

1 **SENATE FLOOR VERSION**

2 April 6, 2021

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 2777

6 By: Pfeiffer of the House

7 and

8 Montgomery of the Senate

9 [revenue and taxation - providing for determination
10 of values with respect to wind power assets -
11 effective date]

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

13 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2817, as
14 last amended by Section 1, Chapter 176, O.S.L. 2016 (68 O.S. Supp.
15 2020, Section 2817), is amended to read as follows:

16 Section 2817. A. All taxable personal property, except
17 intangible personal property, personal property exempt from ad
18 valorem taxation, or household personal property, shall be listed
19 and assessed each year at its fair cash value, estimated at the
20 price it would bring at a fair voluntary sale, as of January 1.

21 The fair cash value of household personal property shall be
22 valued at ten percent (10%) of the appraised value of the
23 improvement to the residential real property within which such
24 personal property is located as of January 1 each year. The
assessment of household personal property as provided by this

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

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

14 Stocks of goods, wares and merchandise shall be assessed at the
15 value of the average amount on hand during the preceding year, or
16 the average amount on hand during the part of the preceding year the
17 stock of goods, wares or merchandise was at its January 1 location.
18 Provided, persons primarily engaged in selling lumber and other
19 building materials, including cement and concrete, except for home
20 centers classified under Industry No. 444110 of the North American
21 ~~Industrial~~ Industry Classification Systems System (NAICS) Manual,
22 shall be assessed at the average value of the inventory on hand as
23 of January 1 of each year and the value of the inventory on hand as
24 of December 31 of the same year.

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

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

6 2. The highest and best use for which the property was last
7 classified for use if not actually used during the preceding
8 calendar year.

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

13 The Ad Valorem Division of the Oklahoma 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 use value of a lot in any platted addition or a
9 subdivision in a city, town or county zoned for residential,
10 commercial, industrial or other use shall be deemed to be the fair
11 cash value of the underlying tract of land platted, divided by the
12 number of lots contained in the platted addition or subdivision
13 until the lot shall have been conveyed to a bona fide purchaser or
14 the lot with building or buildings located thereon shall have been
15 occupied other than as a sales office by the owner thereof, or shall
16 have been leased, whichever event shall first occur. One who
17 purchases a lot for the purposes of constructing and selling a
18 building on such lot shall not be deemed to be a bona fide purchaser
19 for purposes of this section. However, if the lot is held for a
20 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 G. The transfer of real property without a change in its use
5 classification shall not require a reassessment thereof based
6 exclusively upon the sale value of the property. However, if the
7 county assessor determines:

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

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

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

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1 connection with the assessment of personal property it shall be
2 given its ordinary or literal meaning.

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

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

1 which the building is located shall have been conveyed to a bona
2 fide purchaser or is occupied or used for any purpose other than as
3 a sales office by the owner thereof, or is leased, whichever event
4 shall first occur.

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

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

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

12 **N. A county assessor shall use current market price information**
13 **to establish a fair cash value for real property and personal**
14 **property owned by any entity engaged in the production of electric**
15 **energy by means of wind as described by Industry No. 221115 of the**
16 **North American Industry Classification System (NAICS) Manual, latest**
17 **revision, which may include:**

18 **1. Current market price information available through the**
19 **Southwest Power Pool on the applicable January 1 date or specific to**
20 **the point of delivery of the facility's energy deliveries and**
21 **generation profile to the market; or**

22 **2. Data published by the Oklahoma Tax Commission for various**
23 **approaches to value.**

SECTION 2. This act shall become effective January 1, 2022.

COMMITTEE REPORT BY: COMMITTEE ON FINANCE
April 6, 2021 - DO PASS AS AMENDED

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