

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2777

By: Pfeiffer

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 2817, as last amended by Section 1, Chapter 176, O.S.L. 2016 (68 O.S. Supp. 2020, Section 2817), which relates to valuation of property; providing for determination of values with respect to wind power assets; allowing use of power-purchase agreements; allowing use of market price information provided by the Southwest Power Pool; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2817, as last amended by Section 1, Chapter 176, O.S.L. 2016 (68 O.S. Supp. 2020, 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

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

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

17 Stocks of goods, wares and merchandise shall be assessed at the  
18 value of the average amount on hand during the preceding year, or  
19 the average amount on hand during the part of the preceding year the  
20 stock of goods, wares or merchandise was at its January 1 location.  
21 Provided, persons primarily engaged in selling lumber and other  
22 building materials, including cement and concrete, except for home  
23 centers classified under Industry No. 444110 of the North American  
24 ~~Industrial~~ Industry Classification ~~Systems~~ System (NAICS) Manual,

1 shall be assessed at the average value of the inventory on hand as  
2 of January 1 of each year and the value of the inventory on hand as  
3 of December 31 of the same year.

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

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

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

12 When improvements upon residential real property are divided by  
13 a taxing jurisdiction line, those improvements shall be valued and  
14 assessed in the taxing jurisdiction in which the physical majority  
15 of those improvements are located.

16 The Ad Valorem Division of the Oklahoma Tax Commission shall be  
17 responsible for the promulgation of rules which shall be followed by  
18 each county assessor of the state, for the purposes of providing for  
19 the equitable use valuation of locally assessed real property in  
20 this state. Agricultural land and nonresidential improvements  
21 necessary or convenient for agricultural purposes shall be assessed  
22 for ad valorem taxation based upon the highest and best use for  
23 which the property was actually used, or was previously classified  
24

1 for use, during the calendar year next preceding January 1 on which  
2 the assessment is made.

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

7 1. Soil types, as depicted on soil maps published by the  
8 Natural Resources Conservation Service of the United States  
9 Department of Agriculture;

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

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

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

21 The final use value will be calculated using the soil  
22 productivity indices and the agricultural use classification as  
23 defined by rules promulgated by the State Board of Equalization.

24 This subsection shall not be construed in a manner which is

1 inconsistent with the duties, powers and authority of the Board as  
2 to valuation of the counties as fixed and defined by Section 21 of  
3 Article X of the Oklahoma Constitution.

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

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

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

23       1. The Ad Valorem Division of the Tax Commission is hereby  
24 directed to develop a standard system of valuation of both real and

1 personal property of such facilities, which shall be used by all  
2 county assessors in this state, under which valuation based on the  
3 following shall be presumed to be the fair cash value of the  
4 property:

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

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

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

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

20           4.   For the purpose of determining the valuation of  
21 nonresidential improvements used for poultry production, the  
22 provisions of this subsection shall be applicable and such  
23 improvements shall not be considered to be commercial property.  
24

1 E. The value of investment in property used exclusively by an  
2 oil refinery that is used wholly as a facility, device or method for  
3 the desulphurization of gasoline or diesel fuel as defined in  
4 Section 2817.3 of this title shall not be included in the  
5 capitalization used in the determination of fair market value of  
6 such oil refinery if such property would qualify as exempt property  
7 pursuant to Section 2902 of this title, whether or not an  
8 application for such exemption is made by an otherwise qualifying  
9 manufacturing concern owning the property described by Section  
10 2817.3 of this title.

11 F. The use value of a lot in any platted addition or a  
12 subdivision in a city, town or county zoned for residential,  
13 commercial, industrial or other use shall be deemed to be the fair  
14 cash value of the underlying tract of land platted, divided by the  
15 number of lots contained in the platted addition or subdivision  
16 until the lot shall have been conveyed to a bona fide purchaser or  
17 the lot with building or buildings located thereon shall have been  
18 occupied other than as a sales office by the owner thereof, or shall  
19 have been leased, whichever event shall first occur. One who  
20 purchases a lot for the purposes of constructing and selling a  
21 building on such lot shall not be deemed to be a bona fide purchaser  
22 for purposes of this section. However, if the lot is held for a  
23 period longer than two (2) years before construction, then the  
24 assessor may consider the lot to have been conveyed to a bona fide

1 purchaser. The cost of any land or improvements to any real  
2 property required to be dedicated to public use, including, but not  
3 limited to, streets, curbs, gutters, sidewalks, storm or sanitary  
4 sewers, utilities, detention or retention ponds, easements, parks or  
5 reserves shall not be utilized by the county assessor in the  
6 valuation of any real property for assessment purposes.

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

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

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

21 H. When the term "fair cash value" or the language "fair cash  
22 value, estimated at the price it would bring at a fair voluntary  
23 sale" is used in the Ad Valorem Tax Code, in connection with and in  
24 relation to the assessment of real property, it is defined to mean

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

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

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

7 K. In the event improvements on land or personal property  
8 located therein or thereon are destroyed or partially destroyed, or  
9 the land itself is impaired or partially impaired by fire,  
10 lightning, storm, winds, floodwaters, overflow of streams or other  
11 cause (all such destruction or impairments being referred to herein  
12 as "damage") during any year, the county assessor shall determine  
13 the amount of damage and shall reassess the property for that year  
14 at the fair cash value of the property, taking into account the  
15 actual loss of functional use of the property occasioned by such  
16 damage. The assessor shall make the appropriate value adjustments  
17 to the property for that tax year up to the time at which the  
18 assessor publishes the "Assessor's Report to the Excise Board" as  
19 required by subsection D of Section 2867 of this title. After such  
20 time, adjustments can be made only by the county board of tax roll  
21 corrections and only after the assessor has certified the tax roll  
22 for that year. The board secretary shall notify property owners in  
23 advance of the time and place at which the value adjustment to their  
24 property will be heard by the board. The board of tax roll

1 corrections is authorized only to approve or reject the value  
2 adjustment submitted by the county assessor.

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

9 M. The value of taxable tangible personal property used in  
10 commercial disposal systems of waste materials from the production  
11 of oil and gas shall not include any contract rights or leases for  
12 the use of such systems nor any value associated with the wellbore  
13 or non-recoverable down-hole material, including casing.

14 N. A county assessor may use information to establish a market-  
15 based value for real property and personal property owned by any  
16 entity engaged in the production of electric energy by means of wind  
17 as described by Industry No. 221115 of the North American Industry  
18 Classification System (NAICS) Manual, latest revision, which may  
19 include power-purchase agreements provided to the assessor by such  
20 entity or the current market price information available through the  
21 Southwest Power Pool on the applicable January 1 date used to  
22 determine fair cash value of such real or personal property.  
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SECTION 2. This act shall become effective January 1, 2022.

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