under oath or affirmation a false and fraudulent list
16 of ~~his~~ taxable personal property, or a false and fraudulent list of
17 any taxable personal property under ~~his~~ the control of the person or
18 required to be listed by ~~him~~ the person, or shall knowingly and
19 willfully make false answer to any question which may be put ~~to him~~
20 under oath by any person, board or commission authorized to examine
21 persons under oath in relation to the value or amount of any taxable
22 personal property, ~~such~~ the person shall be deemed guilty of the
23 felony of perjury, and upon conviction ~~thereof~~ shall be punished

24

1 ~~therefor~~ as is provided by law for the punishment of the felony of
2 perjury.

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

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

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