

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3194

By: Pfeiffer of the House

and

Coleman of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2011, Section 2817, as last amended by Section
13 1, Chapter 176, O.S.L. 2016 (68 O.S. Supp. 2019,
14 Section 2817), which relates to valuation of
15 property; providing for determination of values with
16 respect to wind power assets; allowing use of power
17 purchase agreements; allowing use of market price
18 information provided by the Southwest Power Pool; and
19 providing an effective date.

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

21 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2817, as
22 last amended by Section 1, Chapter 176, O.S.L. 2016 (68 O.S. Supp.
23 2019, Section 2817), is amended to read as follows:

24 Section 2817. A. All taxable personal property, except
intangible personal property, personal property exempt from ad

1 valorem taxation, or household personal property, shall be listed
2 and assessed each year at its fair cash value, estimated at the
3 price it would bring at a fair voluntary sale, as of January 1.

4 The fair cash value of household personal property shall be
5 valued at ten percent (10%) of the appraised value of the
6 improvement to the residential real property within which such
7 personal property is located as of January 1 each year. The
8 assessment of household personal property as provided by this
9 section may be altered by the taxpayer listing such property at its
10 actual fair cash value. For purposes of establishing the value of
11 household personal property, pursuant to the requirement of Section
12 8 of Article X of the Oklahoma Constitution, the percentage of value
13 prescribed by this section for the household personal property shall
14 be presumed to constitute the fair cash value of the personal
15 property.

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

22 Stocks of goods, wares and merchandise shall be assessed at the
23 value of the average amount on hand during the preceding year, or
24 the average amount on hand during the part of the preceding year the

1 stock of goods, wares or merchandise was at its January 1 location.
2 Provided, persons primarily engaged in selling lumber and other
3 building materials, including cement and concrete, except for home
4 centers classified under Industry No. 444110 of the North American
5 ~~Industrial~~ Industry Classification Systems System (NAICS) Manual,
6 shall be assessed at the average value of the inventory on hand as
7 of January 1 of each year and the value of the inventory on hand as
8 of December 31 of the same year.

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

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

14 2. The highest and best use for which the property was last
15 classified for use if not actually used during the preceding
16 calendar year.

17 When improvements upon residential real property are divided by
18 a taxing jurisdiction line, those improvements shall be valued and
19 assessed in the taxing jurisdiction in which the physical majority
20 of those improvements are located.

21 The Ad Valorem Division of the Oklahoma Tax Commission shall be
22 responsible for the promulgation of rules which shall be followed by
23 each county assessor of the state, for the purposes of providing for
24 the equitable use valuation of locally assessed real property in

1 this state. Agricultural land and nonresidential improvements
2 necessary or convenient for agricultural purposes shall be assessed
3 for ad valorem taxation based upon the highest and best use for
4 which the property was actually used, or was previously classified
5 for use, during the calendar year next preceding January 1 on which
6 the assessment is made.

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

11 1. Soil types, as depicted on soil maps published by the
12 Natural Resources Conservation Service of the United States
13 Department of Agriculture;

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

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

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

1 The final use value will be calculated using the soil
2 productivity indices and the agricultural use classification as
3 defined by rules promulgated by the State Board of Equalization.
4 This subsection shall not be construed in a manner which is
5 inconsistent with the duties, powers and authority of the Board as
6 to valuation of the counties as fixed and defined by Section 21 of
7 Article X of the Oklahoma Constitution.

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

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

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

3 1. The Ad Valorem Division of the Tax Commission is hereby
4 directed to develop a standard system of valuation of both real and
5 personal property of such facilities, which shall be used by all
6 county assessors in this state, under which valuation based on the
7 following shall be presumed to be the fair cash value of the
8 property:

9 a. for real property, a ten-year depreciation schedule,
10 at the end of which the residual value is twenty
11 percent (20%) of the value of the facility during its
12 first year of operation, and

13 b. for personal property, a five-year depreciation
14 schedule, at the end of which the residual value is
15 zero;

16 2. Such facilities shall be valued only in comparison to other
17 facilities used exclusively for poultry production. Such a facility
18 which is no longer used for poultry production shall be deemed to
19 have no productive use;

20 3. During the first year such a facility is placed on the tax
21 rolls, its fair cash value shall be presumed to be the lesser of the
22 actual purchase price or the actual documented cost of construction;
23 and
24

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

5 E. The value of investment in property used exclusively by an
6 oil refinery that is used wholly as a facility, device or method for
7 the desulphurization of gasoline or diesel fuel as defined in
8 Section 2817.3 of this title shall not be included in the
9 capitalization used in the determination of fair market value of
10 such oil refinery if such property would qualify as exempt property
11 pursuant to Section 2902 of this title, whether or not an
12 application for such exemption is made by an otherwise qualifying
13 manufacturing concern owning the property described by Section
14 2817.3 of this title.

15 F. The use value of a lot in any platted addition or a
16 subdivision in a city, town or county zoned for residential,
17 commercial, industrial or other use shall be deemed to be the fair
18 cash value of the underlying tract of land platted, divided by the
19 number of lots contained in the platted addition or subdivision
20 until the lot shall have been conveyed to a bona fide purchaser or
21 the lot with building or buildings located thereon shall have been
22 occupied other than as a sales office by the owner thereof, or shall
23 have been leased, whichever event shall first occur. One who
24 purchases a lot for the purposes of constructing and selling a

1 building on such lot shall not be deemed to be a bona fide purchaser
2 for purposes of this section. However, if the lot is held for a
3 period longer than two (2) years before construction, then the
4 assessor may consider the lot to have been conveyed to a bona fide
5 purchaser. The cost of any land or improvements to any real
6 property required to be dedicated to public use, including, but not
7 limited to, streets, curbs, gutters, sidewalks, storm or sanitary
8 sewers, utilities, detention or retention ponds, easements, parks or
9 reserves shall not be utilized by the county assessor in the
10 valuation of any real property for assessment purposes.

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

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

17 2. That by reason of the amount of the sales consideration it
18 is obvious that the use classification prior to the transfer of the
19 property is not commensurate with and would not justify the amount
20 of the sales consideration of the property;

21 then the assessor shall, in either event, reassess the property for
22 the new use classification for which the property is being used, or,
23 the highest and best use classification for which the property may,
24 by reason of the transfer, be classified for use.

1 H. When the term "fair cash value" or the language "fair cash
2 value, estimated at the price it would bring at a fair voluntary
3 sale" is used in the Ad Valorem Tax Code, in connection with and in
4 relation to the assessment of real property, it is defined to mean
5 and shall be given the meaning ascribed and assigned to it in this
6 section and when the term or language is used in the Code in
7 connection with the assessment of personal property it shall be
8 given its ordinary or literal meaning.

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

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

1 building is located shall have been conveyed to a bona fide
2 purchaser or shall have been occupied or used for any purpose other
3 than as a sales office by the owner thereof, or shall have been
4 leased, whichever event shall first occur. The county assessor
5 shall continue to assess the building based upon the fair market
6 value of the materials used therein until the building and land upon
7 which the building is located shall have been conveyed to a bona
8 fide purchaser or is occupied or used for any purpose other than as
9 a sales office by the owner thereof, or is leased, whichever event
10 shall first occur.

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

1 corrections and only after the assessor has certified the tax roll
2 for that year. The board secretary shall notify property owners in
3 advance of the time and place at which the value adjustment to their
4 property will be heard by the board. The board of tax roll
5 corrections is authorized only to approve or reject the value
6 adjustment submitted by the county assessor.

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

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

18 N. A county assessor may use information to establish a market
19 based value for real property and personal property owned by any
20 entity engaged in the production of electric energy by means of wind
21 as described by Industry No. 221115 of the North American Industry
22 Classification System (NAICS), latest revision, which may include
23 power purchase agreements provided to the assessor by such entity or
24 the current market price information available through the Southwest

1 Power Pool on the applicable January 1 date used to determine fair
2 cash value of such real or personal property.

3 SECTION 2. This act shall become effective January 1, 2021.
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5 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,
6 dated 02/27/2020 - DO PASS, As Amended and Coauthored.
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